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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Written statement* submitted by Asian Forum for Human Rights and Development
(FORUM-ASIA), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

Adverse effects of hazardous mining chemicals on the human rights of the people in Mongolia¹

Since the implementation of the “Gold Program” launched by the Government of Mongolia in 1997, mining industries have intensified in Mongolia and became main economic sector of the country. While acknowledging the benefit of the mining sector in promoting economic development in the country, the Government should also guarantee the people of Mongolia their enjoyment of human rights and fundamental freedoms, particularly local herders. While 40% of the local population herd and breed livestock, the relevant policy of the Mongolian government on the mining sector does not pay attention to the livelihood, health and other human rights of herding families. To date, 45% of Mongolian territory has been given away for mining, and in some provinces 70-80% of the land has been given to mining licenses.²

The use of hazardous mining chemicals and toxins such as mercury and cyanide has led to serious adverse effects such as environmental pollution which has serious impacts on the livelihood and health of the local population. According to the survey conducted in 2007, a total of 37 hectares of the land was contaminated by mercury and 200 tons of tailings of mercury and cyanide are found in Mongolia.³

For instance, in Khongor soum⁴ of the Darkhan-Uul province, 2,000 local people and 60,000 livestock have been adversely affected by the hazardous mining chemicals. Since May 2007, local residents of the Khongor have suffered from cyanide and mercury contamination. They have rashes all over their body and have experienced organ-dysfunction which leads to vomiting and the tendency of old illnesses to recur. Some local women have had miscarriages and abnormal human and animal foetuses were delivered several times due to the effects of mercury contamination. The residents are facing a lack of drinking water since 92 community wells in the province have been contaminated. Many families have sent their children to another provinces. Meanwhile, environmental pollution has also affected the economic situation of local farmers since the general public do not want to buy any products from Khongor soum. There are increasing threats present in 11 provinces of Mongolia which face a similar situation, such as the Boroo River in Tuv province, among others, which has been enormously polluted by mercury due to mining activities carried out since the 1970s.

Right to information and participation in decision-making

As the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights has pointed out in his last report (A/HRC/7/21), the right to information and participation in decision-making is essential to the prevention of human rights violations arising from environmental matters. In Mongolia, the Minerals Law 2006 states that the government agencies in charge

¹ The Centre for Human Rights and Development (CHRD) of Mongolia also shares the views expressed in this statement.

² Findings of the Fact Finding Mission held by the Asia Pacific Forum on Women, Law and Development (APWLD) in cooperation with CHRD on the mining situation of some communities in Mongolia on August 15-19, 2007 as part of its Food over Gold Campaign

³ Report of the survey on trade, usage, transfer, and preserve of chemical conducted in 2007 by the Government of Mongolia

⁴ Administrative unit of Mongolia

of environmental issues shall publicise the result of environmental impact assessments and information about hazardous chemicals that may negatively affect human health and environment.⁵ However, this provision has been poorly implemented since there is no adequate mechanism to monitor its fulfilment. Local herders have been denied of their rights to access the information concerning the mineral exploration on their land and the usage of chemicals by those mining activities. They have been denied to participate in the decision making process pertaining to industrial projects that affects their land and environment.⁶ Local communities have been informed only after all decisions were made and given to the mining corporations or after they started to realise the negative impacts on their health and environment.

With regards to the incident in Khongor soum, the Government of Mongolia invited a group of international experts to examine the impact of mercury contamination on the health of local residents. However, the result of the examination was contradictory to the voices of the residents and subsequently the Government stopped all the treatments. The residents of the Khongor soum do not agree with the examination result that the pollution status is below dangerous levels. Urging a further way to seek justice, they claim that the examination result was imbalanced because the victims of human rights violations were excluded and there was a lack of information before and during the examination.

Mongolia is a state party to a number of international conventions on environmental matters such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Stockholm Convention on Persistent Organic Pollutants. All these Conventions set out the obligations of state parties to publicise information on hazardous chemicals. However, most laws and regulations in Mongolia do not properly reflect these international obligations under the above mentioned Conventions. Furthermore, the Government of Mongolia has not yet acceded to the Aarhus Convention on Access to Information, Public Participation in Decision making and Access to Justice in Environmental Matters, an international instrument setting out a clear guidance for the realisation of the right to information and participation in decision-making.

Recommendations

In this regard, FORUM-ASIA and CHRD request the UN Human Rights Council and the relevant Special Procedures, particularly the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights to:

- a) Give due attention to the human rights violations facing the people of Mongolia caused by the hazardous chemicals used in mining industries
- b) Make a country visit to Mongolia and provide necessary recommendations to the Government of Mongolia in accordance with its obligations under the international human rights treaties

⁵ Article 57 of the Minerals Law 2006

⁶ Discussion Paper for the National Dialogue: “Mining and Human Rights in Mongolia” prepared by the CHRD in 2006

FORUM-ASIA and CHRD also strongly urge the Government of Mongolia to:

- a) Ensure the participation of local residents and communities in all levels of decision-making on environmental matters that may affect their health and well-being
- b) Take urgent remedial measures for the victims of human rights violations caused by the effects of hazardous chemicals, make substantial efforts to neutralise the polluted areas and bring perpetrators to justice
- c) Be proactive to accede to the Aarhus Convention on Access to information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.
