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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights on his visit to Mongolia

Comments by the State*

* The present document is being issued without formal editing.

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Comments by the Government of Mongolia on the Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights on his visit to Mongolia (A/HRC/43/45/Add.2)

Comments made by the General Department of Taxation of Mongolia

- According to the recommendations given by the European Economic Cooperation Development Organization's BEPS initiative, the Parliament of Mongolia has adopted revised General Law of Taxation, the Law on Income Tax of the Economic Entity, and Personal Income Law in March 2019, which legitimizing the methods and mechanisms to fight against international tax evasion.
- For instance, Article 16 on general provisions to fight against tax evasion, Article 18 on information exchange with foreign authorities, Article 37 on general principles on transfer pricing, Article 38 on country-by-country reporting and transfer pricing report and Article 39 adjustment of transfer pricing and methodology of the General Law of Taxation, as well as article 27 and 31 of Law on Income Tax of the Economic Entity have established legal environment for protecting Mongolia's tax base by incorporating internationally recognized (*actions*) standards.
- According to this, the General Department of Taxation of Mongolia established the Division of Transfer Pricing in its structure and trained more than 10 officers through the special capacity building program.
- Revised tax laws will be effective from the year of 2020 and will fully implement the recommendations made by the Independent Expert, in particularly to combat illicit financial flows, tax evasion and avoidance by the transnational corporations.
- The General Department of Taxation of Mongolia fully agrees with the Independent Expert's views which appear on paragraph 43 and 44 of the draft report.

Comments made by Mongolian Central Bank

With reference to the draft report of the Independent Expert, the Central Bank of Mongolia is of the view to revise the following statistics:

- Mongolia's economic growth rate reached significant peaks over the past few years, with impressive figures having been registered at the beginning of the 2010s and growth rate culminating at **2.4%** of the GDP in 2015 (*paragraph 12*).
- More recently, due to the sharp fall of mineral prices between 2015 and 2016, with the economic growth rate fell down by **1.2** points to 1.2% of GDP in 2016 while public debt amounted to **79%** of the GDP for the same year (*paragraph 13*).

Comments made by the Ministry of Finance

1. In paragraph 28, the Independent Expert has mentioned that "the Mongolian 2016 Law on Legislation is an interesting tool as it already provides for the undertaking of economic, social and regulatory impact assessment of policy reforms. However, this exercise has not been regularly carried out and a number of interlocutors have highlighted the lack of sufficient desegregated data and technical capacity, shedding light on potential areas for improvements".

The Law on Legislation was enacted in 2016 requires that impact assessments of any draft law shall be carried out in line with specific methodology which is prescribed in Article 12.1

of the Law. According to the Section 20.4 of the Law on Legislation the state central administrative body shall submit its draft law for the review by the state central administrative body responsible for legal affairs alongside the documents such as needs assessment, assessment on the implementation of effective laws which regulate the relations in matter and impact assessment as well as statement of future costs related to the draft law implementation.

In case any draft law might have possible effect on the budget the draft law shall be submitted to the state central administrative body responsible for budget and finance for review. Furthermore, according to the Section 20.7, 20.8 of the Law on Legislation the Ministers for Justice and Home Affairs and for Finance would review the draft and decide if it would be granted permission to be discussed at Cabinet session and submitted consequently to the Parliament. In other words, it is not possible to authorize the consideration and submission of the draft laws which are not met the relevant requirements of the Law on Legislation of Mongolia. Therefore, the Ministry suggests the Independent expert to provide in his report proof for the assessment he has made and disclose the resources or 'a number of interlocutors' which back up his assessment.

2. As it was established by the article 6.1.4 of the Law on Fiscal Stability "the net present value of the government debt outstanding should not exceed 60 percent of the nominal GDP" and the article 19.3 of the same law also stipulated that this specific requirement should be complied at certain benchmarks. In complying the law, the Government sat the ratio of the government debt balance to GDP as 58.3 percent in the budget year of 2015, 88 percent in 2016, 85 percent in 2017, 75 percent in 2019 and 70 percent in 2020 as well as 60 percent in the year of 2021. In this connection, the Ministry advises the following corrections in the Independent Expert's report:

- Rephrase the paragraph 29 which says "Mongolia's public debt went from 78.8% of the country GDP in 2016 to 58.9 in 2018" as "**Mongolia's Net Present Value of government debt to GDP ratio went from 78.8% in 2016 to 58.9% in 2018**".
- Rephrase the paragraph 32 which says "Mongolia's external outstanding debt went from 24.6 billion USD at the end of 2016 to 28.7 billion at the end of the 2018" as "**Mongolia's total external debt went from 24.6 billion USD at the end of 2016 to 28.7 billion at the end of 2018**".
- Rephrase the paragraph 33 which says "In debt to GDP ratio term, the debt however decreased slightly by 20%..." as "**In debt to GDP ratio term, the public external debt however decreased by 20%...**".
- In paragraph 35, the Independent Expert stated that the liabilities of State-owned enterprises are not included in official public debt figures. According to the Article 4.1.8 of the Fiscal Stability Law, the State-owned enterprises liabilities are not recorded in the "government debt", but according to the article 4.1.4 of the Debt Management Law, "total external debt" includes government and local government debts as well as Central Bank of Mongolia and includes all payment obligation of Mongolian enterprises to foreign enterprises. Thus, the Independent Expert is advised to rephrase the paragraph as follows: "**...state-owned enterprises liabilities are not included in government debt but included in the total external debt figures...**";

3. In paragraph 37, the Independent Expert stated that the banks have set maximum limit on the interest rate they can charge to their borrowers. The recommendation is inaccurate and advised to be removed from the draft report. There is no legal regulation in Mongolia which sets the maximum interest rate for loans. Setting a maximum interest rate for loans may reduce the availability of loan services for small and medium-sized enterprises, low-income individuals and local borrowers.

4. On the paragraph 41 of the report, the Ministry of Finance is of the view that the comments and explanations are need to be taken from the relevant authorities;

5. According to the paragraph 71, the parliament of Mongolia has approved the revised draft law on Personal Income Tax on 22nd of March, 2019 and the revised law will be effective from 1st of January, 2020.

Comments made by the Ministry of Health

The Independent Expert's report largely used the data of 2014, 2016 for maternal and infant mortality. Therefore the Ministry suggests the following updates which is sourced from the National Statistical Office and Official national health statistics:

- Maternal mortality ratio (100000 live birth) – 26.9% in 2017, 27.1% in 2018,
- Infant mortality ratio (1000 live birth) – 13.6% in 2017, 13.4% in 2018,
- Under-five years' children mortality ratio (1000 live birth) – 16.7% in 2017, 16.9% in 2018,

The Independent Expert stated in his report that the out of pocket health care expenditures was an important issue constituting 41% of the total health expenditure in 2011 and according to the WHO figures remained unchanged for 2014.

The Ministry suggests correcting the figure. According to the Ministry of Health, WHO and Health Center of Mongolia data, the out of pocket health care expenditures constituted 34.6% of the total health expenditure in 2014.
