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Chapter 1 – The United Nations Convention against Corruption (UNCAC) and the private sector

Background: It is important that States' legislative and other measures contain sufficient detail to inform the private sector of their requirements and scope of application. In line with the principle of legal certainty, it is important to have clear provisions outlining prohibited conducts and consequences to the private sector.

2. Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote business integrity and/or reporting of corruption in the private sector in line with the United Nations Convention against Corruption.

Guidance: Measures could, for example, include policies and/or laws and regulations designed to achieve the following:

- *Prevent bribery of national public officials, bribery of foreign public officials and officials of public international organizations, and bribery in the private sector*
- *Promote private sector transparency*
- *Promote cooperation between law enforcement agencies and private entities*
- *Promote cooperation between national authorities and private entities*
- *Prevent trading in influence*
- *Prevent conflicts of interest*
- *Prevent embezzlement of property in the private sector*
- *Promote the development of standards and procedures to safeguard the integrity of companies*
- *Ensure that companies have sufficient internal auditing and controls to assist in preventing and detecting acts of corruption*
- *Introduce or strengthen the liability of legal persons*
- *Promote public-private communication, cooperation and partnership (e.g., with business associations, networks, individual companies, small and medium-sized enterprises)*

Mongolia has a civil law system. The national legal framework to prevent and counter corruption includes provisions from several laws, notably the Criminal Code (CC) and the Criminal Procedure Code (CPC), the Anti-Corruption Law (ACL), the Law on Crime and Violation Prevention (CVP Law), the Public Procurement Law (PPL), the Law on the Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service (Col Law), the Civil Service Law (CSL), the Law on Combating Money Laundering and Terrorism Financing (AML/CFT Law).

Mongolia has several bodies and agencies concerned with preventing and combating corruption, including the Independent Authority Against Corruption (IAAC), the Civil Service Council (CSC), the State Procurement Agency, the Bank of Mongolia (BoM), the Financial Regulatory Commission (FRC) and the Financial Information Unit (FIU).

- Private entities are obliged to follow IFRS accounting standards (art. 4 Law on Accounting, "LOA").
- The IAAC helps businesses develop codes of conduct and training. In case such codes of conduct are not complied with, the IAAC can issue and follow up on recommendations to prevent such acts from happening again (art. 6.6 ACL). There are no specific mechanisms or procedures in place that promote cooperation between law enforcement authorities and relevant private entities, although private entities may report incidents of corruption to the IAAC (art. 9.1 ACL).
- Under the Law on State Registration, a registry is being kept with information on legal entities (arts. 7 and 10 Law on State Registration). This information, which does not include the identities of shareholders or ultimate beneficial owners, is published in the Registrations Portal and is open to the public.
- Certain categories of public officials are subject to a two-year cooling-off period after leaving office (art. 22 COI Law). This restriction inter alia applies to officials who held a political, administrative, or special office of the State, and to former managers and administrative officials of the State or locally owned legal persons (art. 3.1.4 COI Law and art. 4 ACL).
- Executive managers of enterprises and organizations are responsible for managing and implementing accounting practices (art. 18 LOA). Chief accountants are bound by rules which implicitly prohibit the acts mentioned in article 12(3) of the Convention (art. 20 LOA), but it is not explicitly legislated for. Violations of the LOA are subject to penalties (art. 27 LOA).
- The tax deductibility of expenses that constitute bribes or other expenses in furtherance of corrupt conduct has not been disallowed.
- Article 6.5.2 of the Anti-Corruption Law states that private sector organizations shall establish and follow ethical principles of their activities, and Article 6.6 refers to enterprises, organizations, and officials who have received legal requirements and decisions issued by the Anti-Corruption Agency in accordance with their mandate. according to it, the relevant measures must be taken and the response given promptly. Also, Article 18.3 of the said law states that "The Anti-Corruption Agency shall cooperate with the executive officers of governmental and non-governmental organizations and private sector enterprises within the scope of their authority in carrying out their functions."
- According to Resolution No. 311 of 2011 of the Government of Mongolia, "Common Procedures for Organization of Internal Inspections in the Activities of Enterprises and Organizations" was approved. The purpose of this general procedure is to regulate relations related to the organization of internal audits at the level of enterprises and organizations.
- The "Rule of Internal Audit" was approved by Resolution No. 483 of 2015 of the Government of Mongolia. This rule defines the purpose, scope, principles, and organization of internal audit activities of each budget portfolio, the rights, and duties of the internal auditor, conducts i

3. What challenges (if any) did you encounter in developing and/or enforcing such measures?

4. Please describe the steps you took to overcome such challenges (if any).

Chapter 2: Engaging the private sector

Background: Anti-corruption programmes, commonly referred to as compliance programmes, are a primary tool used by companies to advance ethical business practices. They provide a framework for articulating the values, policies and procedures used by a company to educate its employees and to prevent, detect and counter corruption in its business operations.

5. Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote integrity through anti-corruption programmes in the private sector.

Guidance: Measures and good practices could, for example, include those designed to:

- *Raise awareness of business integrity*
- *Encourage the private sector to establish anti-corruption policies, procedures and/or programmes*
- *Promote training and education on anti-corruption in the private sector*
- *Provide trainings or guidance, or develop model anti-corruption programmes or policies for companies to use and adapt*
- *Provide appropriate reporting channels*
- *Encourage public reporting of efforts to prevent and counter corruption in the private sector*

The Government of Mongolia launched the National Anti-Corruption Program on November 11, 2016, in order to prevent public institutions, officials, the private sector, civil society, political parties, and groups from the risk of corruption, to cultivate the idea of justice in the public, and to develop a transparent, open, and responsible society. Approved on May 3. Goal 6 of the program includes "reducing the risk of corruption in the private sector and supporting fair competition." The following activities were implemented to achieve the goal of strengthening cooperation between the public and private sectors in the prevention of corruption:

- To support and encourage private enterprises' efforts to fight against corruption, to strengthen cooperation with the World Economic Forum's Partnership Against Corruption Initiative;
- To build the capacity of private enterprises and conduct research on a possible transfer of certain government rights/powers to private enterprises, and to determine boundaries of cooperation between the state and the private enterprises;
- To expand and encourage cooperation between the state and the private enterprises to prevent corruption, and to support and cooperate on any initiatives and proposals [of the private enterprises];
- To improve the legal framework in respect of restricting cartels and unfair competition;
- To ensure transparency in the minerals exploration sector;

The project of the National Anti-Corruption Program to be implemented in 2023-2030 was developed by a working group consisting of ACA and other government and civil society organizations and researchers and submitted to the Parliament. Goal 4 of the program includes the task of "cultivating a culture of zero tolerance for corruption in the private sector". The following activities will be implemented:

- Support the adoption of good business ethics and compliance practices.
- Promote fair competition and eliminate corruption factors affecting business operations.
- Create a system of obligations and responsibilities of legal entities, and reduce the risk of money laundering and detection of assets and income obtained due to corruption.

6. Please describe (cite or summarize) good practices and/or examples of measures you have used to encourage transparency, public reporting and/or public participation through your anti-corruption programmes (both for the public and private sectors).

As per Section 7.2 of the previous NACP, reporting system for NACP shall be run by the Secretariat. The system was used by the competent officials of the implementing agencies to submit their annual reports to the Secretariat. Any technical matter related to reporting NACP through the system was addressed by the Secretariat directly at the request of the implementing agency. Furthermore, the Secretariat revises the reports and the evidence submitted by the implementing agencies for any missing points or inconsistencies and contacts the agencies to require them to re-submit relevant information and data.

The following measures were taken in the public discussion of the draft document. It includes:

- The draft of the National Anti-Corruption Program was posted on the website of the Anti-Corruption Agency, and the conditions for citizens' opinions were created.
- The draft of the national anti-corruption program has been submitted to the Governor's Office of 330 sums, citizens who have reported corruption, whistle-blowers, and state and local organizations, and is gathering their opinions.
- The project of the national anti-corruption program was presented to civil society organizations and submitted to civil society organizations connected to the organization's internal network in cooperation with the "Open Society Forum" non-governmental organization to obtain opinions.
- The draft of the National Anti-Corruption Program was published in the semi-annual "Justice" magazine published by the Anti-Corruption Agency, and subscribers and readers were asked to vote.

7. What was the impact of the measures described above (question 5 and 6)?

As per the Monitoring report on the previous NACP prepared by the independent experts as of June 2022, 97 measures were deemed fully implemented out of 216 measures in all. Of which 86 measures were deemed as implemented by 70 percent and 29 measures followed by 30 percent. The overall score for implementation of the previous NACP was 76.5 percent as of June 2022. According to the 2021 statistical data of the action plan for the implementation of the Anti-corruption Act, 21 measures are included in the goal of strengthening cooperation between the public and private sectors in "Goal 6" Corruption Prevention. From this, 2 measures were implemented 100 percent, 10 measures were implemented 70 percent, 4 measures were implemented 30 percent, and 3 measures were not implemented, totaling 66.1 percent.

8. What challenges (if any) did you encounter in implementing the measures above (question 5 and 6)?

Chapter 3: Using sanctions and incentives

Background: While effective sanctions for corruption offences are required under the United Nations Convention against Corruption, the Convention also recognizes the essential role of incentives that encourage and reward corporate self-reporting and preventive efforts.

9. Part A - Sanctions

Please describe (cite or summarize) good practices and/or examples of sanctions used to strengthen business integrity and/or reduce corruption in the private sector in your country.

Guidance: Sanctions could, for example, include any of the following:

- *Monetary sanctions for legal persons (companies) liable for the participation in an offence of corruption*
- *Incarceration or other criminal sanction of natural persons (individuals) who have committed an offence of corruption acting on behalf of a company*
- *Confiscation of proceeds of corruption for both companies and individuals who acted on their behalf*
- *Contract remedies and other means to communicate and enforce anti-corruption contractual provisions*
- *Suspension and/or debarment of contractual partners from government processes*
- *Denial of government benefits (fiscal or otherwise)*
- *Liability for damages and compensation of victims of corruption*
- *Reputational damages to hold wrongdoers publicly accountable*
- *Any other type of sanctions not listed above*

Chapter 22 of the Criminal Code was amended. It includes:

Article 22.3 Abuse of authority committed by an official of international organizations foreign State organization,

1. The abuse of authority, or of official position, which contradicted abuse of authority to extract benefits and advantages for themselves or other persons, has caused substantial damage shall be punishable by a fine equal to five thousand four hundred to twenty-seven thousand units of amount, or one to five years penalty of limitation of free travel right, or imprisonment for a term of one to five years.

Article 22.5. Giving a bribe

1. Persons who transferred tangible and intangible resources or handed the rights to possess provided of service without charge or with preferences or pledged, proposed such in connection with their function, power, position to obtain preferences for himself or others shall be punishable by deprivation of the right to hold public for a period of two to five years with a fine of two thousand seven hundred to forty thousand units equivalent or limitation of free travel right from six months up to three years or imprisonment from six months to three years.

2. If the same crime was committed by a public official or organized crime group shall be punishable by deprivation of the right to hold public office for a period of two to five years and a fine of five thousand four hundred to twenty-seven thousand units equivalent or limitation of free travel right from one year to five years or imprisonment from one year to five years.

3. If the same crime was committed on behalf of a legal person or for the interest of the legal person shall be punishable by deprivation of the right to conduct a particular activity with a fine of one hundred twenty thousand to four hundred thousand units equivalent.

Article 22.6. Bribing of an official of a foreign government institution, international organization

1. Directly or indirectly demanding, receiving, or accepting a proposal for a bribe by an official of a foreign government institute, or an international organization in connection with their line of duties for the benefit of the giver shall be punishable by incarceration for a term of five to twelve years of imprisonment.

2. Persons transferred tangible and intangible resources or handled the right to possess, provided of service without charge or with preference or pledged, proposed such to officials of foreign state institutions, or international organizations to obtain preferences or maintaining preferences in connection with their mandate, position and international activity shall be punishable by a fine equal to five thousand four hundred units to twenty-seven thousand units with deprivation of the right to hold specified positions for a term up to three years of limitation of free travel right for a term of one to five years or incarceration for a term of one to five years imprisonment.

Article 22.12 Abuse of Power of a legal entity

1. Abuse of power afforded to him/her by legislation or regulation by a managing and executive officer of a legal entity with the view of establishing a priority to himself/herself or others and a lucrative purpose that has caused substantial damage shall be punishable by a fine equal to two thousand seven hundred up to fourteen thousand units of the amount or a penalty of limitation of free travel right for a term of six months to three years, or imprisonment for a term of six months to three years.

Article 22.13. Taking a bribe

1. If a person other than a public official has done, demanded, or received a bribe directly or through others in return for the performance of his duties in the interests of the bribe giver, or to perform them, or in response to non-performance, or not to perform them, or to perform actions that should not be performed, or to perform them the right to work in a public office for a period of two to five years shall be punished with a fine of two thousand seven hundred units to fourte

10. What were the main challenges (if any) your country faced in enforcing these sanctions?

11. What steps did you take to overcome those challenges (if any)?

12. Part B - Incentives

Please describe (cite or summarize) good practices and/or examples of incentives used to strengthen business integrity and/or reduce corruption in the private sector in your country.

Guidance: Incentives could, for example, include any of the following:

- *Penalty mitigation – encourages self-reporting of offences, credits companies' preventive efforts*
- *Procurement preference – rewards good practice through procurement preference*
- *Preferential access to benefits – rewards good practice with preferential access to government benefits and/or services*
- *Reputational benefits – encourages good practice through public recognition*
- *Whistle-blower protection and awards – encourages reporting of potential violations by individuals*
- *Any other types of incentives not listed above*

- The Ministry of Justice and Internal Affairs revised the draft law on the legal status of whistleblowers, taking into account the suggestions submitted by the ministry and relevant organizations. It was submitted to the State Great Khural. As a result, the discussion of the draft law was supported, and it will enter the first discussion at the 2023 fall session of the State Great Khural.
- Based on Article 34.1 of the Law on the Prevention of Crimes and Violations, which states that "Persons and legal entities who actively participate in the prevention of crimes and violations will be rewarded for creating certain tasks and achieving results" To encourage people and legal entities who have created work and achieved results, the draft of the joint order of the Minister of Justice and the Interior and the Minister of Finance "On Approval of Procedures" was prepared, relevant research was conducted, and 22 branch councils were consulted on the project. The draft regulation was approved by the Ministry of Justice and Internal Affairs and submitted to the Ministry of Finance.
- Corporate governance standards are confirmed by laws such as the Securities Market Law on Companies and the "Corporate Governance Code". For example, the implementation of the Corporate Governance Code is implemented according to the method of "Perform or Explain".
- The Government of Mongolia approved some regulations to make public services more efficient, transparent, and accessible, increase citizen participation, create economic opportunities, create wealth, and support innovation by optimally using information technology advances in their operations within the framework of the implementation of the law on transparency of public information. According to Resolution No. 200, dated May 18, 2022, "Requirements, conditions, and procedures for the creation and publication of open data by the data subject," and Resolution No. 232, dated June 15, 2022, "List of Open Data," respectively the conditions for the free use of data collected by the government by interested parties have been created, and the "Unified State Open Data Portal" www.opendata.gov.mn has been put into operation. Government organizations upload their open data to the portal and work to ensure transparency and openness of information. As of May 8, 2023, 657 open data files of 57 organizations have been uploaded.
- Data is published on the state open data portal www.opendata.gov.mn under the license "to be used and redistributed" in research, processing, and machine-readable. Government by making the data and information available's advantage is to the public and publishing them free of charge; citizens, legal entities, and academics can use the data and information to conduct research, improve public-private cooperation, make the activities of public organizations more productive, and create new ideas and initiatives.
- The government developed and introduced the system <https://sudalgaa.gov.mn/> in 2022 to centralize government-ordered research in one place, providing easy search, monitoring overlaps, giving evaluations and comments, and providing opportunities for use in further research and policy planning. As of May 1, 2023, 781 studies from 81 organizations have been uploaded to this system. On February 9 and 10, 2023, the "E-Mongolia Academy" was organized by the State Budgetary Industry Department in cooperation with the National Committee on State Productivity to provide knowledge and training to employees of ministries, agencies, and provincial governor's offices who are users of the integrated research system. In the future, the research of International organizations will be consolidated, and preparations will be made to organize the official opening ceremony.
- On the initiative of the Government of Mongolia, the Ministry of Electronic Development and Communications, the Ministry of Economic Development, the Office of the Governor of the Capital City, the General Directorate of Sta

13. What is the main impact of such incentives?

14. **Part C - Additional measures**

Please describe (cite or summarize) good practices and/or examples of any other additional measures used to strengthen business integrity and/or reduce corruption in the private sector in your country.

Guidance: Additional measures could, for example, include any of the following:

- *Integrity pacts – written agreements between government agencies and companies to strengthen integrity in public procurement, usually overseen by an independent monitor*
- *Collective action – collaborative initiatives that bring companies and other relevant stakeholders together to prevent and counter corruption and raise standards of business integrity*
- *Public sector reform – civil service and/or regulatory reforms that reduce the opportunities for corruption*
- *Public education – activities that raise public awareness of corruption and its harmful effects*

The Mongolian National Chamber of Commerce and Industry, Transparency International Mongolian NGO, and "Rio Tinto Mongolia" LLC have jointly implemented the project "Strengthening Business Ethics and Honesty" This project aims to strengthen business ethics and integrity in Mongolia, and the measures included in the "Measure Plan for the Implementation of the National Anti-Corruption Program" developed within the framework of the "National Anti-Corruption Program" approved by the Parliament in 2016, business ethics, implement programs to promote fairness. The Business Ethics Center, which is the main unit for implementing projects and programs, will support the implementation of long-term business ethics standards, rules, and regulations aimed at ensuring the transparency and fairness of the business environment in Mongolia.

Additional information

15. Is there any other information that you wish to share which has not been addressed by the previous questions?