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[1. What obligations does your Government have to ensure the right of access to information under international, regional and national laws? Please provide, in detail, the relevant legislation that guarantees the right of access to information on hazardous substances and wastes, as well as the mechanisms, including grievance mechanisms, which may be used by individuals and groups. 2](#_Toc414865053)

[2. Please provide, in detail, the scope and characteristics of hazardous substances and wastes-related information that is or may be accessible to the public? More specifically, please explain what type(s) of information is produced, by whom, based on what criteria, and the time frame/frequency of data production including whether data collected is disaggregated by gender, age, disability status, etc. 2](#_Toc414865054)

[3. Please explain, in detail, how the information on hazardous substances and wastes is made available to the general public. In addition, what actions does the Government take to disseminate this information and to raise awareness about the adverse impacts of hazardous substances and wastes on human rights? How is this information tailored to the different constituencies? 4](#_Toc414865055)

[4. Please provide examples of how information on hazardous substances and wastes has been used to: 6](#_Toc414865056)

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[5. Which businesses are required to provide information on hazardous substances and wastes (e.g., size, sector, operational context, ownership and structure)? Please explain, in detail, the obligations of these businesses, have with regard to the type of information they are obliged to provide, to whom the information is made available, and what measures may be taken if businesses fail to meet these obligations. 33](#_Toc414865067)

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The National Human Rights Commission of Mongolia (the NHRCM) would like to contribute information with regard to your annual thematic report on the right of access to information with respect to hazardous substances and wastes. Thus, the Special Rapporteur could have reflected the situation in Mongolia in its annual thematic report on the right of access to information with respect to hazardous substances and wastes. Enclosed please find the responses of your questionnaire.

Responses

# 1. What obligations does your Government have to ensure the right of access to information under international, regional and national laws? Please provide, in detail, the relevant legislation that guarantees the right of access to information on hazardous substances and wastes, as well as the mechanisms, including grievance mechanisms, which may be used by individuals and groups.

Mongolia as part of ICCPR and UDHR is responsible towards implementation of all articles including the right to know. With regard to national legislation on the right of access to information on hazardous substances and wastes:

- Constitution (article 16: The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms: ... 2. Right to healthy and safe environment, and to be protected against environmental pollution and ecological imbalance … 17. Right to seek and receive information except that which the State and its bodies are legally bound to protect as secret. In order to protect human rights, dignity and reputation of persons and to defend the State national security and public order, secrets of the State, individuals, or organizations

which are not subject disclosure shall be defined and protected by law.)

- Law on the protection of environment (attached as separate file)

- Law on hazardous and toxic chemicals (attached as separate file)

- Law on the special permission on activities

- Law on the information transparency and the right to information (attached as separate file)

- Criminal law

- Concept of the National security of Mongolia which was adopted in 1994 by Parliament resolution 56. The 10th chapter is about environmental safety

- Stockholm convention on persistent organic pollutants (Signature on May 17, 2002 and ratification on April 30, 2004)

- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Signature on September 11, 1998 and ratification on March 8, 2001)

- The Basel Convention on the Control of Tran boundary Movements of Hazardous Wastes and their Disposal (Accession on April 15, 1997)

- The Montreal Protocol on Substances that Deplete the Ozone Layer (Accession on March 7, 1996)

- The National program on persistent organic pollutants

- The National program on the protection of Ozone layer

Also there is a National Council dealing with the toxic chemical and hazardous substances.

# 2. Please provide, in detail, the scope and characteristics of hazardous substances and wastes-related information that is or may be accessible to the public? More specifically, please explain what type(s) of information is produced, by whom, based on what criteria, and the time frame/frequency of data production including whether data collected is disaggregated by gender, age, disability status, etc.

www.mne.mn/chemicals is a State run website that contains an information on hazardous substances and wastes-related information, relevant national and international legislation and national programs, as well as report by the government of Mongolia and training materials for employers association.

The National Council on toxic chemicals and hazardous substances consists of number of high-ranking officials, such as:[[1]](#footnote-1)

- Minister of environment as a chief and the members that include:

- Minister of Trade

- Minister of Health

- Minister of food and agriculture

- Minister of Mongolia in charge of emergency

- Minister of construction and urbanization

- Deputy minister of defense

- Deputy minister of science and culture

- Deputy minister of road, transportation and tourism

- Deputy minister of social welfare and labour

- Deputy minister of finance

- Deputy minister of energy resource

- Governor of the Capital city Ulaanbaatar

- Secretary General of the Ministry of justice and interior affairs

- Chief of Customs office

- Chief of State inspection office

- Head of Police general department

- Chief of general intelligence agency

- Chief of standardization and measurement office

- Director of environment and natural resources department of the ministry of environment

- Director of the Academy of chemical science and technologies

- Dean of the faculty of Chemistry at the National University of Mongolia

Under the national legislation on Hazardous, substance and toxic chemicals following should be done with regard to the right to information:

* relevant information should be spread and disseminated among citizens
* unified database
* all information on hazardous substances and toxic chemicals shall be provided free of charge

In the law on information transparency and the right to information and its article 14 on release of information

14.4. An organization specified in article 3.1.10 [[2]](#footnote-2)of this law shall be obligated to release the following information in public domain :

14.4.1. information that reflects or indicates the existing or potential impact of the activities, manufacturing, servicing, equipments and technology used by the organization on the environment and health of the population;

14.4.2. information specifying the harmful impact of all types of poisonous or radioactive substances, those are in the possession of the organization, which might damage the environment and health of the population, in the event the procedures of storage and protection is violated; and

14.4.3. Any other information which is to be publicly disclosed as required by laws.

# 3. Please explain, in detail, how the information on hazardous substances and wastes is made available to the general public. In addition, what actions does the Government take to disseminate this information and to raise awareness about the adverse impacts of hazardous substances and wastes on human rights? How is this information tailored to the different constituencies?

The Constitution of Mongolia in its chapter 3 defines powers and functions of the Government of Mongolia.

**III. The Government of Mongolia**

**Article 38**

1. The Government of Mongolia is the highest executive body of the State.

2. The Government shall implement the State laws and according to the duty to direct economic, social and cultural development shall exercise the following powers:

1) to organize and ensure nation-wide implementation of the Constitution and other laws;

4) to undertake measures on the protection of the environment, rational use and restoration of natural resources;

7) to take measure for the protection of human rights and freedoms, to enforce the public order and to prevent of crimes;

9) to conclude and implement international treaties with the consent of and subsequent ratification by the State Ih Hural as well as to conclude and abrogate intergovernmental treaties.

**Law on the Government of Mongolia**

**Article 7. Coordination of the implementation of laws**

… 5. To oversight the implementation of laws by political party, public organization, private.

**Article 11. Powers of the Government to protect environment and to use rationally natural resources.**

In this regard the Government shall exercise the following powers:

1. To create the economic, legal, and institutional framework for environmental protection and to regulate the activities of governmental nongovernmental organizations in this field.

2. To elaborate and implement comprehensive measures on the creation of general geological survey and feasibility study system and on the protection, rational use, and restoration of natural resources as well as on the ensurance of ecological security and creation of links between the biological balance and national social and economic development.

3. To create a comprehensive control system of natural biological balance.

4. To prevent from natural disasters and serious environmental pollution, and to organize forces of the state and public organizations and citizens and take necessary measures for eliminating its consequences.

5. To organize the implementation of state policy on the protection and rational use of land, its subsoil, forests, water, atmosphere, fauna and flora.

6. To determine the protection regime of a strictly protected area and a nature complex area and the borderlines and the protection regime of a national monument area and a nature reserve and to ensure implementation thereof.

**Article 14. Powers of the Government to protect human rights and freedoms and to enforce public order**

In this regard the Government shall exercise the following powers:

1. To take measures on the creation and enforcement of economic, social, legal and other necessary guarantees for ensuring human rights and freedoms.

2. To prevent violation of human rights and freedoms and to take and implement measures on the restoration of infringed rights as provided for by law.

3. To cooperate on the protection of human rights and freedoms with nongovernmental organizations and international organizations.

4. To direct the receipt and response by the central state administrative bodies and local administrations of petitions and complaints of citizens.

5. To organize and render administrative and legal services to the population.

6. To set up an information service within the framework of public administration and to create conditions for providing the population with true information.

7. To maintain public order and to take measures on the prevention of crimes.

**Article 20. Composition of the Government**

1. The Government shall comprise the Prime Minister and members under Article 39 of the Constitution. In case a member of the State Great Khural has been appointed member of the Government, he/she shall retain his/her powers of a member of the State Great Khural.

2. A member of the Government shall be a Minister of Mongolia.

3. The main spheres of activities of the Prime Minister and Ministers shall be determined by this Law.

4. The following issues shall constitute the main spheres of the activities of the Prime Minister:

2/ national radio and TV

3/ foreign news

4/ state property policy

5. Government members shall be in charge of planning, development, management, regulation, implementation, state monitoring and oversight, analysis and evaluation of policies in the following spheres of the activities:

2/ Minister of Finance and Economics of Mongolia

-control of budgets of Ministries, Government agencies and municipalities;

-policy for strengthening and effective performance of customs system;

3/ Minister of Justice and Home Affairs of Mongolia

-legal reform policy;

-legislative drafting;

* systematization of legislation, information, legal trainings, dissemination and research study;
* legal assistance;
* police and investigating authorities, protection of the state border;
* maintenance of the public order, crime combat and prevention.

4/ Minister of Environment of Mongolia

* policy of environmental protection, the rational use of natural resources, their rehabilitation, policy of ecological balance;
* policy for conservation of the subsoil resources, forests, water, animals, and database for naturals resources;
* prevention of climatic and natural disasters, environmental examination, policy of ecological safety;
* land management.

5/ Minister of Defense of Mongolia

* national defense and military policy
* emergency commission.

6/ Minister of Education, Culture and Science of Mongolia

* scientific and technological information;

7/ Minister of Infrastructure of Mongolia

* fuel and energy policy
* policy of postal service, telecommunications and information technology

9/ Minister of Industry and Commerce of Mongolia

* mineral policy;
* geology policy;
* restoration of domestic industry, structural reform of the industry;
* support of export, strengthening of competitiveness on foreign markets;
* export and import;
* technological policy;
* standardization and measurement.

11/ Minister of Health of Mongolia

* policy for protection and restoration of health;
* social and professional measures of public health;
* policy for provision and production of medicine and medical supplies and equipment;
* policy for and oversight over sanitation and infectious diseases;
* state inspection over medical services;
* policy for development of athletics and sports.

The law on hazardous and toxic chemicals and its article 6.1.11 says that the Government of Mongolia is obliged to implement every international treaty to which Mongolia is a party on hazardous substances and toxic chemicals.

# 4. Please provide examples of how information on hazardous substances and wastes has been used to:

· monitor human rights affected by hazardous substances and wastes (e.g., rights to health, safe and healthy working conditions, water and sanitation, healthy environment, etc.);

· protect the human rights of individuals and groups from the adverse impacts of hazardous substances and wastes;

· promote other human rights (e.g., rights to health, safe and healthy working conditions, water and sanitation, healthy environment, etc.);

· prevent potential human rights violations caused by the improper management of hazardous substances and wastes; and

· hold perpetrators accountable and seek remedy for victims.

The NHRCM of Mongolia addressed the issue on safe environment and human rights several times in its Annual status report on human rights and freedom in 2004, 2005, 2008, 2011, 2012, 2013.

## ANNUAL STATUS REPORT ON HUMAN RIGHTS AND FREEDOMS IN MONGOLIA, 2004

**1.3 Status of the Right to Live in a Healthy and Safe Environment and to Protection**

**from Environmental Pollution and Damage to the Ecological Balance**

The process of urbanization has accelerated over the last 30 years, with a growing number of cities and townships Population statistics show that 1/3 of the total population resides in Ulaanbaatar city, and over 60 percent live in the central region including the Ulaanbaatar metropolis.

The abandonment of traditional ways of treating nature along with new habitual practices,

overpopulated urban areas, obsolete city management and maintenance of harmful technologies has, in recent years, resulted in the rapid pollution of air, soil and water in the cities. This eventually violates the basic human right to live in a healthy and safe environment. The failure to utilize scarce natural resources properly leads to a degree of consumption of surface water and artesian spring resources, forest, soil and pastureland that exceeds any sensible limits.

The NHRCM recognizes the need to highlight concerns related to the right to a safe and healthy environment in this status report. Of course, studies under this topic require the involvement of specialized skills and the expertise of professional institutions and practitioners in the field. In act, many reputable reports, policy recommendations and specific action plans were produced in recent years. However, there is a need to revisit these efforts with a human rights dimension, in order to give an appreciation by professional organizations and officials on the basic human rights behind environmental issues. This section of the status report is based on secondary research data from relevant professional organizations and practitioners.

Many laws have been adopted in the area of environmental protection, including the Law on Protecting Nature and Environment (1996), the Law on National Parks (1994), the Law on Water (1995), the Law on Forest (1995), the Law on Protecting the Forest from Fire (1996), the Law on Natural Plantation (1995), the Law on Plant Protection (1996), the Law on Air (1995), the Law on Protecting from Chemical Substances (1995), the Law on the Evaluation of Environmental Impact (2000) as well as the Law on Importing Hazardous Waste (2000).

### 1.3.1 Air pollution

**1.3.1.1** The air of Ulaanbaatar city is polluted mainly from the following three sources:

a) thermal power stations;

b) furnaces of ger districts and the smoke from the incomplete combustion of small steam boilers;

c) automobiles and other vehicles.

Air pollution level of the city is spread unevenly among the districts depending on the location of the pollution source, and the magnitude, composition and mixture of waste, topographic and climatic conditions. The smoke from ger districts, mainly located in the lower slopes of the surrounding hills, damages the environment greatly, especially the air in the city center along the low areas following the river valley. In winter, the smoke of ger districts is precipitated through the air current directed toward the downtown area from the suburbs.

The air quality of Ulaanbaatar city is monitored from four observation posts. The following chart depicts the change of air quality in recent years.

**1.3.1.2** Air pollution in 17 urban areas other than the metropolitan city is monitored by 19 observations posts determining the amount of sulphur dioxide and nitrogen dioxide in air.

The following chart demonstrates the situation of air pollution in large urban areas in the year 2002.

The average content of sulphur dioxide in the air was 1-14mkg/m3 and the maximum content 162mkg/m3, which was observed in Darkhan city. The normal average content of nitrogen dioxide in the air was 5-34mkg/m3 and the maximum 94mkg/m3, also in Darkhan city. This result exceeded by 18 times the normal average. It was also observed that the air pollution in Darkhan city deteriorates significantly in the winter. While the content of nitrogen dioxide in the air of Darkhan, Erdenet, Baganuur, Murun, Ulaangom cities is relatively high, the content of sulphur dioxide is relatively high in Darkhan, Shariin Gol, Murun, Baganuur and Tsetserleg cities.

**1.3.1.3** As mentioned above the air pollution of urban areas with high population density is caused by the following sources, including:

a) thermal power stations;

b) furnaces of ger districts and the smoke from the incomplete combustion of small steam boiler;

d) automobiles and other vehicles;

c) waste, ash deposit, garbage dump;

d) other sources emitting hazardous substance in the air, e.g. petroleum stations, chemical processing and service outlets.

The main air pollutants in urban areas are sulphur dioxide, dust and nitrogen dioxide. The most polluted city is Ulaanbaatar.

About 92,000 households live in the ger districts of Ulaanbaatar city (*Source: Environmental Status Report 2002, Ulaanbaatar, 2003, p.15*) and use small sized boilers and stoves for heating purposes. Over 300,000 tons of coal is consumed annually by these households, which produces a high percentage of the total air pollution. Having a direct impact on respiratory systems of more than 80 percent, the smoke from ger districts are considered as the main source of air pollution in the surrounding areas. The pollution effect and impact from burning coal in ger stoves could be explained by the facts that they: (a) are constructed with outdated technology; (b) require low-lying chimney; and (c) need constant supply of coal. The pollution from sulphur dioxide (SO2) from burning coal increases dramatically during the period between October and March.

Nitrogen oxide is emitted mostly from high temperature burning processes such as from vehicle engines and power stations. The expansion of the auto park in Ulaanbaatar city contributed to the rapid increase of the percentage of nitrogen dioxide in the air, notably since 1995. Supplementary factors include inferior traffic regulations, heavy traffic load, poor technical conditions of public transport and inadequate standards of technical repair and services.

The national census on the sources of air pollutants amounts to 495,773 units, including 344,150 resident sources and 125,553 movable sources from which 23,070 are not in use.

There are 451 air cleaning equipments, 372 of them are fully operational and 82 require technical repair. At present there are 686 petroleum stations, 250 steam boilers, 53 hide primary processing and 36 wool and cashmere processing plants (*Source: Environmental Status Report 2001, Ulaanbaatar, 2002, p.35*) which create new rubbish dumps of dry industrial waste such as hair, wool, hides trimmings, mud and other waste. From the 16 models of automobiles selected to determine the amount of pollutant substances from complete fuel combustion, the level of carbon monoxide and hydrocarbon in 105 cars (43.7%) exceeded Mongolian standards (*Source: Environmental Status Report 2002, Ulaanbaatar, 2003, p.15*).

The number of movable pollutant sources has increased by 1.7 times and the number of passenger vehicles increased twice in the last decade. Ulaanbaatar city alone has more than 52 percent (48,120 vehicles) of the national auto park – 60 percent of which had been in the country for more than 7 years. Each used car can emit the amount of hazardous substances equal to 70-80 vehicles participating in the traffic of developed countries.

**1.3.1.4** The environmental pollution in Ulaanbaatar city is deteriorating with spontaneous urbanization, and adversely impacts public health.

In 2002, the research team, including representatives from the Ministry of Health, Metropolitan Health Inspection Department (currently the Health Inspection Board of the State Professional Inspection Agency), Ministry of Nature and Environment reported on a strong correlation between dust content in the air and allergic diseases (Rxy=0.5, p<0.05; Rxy=0.1, p<0.05) that cause acute bronchitis among children aged 0 – 14. (*Burmaa B. et al, 2003*). The report also indicated on a strong correlation between the percentage of sulphur oxide, nitrogen dioxide and carbon monoxide in the air with child acute bronchitis, chronic bronchitis and pneumonia.

Other research on the indexation of air pollution (P) in large cities determined that Ulaanbaatar is heavily polluted (P=3.78) and Darkhan city moderately so(P=2.12). Erdenet (P=0.96) and Choibalsan (P=0.93) cities had acceptable levels of air pollution (*Saijaa. Netal, 2003*).

Breaking down respiratory disease patients by age groups revealed that infants aged 0-4 (2,821 in 10,000 patients) and elderly people aged 65 or above (1,143.9 in 10,000) were disposed to illnesses by 10.3 and 4.2 times more than the 16-19 age group. The main reasons for respiratory diseases are pneumonia (26%), influenza (8%), pulmonary acute diseases (8%) and bronchitis (7%). The relative risk of children aged 0-4 to sustain pneumonia, influenza or bronchitis is 18.2, 14.1 and 29.3 percent higher than the 16-19 age groups (*Altanzagas. B et al, 2003*).

Air pollution and its influence on child health have proven to be detrimental. Illnesses of respiratory organs and their medical treatment have increased in recent years.

### 1.3.2 Water Consumption, Pollution and Shortage

**1.3.2.1** As a result of environmental monitoring activities in 2002, water was assessed by 6 grades of classification under the pollution index. The pollution index and assigned grades were developed using the percentage of soluble oxide, instantly oxidized organic substances, mineral nitrogen and hard metals such as phosphorous, chromium and copper in water based on the factors determining the spread of polluting substances, damage level and contamination, and compared against measurements defined in the “Standard for Water Quality” MNS-4586-98 (*Source: Environmental Status Report, Ulaanbaatar, 2003, p.80- 81*).

According to the assessment report, 86% of the total number of rivers and lakes are defined

as “pure” and “extremely pure”. Parts of the Tuul, Songino Kharuul and Khiagt rivers at the Altanbulag observation post were assessed with grade VI grade, or “extremely polluted”, and polluted by instantly oxidized organic substances. The quality of the Tuul river close to Tavan Tolgoi improves to grade V, or “polluted”, with a high percentage of mineral nitrogen, phosphorous and instantly oxidized organic substances. The yearly average content of these substances exceeds the tolerance level by 4 – 10 times. The Khangal river stream downstream of Erdenet city is significantly polluted and was assessed with grade V, or “polluted”, and the average content of mineral nitrogen, copper and chromium in the water exceeded the tolerance level by 1.3 – 10 times.

The rivers included in grade III degree, or “modestly polluted”, had a yearly average content of mineral nitrogen, phosphorous and instantly oxidized organic substances slightly exceeding tolerance levels. While the water of the Tuul river from Uu-bulan to Sonsgolon is relatively clean, the water downwards from Songino was significantly polluted by the waste from the water cleaning facility, and the content of instantly oxidized organic substances in winter exceeds the tolerance level by 10 times. The inspection of sewageworks and sewage disposal shafts by the SPIA (*Source: Environment Protection Service Report, 2003*) shows that 68.2 percent of the cleansing facilities in Ulaanbaatar were operational in 1992, 54.5 percent in 1997 and only 37.4 percent in the year 2001. Thus, the main source for water pollution is directly related to the lack of cleansing facilities. For instance, an accident at the Central Cleansing Facility in 2000 had released 6.4 thousand m3 of polluted water down the streams of the Tuul river creating an permanent pollutant deposit in the flowing water.

Water pollution by ammonium nitrogen increases in the winter, and its content during this

season exceeds acceptable levels by more than 30 times. In 2003 the ammonium nitrogen

pollution had increased dramatically due to the failure of cleansing facilities and the overall

shrinkage of the water bank.

**1.3.2.2** The quality of drinking water is a basic factor for a healthy population and clean environment. Polluted drinking water contains bacteria of infectious diseases such as enteric fever and cholera. Drinking water is also polluted by chemical, physical and radioactive substances harmful to human health. There are many issues related to the concept of “pure” and “safe” drinking water. The water quality is different among the regions and areas, and even the most updated centralized water supply facility cannot provide completely safe and pure drinking water.

The National Statistics Department implemented a research project with the support of UNICEF which established that 60 percent of the total population of Mongolia is supplied with pure drinking water (*Source: Child Development 2000 National Report 2001, p.27*).

The supply of pure drinking water varies in urban and rural areas – while the supply of pure drinking water for the urban population is 91 percent, it is only 34 percent in rural areas. For instance, only 22-32 percent of the population of the Gobi and western provinces are provided with pure water whereas 84-97 percent of the population of the central region is supplied with pure water. (*Source: Child Development 2000 National Report, 2001, p.67*).

Services of the centralized water supply are provided to 20 percent of the total population, and 18 percent of the total population consumes water from reservoirs. 84-97 percent of the central provinces are provided from the above water source. On the other hand, almost half the consumers in the western and Gobi regions are supplied with water from springs, ponds and rivers, and only about 10 percent of residents receive water from centralized supply services.

The relation between results of chemical and bacterial analysis of drinking water and digestive organ sickness in Khan-Uul district in 1999 discovered a strong correlation (Rxy=0.7, p<0.05) between the ammonia content in the drinking water with digestive organ sickness (*B. Burmaa et al, 2003*). In other research in Ulaanbaatar, the direct correlation between diarrhoea among ger district residents and chemical and bacterial contamination (Rxy =0.41, p<0.05) was established, which suggest that the drinking water in ger districts might not be meet health requirements (*Naymragchaa. Ch et al, 2003*).

The research on water quality and safety assessment in 15 provinces representing four geographical regions discovered common stomatological problems among the population caused by the volatility of fluorine content in drinking water. Another widespread concern is digestive and urinary organ sicknesses due to water quality and nitrate content (*Shurentsetseg. Kh et al, 2003*).

Health inspection organizations of Ulaanbaatar city and provincial services conduct monitoring of drinking water every year. Research on compiling chemical and bacterial analysis conducted at the laboratories of the above organizations during 1999-2001 revealed that in Gobi-Sumber, Uvs, Darkhan-Uul, Tuv, Bayan-Ulgii, Sukhbaatar, Uvurkhangai, Umnugobi, Dornod, Gobi-Altai, Dundgobi, Khuvsgul and Khentii Aimags for the 0.59-50 percent of the samples water hardness exceeded the average norm, in 0.8-48 percent of the samples magnum content was high. The iron content was high in 2.7-36 percent of the samples in Dornod, Khovd, Uvs, Khentii, Gobi-Altai, Dundgobi and Umnugobi Aimags (*Zolboo. B et al, 2003*).

The above research concluded that from 2,442 samples, analyzed by 10,119 chemical and bacterial indicators, 36.5 percent, or 3699 samples, did not meet safety requirements. In total there are 4,296 drinking water resources in the whole country, of which 27.9 percent are covered under sanitary protection zones and 93 percent have been documented.

In recent years, some parts of the Tuul River flowing through Ulaanbaatar have dried up. During the spring, water levels at supply shafts drop considerably which causes shortages of drinking water. As commonly acknowledged, the capital city is supplied with drinking water from 4 sources located along the Tuul River valley. The river is fed seasonally, and rain and snow water constitute over 60 percent of the run-off. The water shortage in recent years can be explained by human action and wastefulness, and by the expansion of the city. According to reports, Ulaanbaatar might encounter catastrophic water shortage by 2010.

### 1.3.3 Soil Pollution and Impact on Population

**1.3.3.1** As a natural invariable system compared to air or water, ground soil has the ability to absorb and preserve the pollutant substances emitted during technogenetic processes. Thus soil pollution analysis is an inseparable part of ecological assessment in urban areas. The main elements polluting the soil in urban areas are caused by hazardous substances in the air, and dry and wet waste on the ground.

The soil pollution in Ulaanbaatar has been studied extensively. The main sources of environmental pollution are the thermal power stations, which use about 5 million tons of coal annually, over 250 steam boilers, smoke and soot emitted from about 50 thousand auto vehicles, families of ger districts, ashen waste, industrial and domestic waste, rubbishheaps as well as petrol stations, and oil and lubricants suppliers (*Environmental Status Report 2002, p.15*).

According to the report, analysis of the medium and maximum content of eleven solid elements contained in the soil of some petroleum stations along Baga Toiruu, and lubricants and oil services at the open area of “Da Khuree” technical market of Ulaanbaatar reveals that the content of nickel, cobalt, vanadium are 2-7 times more, zinc, chromium and molybdenum 2-14 times, and lead, copper and tin 2-42 times more than the analogical content at the ground soil of the city. Geo-chemical anomaly of elements such as lead, copper, zinc and nickel is detected in the soil of ger districts which are located in the northern and eastern suburbs of the city, as there are no integrated sewage networks in these areas and there are too many domestic rubbish dumps. Generally the most part of the soil of Ulaanbaatar city is polluted. Industrial objects pollute the soil of Ulaanbaatar through the air (*Sustainable Development and Environmental Analysis, Ministry of Nature and Environment, 2003, p 4*).

**1.3.3.2** One of the factors badly polluting the surroundings of Ulaanbaatar, and causing deteriorating living conditions for its residents, is durable waste. Although the number of centralized rubbish dumps in the communities has increased year by year, the rubbish and waste thrown away on non-purpose zones covers many thousand hectares. Today, 452,090 m3 or 200 thousand tons of waste is thrown away every year in Ulaanbaatar without any reprocessing (*Sustainable Development and Environmental Analysis, Ministry of Nature and Environment, 2003, p 4*).

Waste collecting equipment and transport have become obsolete and derelict – only 53% of the waste transport park is in use and over 40 percent of the total waste is removed from community dumps, leaving substantial waste on the streets and squares and especially in the ravines close to ger districts. There are many sources that pollute the soil in large cities such as petrol stations, petrol and lubricants warehouses, auto service shops and parking, garages, dealers of petrol and lubricants, construction works at water reserve and other ecologically sensitive zones, hide processing industries as well as the waste derived from service and domestic use.

Waste in Ulaanbaatar city (in a year)

No Sources of Waste m2 Ton

1. Ger Districts 144.009 86.466

2. Apartment Buildings 152.051 45.615

3. Street Cleaning 15.442 6.117

4. Industry and Production 75.977 30.391

5. Other 64.610 25.844

Total 452.090 194.433

**1.3.3.3** At present 686 petrol stations, 250 steam boilers, 53 hide processing and 36 wool and cashmere processing plants are in operation, creating unplanned rubbish points of dry industrial waste such as hair, wool, hides trimming, mud and other waste. Railway depots spilling diesel fuel have become one of the worst places polluting the soil. The spoiled fuel at Tolgoit oil refinery has already penetrated to a depth of 30 m and has polluted the artesian water.

**1.3.3.4** Air, water and soil pollution has increased in recent years due to accelerated urbanization and the loss of the self-sustaining features of the surrounding ecology. In this regard, habitation capacity and climatic change should be considered in determining acceptable pollution volumes and appropriate location of pollutant sources in order to efficiently implement measures decreasing and eliminating waste.

Although the number of community rubbish dumps increases year by year, the waste in non-designated areas covers many thousand hectares of land reserves. The situation is made worse by the absence of integrated waste processing centers meeting international standards.

Unfortunately there is no legal framework relating to soil exploitation norms, and regular monitoring activities are not carried out as in the case of air and water inspections, which leads to out-of-control soil pollution. The high costs of soil analysis and unnoticeable volumes of direct pollution cause further deterioration.

**1.3.3.5** Soil pollution, especially in the large cities, adversely affects public health, and this is increasingly becoming an alarming concern. The research paper “Physical, Chemical and Biological Risk Factors of Public Health in Large Cities and their Hygienic Assessment” has compared the soil pollution at large cities by determining the pollution with a breakdown of main pollutants. The section on soil bacteria analysis reports on extreme count of perpharyngitis in the soil of Darkhan city and escherichia coli bacteria in Ulaanbaatar city (*Saijaa. N et al, 2003*).

According to the research, the average content of lead in the soil of Ulaanbaatar is 49.92 mg/kg or 2.4 times higher, and zinc is 145.9 mg/kg or 1.2 times higher than the normal average. The content of zinc in the soil of Erdenet city is 125.5 mg/kg or 1.1 times higher, and in the soil of Darkhan city 149.5 mg/kr or 1.4 times higher than the normal average. Content of lead in the soil of Choibalsan city was 58.4 mg/kg or 2.8 times higher than average.

Among environmental risk factors having an adverse impact on public health in large cities is excessive soil pollution by lead which has both isolated and combined effects. In particular excessive lead in the soil, alone or in combination with cobalt or manganese, exaggerates digestive organ diseases.

Lead, which affects the structure of human organs, is one of the main substances polluting the air, water and soil of urban areas. The research paper “Environmental Lead Pollution, Influence on Human Health, Hygienic Assessment and Prevention” (*Burmaa. B et al, 2002*) has firmly established the serious influence of lead contained in the air, water and soil of Ulaanbaatar city on child growth, mental development and health. The research claims that comparing with adults the child’s body easily absorbs lead and the developing brain is very sensitive in reacting to lead influence.

Petrol imported from the Russian Federation and Republic of China possesses a high lead content with a count prohibited in developed countries – 15 percent of petrol lead is digested in the engine while 85 percent is emitted into the environment (*Bat-Ulzii. Ts et al, 2002*). Taking into account that auto vehicles, especially old cars, pollute the environment significantly, it is worrying that, according to the 2001 census, 70 percent of national car parks do not meet technical standards (*Environmental Status Report 2001*). As of 2003, there were over 59,000 registered vehicles, 40.3 percent of them in operation over 11 years since assembly, and 21 percent over 7-10 years. Interestingly, from 421,616 auto cars undertaking annual technical inspection in 2003 only 492 cars were restricted from further use for emitting excessive smoke (*Banzragch. Ts et al, 2004*). From an environmental sense, it is extremely unsatisfactory when this figure is compared with the number of old vehicles registered in Ulaanbaatar.

The volume of lead in the soil of Ulaanbaatar city is 4.5 times higher than the approved standard, and 2.3 times higher in the air, with immense lead pollution in the districts of Khan-Uul, Songinokhairkhan, Bayangol and Sukhbaatar. The operations of the thermal power stations and the expanding auto parks in these districts make the pollution worse.

### 1.3.4 Damage to the Ecological Balance and its Consequences

**1.3.4.1** The sequence of natural calamity has increased in most regions of our planet in recent years because of world climate change and the loss of nature eco-balance. There are over 20 kinds of calamity, which are considered as extremely harmful to the public or the economy and over 10 of them happen to our country. In particular, in 1992-2002 natural disaster resulting from excessive snow happened 9 times; storm, over 40 times; highly infectious disease 42 times; the loss of radiation and hazardous chemical substance, 6 times; plane accident, 5 times; and many other disasters occurred, such as the Nalaikh mining collapse, the freezing of the central steam boiler of Gobi-Altai, Bayankhongor, Arkhangai, Umnugobi and Uvs provinces, the downtime of electric stations III and IV and natural disasters and industrial accidents. As a result of these disasters and accidents 458 people died and about 14.4 million heads of animal died. The state lost over 380 billion tugrugs in consequence. (Batchuluun S, 2004)

For our country, which runs pasturing animal husbandry and non-irrigated agriculture, having the vast region of Khangai and Gobi, natural calamities are repeated and the effects are not decreased because of the snow and severe weather of winter, storms, hurricanes and forest fires in the spring, the wind, draught, flood of summer and the wet snow, cold rain, windstorms and blizzards of autumn.

There are many reasons for increasing losses and risks from of natural disaster as follows: the carrying capacity of pastures has deteriorated; the concentration of population density has increased; forests have been destroyed; the calamity of drought and desertification has increased; economic reserves against natural calamity have bee depleted during the transmission into a market economy; management and organization have been interrupted; and people and herders are unable to prevent from natural disasters.

**1.3.4.2** Violation of the right to live in healthy and safe environment is caused by lack of integrated policies on city planning, economic and social development, and environmental protection, by substandard regulations and deficient economic capacities.

An example could be illustrated from the catastrophic road conditions during winter. Many residents, especially children and older people, slip on the icy streets, get injured, involve in car accident or in some misfortunate cases pass away.

According to the report from the Traumatology and Rehabilitation Hospital, slippery road conditions of 2001-2002 had caused 2,150 pedestrians to seek emergency medical care, and over 300 patients required prolonged treatment at the hospital. This data had increased in the year 2003 when 2,280 pedestrians took emergency medical care, an increase by 6 percent, and 408 people were treated in the hospital, or 36 percent more than in the previous year. Patients receiving medical emergency care in 2002 and 2003 after accidents on slippery roads were treated at the cost of MNT 0.912 million, patients undergoing prolonged care in 2002 received treatment worth MNT 16.8 million, and 408 patients were treated at prolonged care at the cost of MNT 22.85 million (Lkhagvasuren S, 2004).

The analysis of trauma types among patients receiving medical care after accidents on slippery roads reveal that most of them had sustained upper or lower limb fractures, with brain injuries coming second. In regard to prolonged care, most of the patients had leg fractures, brain wound and arm fracture. An average patients receive a month-long treatment at most, either at the hospital or as out-patients. Statistical data proves that urban residents are injured, and in some cases pass away, in car accidents during winter as a consequence of inferior city planning, inadequate construction and maintenance standards, and abnormal operations of cleaning businesses.

**1.3.4.3** Among many problems related to high density urbanization is external noise levels that usually tend to worsen sickness, adversely impacts physiological and mental depression. Almost 60 percent of street noise is originated from auto vehicles.

The influence of street noise on human health was at first studied in large cities, including Ulaanbaatar, Erdenet, Darkhan and Choibalsan, within the framework of hygienic assessment to define physical factors creating domestic environmental risk (*Saijaa. N et al, 1996*). Another phased research was done in 2000 and 2003 to compare noise levels at the worst points of the large cities (*Kupul. J et al, 2003*).

The base noise level was established in 1996 at 71 DB. In 2000 the noise level was registered at the West Cross Road at 79-84 DB. Overall, in 2003 the noise level was established as 80 DB in Ulaanbaatar, 70.8 DB in Erdenet, 59 DB in Darkhan, and 58 DB in Choibalsan city. As of 2003 the noise level of Ulaanbaatar was higher than that of Erdenet and Darkhan cities, and 1.1 times higher when comparing with the standards of (70 DB) set uo by the World Health Organization.

The result of public opinion poll among the residents of large cities shows that 51.9 percent of the respondents lived in thier neighborhood for more than 15 years, 63.5 percent believe that residents above 45 years of age suffer most than other age groups, and 84.4 percent stated that vehicle noise in the worst noise sorces (*Saijaa. N et al, 2003.*) Headaches (46.6 percent), insomnia (22 percent) and anger (28.7 percent) are common among pain caused by the noise.

## ANNUAL STATUS REPORT ON HUMAN RIGHTS AND FREEDOMS IN MONGOLIA, 2011

**The Right to a Safe and Healthy Environment**

***Recommendation:*** Operate professional laboratories at border ports which are authorized for import of toxic and hazardous chemicals; specify facilities or places where chemical materials storage and destruction must be discharged; improve supervision and monitoring of the use of chemicals, and take action to increase public awareness on the dangers of chemicals (2008)

In 2006 Parliament approved the updated Law on Dangerous and Toxic Chemicals in order to improve supervision of the use of chemical materials. According to the law, only the Ministry of Nature, Environment and Tourism (MNET) has the authority to issue permits for importing chemical materials. This was an important step towards a centralized system of chemical materials supervision. The Government approved the List of Prohibited or Limited Use Toxic and Dangerous Chemicals in Mongolia by Decree No. 95 in 2007.

Government Decree No. 296 of 2006 and No.65 of 2007 regulate the list of border ports where chemical materials could be imported. The list includes the Zany Uud and Buyan Ukhaa border crossings of Dornogobi Aimag, the Bayankhoshuu border crossing of Dornod Aimag, the Sukhbaatar and Altanbulag border crossings of Selenge Aimag and the Bichigt port of Sukhbaatar Aimag.

Professional laboratories at the General Customs Office were established at border ports from 2008 according to the Actions to be taken after the State General Inspection, approved by Government Decree No. 201 of 2007. The decree stated that border ports that allow importation of dangerous and toxic chemicals must be supplied with the necessary laboratory and monitoring devices.

In order to improve supervision and monitoring of chemical materials several joint orders have been approved by Mongolian Ministries:

· MNET and the Ministry of Foreign Affairs and Trade approved joint order 334/104 in 2009, Regulation of the Export, Import, Cross-country Transportation, Production and Sales of Dangerous and Toxic Chemicals.

· MNET, the Ministry of Food, Agriculture and Light Industry (MFALI) and the Ministry of Health (MH) approved joint order 63/67/87 in 2009, Regulation on the Utilization of and Experimentation with Pesticides, Chemical Fertilizers, Rodent Control Chemicals, Sanitation Agents and Disinfectants.

· MNET, MH and NEMA approved joint order 28/40/29 on Risk Evaluation Procedures for Dangerous and Toxic Chemicals.

· MNET and MH approved a joint order in 2008 on Procedures to Classify Dangerous and Toxic Chemicals and a joint order on Instructions on How to Use the Dangerous and Toxic Chemical Classification.

MNET initiated a statewide inventory of equipment containing polychlorinated biphenyls (PCBs) as part of dangerous and toxic chemicals monitoring activity. A PCBs inspection

laboratory was established together with the Chemistry and Chemical Technology department of the Academy of Science and supplied with necessary equipment and 130 million MNT in funding. In addition, standards for the labeling and branding of dangerous and toxic chemicals have been developed and approved.

MNET, MH and NEMA approved joint order 28/40/29 on 2009 Procedures for Storage, Transport and Destruction of Dangerous and Toxic Chemical Materials which stated the requirements for how dangerous and toxic chemical materials should be stored: at least in 300 meters away from residential developments; away from flood risk areas; and that storage facilities must be built from fire resistant material. In case of potential accidents, the floor of storage facilities must be built from concrete or tile, have reinforced doors and windows, and flood dams or protection entrenchments. In addition, dangerous and toxic materials should be destroyed under the supervision of experts at a designated location, although such locations have not been established statewide.

The Ulaanbaatar Railroad Authorities agreed to relocate drop-off and storage points (Tolgoit and Honhor) for chemical materials transported by railroad away from residential areas to Bagahangai and to build a new terminal.

The Mongolian Government has issued numerous procedures and orders to regulate toxic material importation, storage, transport, utilization, sale and destruction. However, it is necessary to closely monitor and supervise legal entities for the enforcement of these procedures and stop violations.

***Recommendation:*** Increase pressure on the violators of environmental law;strengthen supervision and monitoring of enterprises involved in production or services that are harmful to the environment; and introduce stricter accountability by the law (2005).

Legal grounds for protection of the natural environment have been established, including clarification on the liability and accountability of those who violate legislation and the establishment of crimes against the environment. In the Mongolian Criminal Code, there is a particular section on crimes against the environmental protection, which specifies following crimes against the environment:

· air pollution;

· violation of hunting laws;

· polluting soil and water;

· violation of forestry laws;

· violation of natural plant laws;

· arson committed in the forest or prairie;

· illegal exploration and exploitation of minerals; and

· violation of dangerous and toxic chemical material laws.

The Criminal Code was revised on 1 February 2008 in order to clarify liabilities and meet existing requirements for protecting the environment.

In 2010 the new Department of Investigation of Criminal Activities against Environmental

Legislation was created as a part of GASI with a staff of 10 inspectors. The department undertakes environmental legislation investigation, termination of activities and liability.

Within the first six months of its activity the department registered 85 cases and investigated 37 cases as criminal actions.

The state is implementing new transparent and independent methods of monitoring activities that damage the environment such as environmental impact studies and environmental restoration projects. Aimag and soum inspection agencies are undertaking such evaluations based on Mongolian legislation. It will be important to encourage the public to get involved in environmental protection in order to strengthen this action.

***Recommendation:*** Mining approvals and licensing processes should be transparent and involve the public for monitoring (2005).

Clause 26.7 of Chapter 26 of the Mineral Resources Exploitation Law of 2006 states that related parties to Government organizations, the tax office, and the aimags and soums where exploitation is taking place must acknowledge this and announce it to the media.

The Mineral Resource Authority mandated the Mongolian media to publish this information

on first week of every month.

Mongolian environmental legal practice emphasizes the involvement of NGOs in the implementation of environmental law. Involvement of local people in protection of the environment, and in monitoring and transparency show that: environmental law has provided accessibility to local people; is not limited by local government legal rights; and is supported by local NGOs which increases its legitimacy.

***Recommendation:*** Provide information to the public on regular basis through the mass media regarding air and environmental pollution in Ulaanbaatar and other major cities (2005).

In accordance with the Law on Water, Climate and Environment, an Ulaanbaatar and Major Urban Settlement Air Quality Study was undertaken using 33 monitoring points and inform the public on the findings. Air quality studies have been conducted since 1978 to monitor sulfur dioxide and nitrogen dioxide and from 2009 they started to monitor air quality using 9 indicators. Four stationary monitoring points are used. The AQMS-9000 automatic mobile system monitors carbon monoxide (CO), nitrogen dioxide (NO2), sulfur dioxide (SO2) and PM10 dust in the air compared against the general air quality

requirement MNS 4585:2007. Air quality information is broadcasted to the public regularly

through the News Hour program on television channel TV-5, and via the internet site of the

Ulaanbaatar Air Quality Agency: www.ulaanbaatar.mn. It is also available through the www.airquality.ub.gov.mn, www.gogo.mn, www.tsag-agaar.mn websites and electronic

discussion boards.

In Darhan Uul and Orhon Aimags environmental monitoring is conducted and outcomes are broadcasted through local television channels at 8 am, 2 pm and 8 pm to and the www.tsag-agaar.mn website. However, public awareness to make use of the findings air quality monitoring.

***Recommendation:*** Improve legislative framework and effective use economic and social leverage and other types of incentives to strengthen enforcement of legislation for environmental protection, ecological balance and disaster reduction (2005).

The Capital City Air Pollution Reduction Law was adopted in 2011. The law sets goals for air pollution reduction, and specifies roles and responsibilities of organizations and citizens, and sanctions for violations. According to the law, households which are using environmentally friendly power sources will receive 50 percent discount from their electricity bills: those who use sustainable energy sources such as solar and wind power; households that comply with environmental standards; and households that use compressed or coke coal. The Government will reimburse the difference to power stations.

Despite government action, air quality has not improved. Central and local Government organizations need to improve law enforcement activities, increase public awareness, and increase the responsibilities of legal entities in order to attain the objectives of air pollution

reduction.

***Recommendation:*** Increase the capacity of Ulaanbaatar’s Central Sewage Facility (2008).

Ulaanbaatar Central Sewage Facility implemented a project on low interest credit from the

Government of Spain (11 million euro) to renew four pumping stations, nine blast filtration

units and two silt pumps. The project reduced the production and maintenance costs of the facility. According to the report of the Ulaanbaatar Governors Office silt waste by ten times

owing to the technical renovation at the facility, decreasing the facility’s overall environmental effect. The Ulaanbaatar inspection agency takes samples from the facility 2-3 times per year to monitor treatment quality. However, the capacity of the facility should be improved to cater for the increasing number of apartments in Ulaanbaatar and the increased use of water at hide production factories.

***Recommendation:*** Create a waste sorting system for household wastes; support waste recycling factories and create waste disposal sites that conform to the international standards (2008).

Currently, there is no legislation requiring households to dispose the waste by sorting. A trial project to introduce the practice of basic sorting of the waste is being carried out in Khoroo No.1 and No.7 of Bayanzurh District and in Khoroo No.5 and No.7 of Sukhbaatar District involving more than 5000 households.

Waste disposal points using a landfill system have been established in Sukhbaatar, Hentii, Dundgobi and Dornogobi Aimags. It was done under the project to reduce waste and increase recycling in order to improve public health and environmental pollution in 2010. A similar disposal point was established at Naran Enger (Naran Hill Slope) of the 4th Khoroo of Songinkhairhan District, Ulaanbaatar, in April 2009.

On 23 April 2010, the General Manager of Ulaanbaatar signed a MOU with Korean International Cooperation Agency (KOICA) to build a waste sorting and recycling facility at Naran Enger disposal point to produce fuel from the waste such as paper and plastic which is planned to start in November 201171. The Government should support this project and public awareness needs to be raised regarding their roles and responsibilities in waste management.

***Recommendation:*** Increase water utility fees improve water use monitoring by installing water flow counters in households and organizations; and protect water sources (2008).

Water use regulations were revised on 25 November 2009 by Government Resolution No. 351.

The Ulaanbaatar Governor’s Office developed a proposal to raise the water utility fees water and sewage utilities. The proposal was delivered to the Division of State Fund Management at Ulaanbaatar Governor’s Office, the Federation of Mongolian Trade Unions, and the Unfair Competition Regulatory Authority for discussion in order to raise water wholesale price by 50 percent.

Water flow counters were installed in all enterprises and certain parts of households to implement provisions 24 (24.1.4) and 33 (33.1) of the Law of Mongolia on Water As a result, there has been significant reduction in water utility. .72 The State Great Khural enacted a law to protect river resources and forested areas from mining on September 17 2009. MNET issued Decree No. 370 on Procedures for Allocating and Registering Protection Areas for Water Reservoirs to develop a public awareness campaign on saving water and the protection of water resources.

***Recommendation:*** Revise the legislation so as to transfer the current authority of MNET to the Parliament regarding permission to divert river stream (2008).

According to provision 12.2.8 of the Law of Mongolia, the Government Water Agency under the MNET has the authority for temporary and partial diversion of river streams and for professional assessment of utilization plans for water reservoirs. Therefore, it could be said that the above recommendation has not been implemented.

## ANNUAL STATUS REPORT ON HUMAN RIGHTS AND FREEDOMS IN MONGOLIA, 2012

**CHAPTER THREE. MINING AND HUMAN RIGHTS**

**Right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance.**(Para.2 of Article 16 of the Constitution of Mongolia)

**The State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, to fight against violations of human rights and freedoms and to restore infringed rights.** (Para.1 of Article 19 of the Constitution of Mongolia)

Mongolia is rich in natural resources, and their intensive use over the recent years has lead to mining boost.Mongolia’s competitiveness has increased along with intensification of economic and social development, and raise in income of the population as a result of putting mineral deposits of strategic importance, such as Oyutolgoi, Tavantolgoi and others into the economic circulation.

As an important sector largely contributing to the economic and social development of the country – coal’s geological predictable reserves are currently estimated at 163.2 billion tons, which will certainly increase in future, bringing Mongolia among the top 10 countries of the world rich in coal reserves.Mining products constitute 87.7 percent of the total export of Mongolia, including coal making up 41.63 percent. 25,296 thousand tons of coal was extracted in 2010, out of which 18,241,000 tons of coal was exported and 496.2 billion tugrugs were allocated to the state budget.

Despite such positive statistics a host of negative environmental effects of mining, including soil erosion and contamination, water deficiency and dust-related air pollution have come to affect citizens’ rights to a healthy and safe environment, to be protected against environmental pollution, to own and use land, to engage in private business, to own property and to have their health protected and others.

In Mongolia the right to a healthy and safe environment is regulated by over 30 laws, including the Constitution, the Law on Environmental Protection, Law on Specially Protected Areas, laws on water, air, mineral resources, the Law on environmental impact assessment and others.

The Law on Mineral Resources was adopted by the State Great Khural in 2006 with a view to regulating relations regarding minerals prospecting, exploitation on the territory of Mongolia, exploratory field and protection of environment of mine tenure. Minerals special licenses are granted in accordance with this law and as of 15 December 2011, 0.4 percent of the territory of Mongolia accounts for an area for exploitation, 14.2 percent – specially licensed area for exploration of minerals.In other words, there are currently 3,765 special licenses for mineral resources covering 23,0 million hectares, including 1,195 special licenses for mining covering 682,800 hectares, and 2,570 special licenses for exploration covering 22.3 million hectares of land[[3]](#footnote-3).

To exploit subsoil assets without any negative impact on environment and on the right of citizens to a healthy and safe environment and to enhance its benefits to the maximum extent possible is an important factor in ensuring the sustainable social and economic development of Mongolia.

In September 2011 the National Human Rights Commission, within its jurisdiction and together with representatives of the Mongolian Confederation of Trade Unions, Mongolian Environmental Civil Council, National Public Television, National Post newspaper and other media, conducted monitoring missions and inquiries to such mining companies as “Energy Resources LLC”, “Erdenes Tavan Tolgoi JSC”, “Tavan Tolgoi JSC“, “Oyutolgoi LLC” operating in Umnugobi province in order to assess the status of implementation of the right of local citizens to a healthy and safe environment, to be protected against environmental pollution and ecological imbalance.

Within the framework of these inquiries a number of meetings and discussions were organized with local citizens, who were living along the roads of Ulanbaatar-Mandalgobi- Dalanzadgad, Gobisumber-Tsogttsetsii soum and Tavantolgoi-Tsagaan had-Gashuun Sukhait.The locals complained that the number of 100 ton capacity trucks transporting natural resources by the roads had significantly increased, which lead to escalation of dust and erosion of pastureland, the main source of their livelihood, hence, herders were forced to leave their native land.

“Energy Resources JSC” is transporting coal in Tsogttsetsii soum, “Oyu tolgoi” LLC - in Khanbogd soum, MAC LLC, Chinhua-MAC LLC, South Gobi sands LLC - in Gurvan Tes soum of Umnugobi aimag, all use motor roads to transport coal.“Energy Resources JSC” among them is the only one using the 240 km-long paved road and since this road is solely for trucks with permission (companies, who concluded relevant agreements and paid fees) air pollution and dust is not decreasing.[[4]](#footnote-4)

At the meetings in Manlai, Khanbogd, Tsogttsetsii soums and in Tsagaan Khad coal transportation terminal of Khanbogd soum of Umnugobi aimag local people indicated that though their livelihood improved to a certain extent as a result of new jobs and regular income, they still could not own their land, and there was an increase in gastrointestinal diseases due to shortage and poor quality of drinking water; and a drastic upsurge in respiratory diseases among the local people, especially children due to air pollution and dust.

Many branch roads appeared in connection with coal transportation, which ruined pastureland, caused soil erosion and dustiness.In addition, alcohol abuse is on the rise leading to increased number of accidents.According to the Police Department of Umnugobi aimag criminal situation has aggravated in comparison

with the previous years.Between 2009 and September 2011 altogether 28 road accidents took place leading to death of 13 people on the coal transportation road of Khanbogd and Tsogttsetsii soums of this aimag.

Many herders live in mine-affected area; therefore, issues of their resettlement and compensation need to be addressed.

**Case 1**

*Dust is overwhelming. Soil is being eroded. Plants cease to grow, if pastureland is gone how shall we, herders, live. Pastureland has diminished, herders are no longer interested to tend livestock. No activity is taken towards development of the local area, everything is done for the sake of companies. Cattles have no water to drink and greenery ceases to grow due to truck dust. Herders’ health has deteriorated, drinking water has become too hard leading to liver and bladder damage, dustiness is too much because of heavy trucks.*

*From discussions with 22 citizen, including S.S, P.M of Manlai soum 23 September 2011*

Moreover, since there is no designated parking place for coal transporting heavy trucks, drivers park them wherever they like. Due to excessive alcoholism drunken drivers drive anywhere at night, and there were even accidents of them running over herders’ houses and gers, thus causing threat to herders’ life and health.

Local people, who were interviewed, also told that due to shortage of drinking and consumption water wells, they buy drinking water from the center of Khanbogd soum and Gashuun Sukhait port at 30 Tugrugs per a liter.Due to poor quality of drinking water there is a spread of stomach diseases, skin dryness, and break in a rash.

It was also disturbing to learn that in the event of mass alcoholism or chaos in this settlement, it was impossible to get a timely help from law enforcement authorities.There is no public services whatsoever in Khanbogd soum except tax inspectors who appear now and then to collect service charges.

There are on average 120-130 trucks waiting daily to cross Gashuun Sukhait border port.When border is closed, drivers usually get food and stay for night in gers of the settlement.

Due to excessive road dust and coal loading, visibility is quite limited.Housing neighborhood of miners and transport workers, surrounding Tavan tolgoi JSC mine exploitation area, Tsagaan Khad coal loading point, Gashuun Sukhait border port and the vicinity along the road experience the level of dustiness, coal dust and soot several fold higher than it should be, and especially when it is windy, there is no visibility at all, and it becomes impossible to see anything.All this indicates that the situation has reached disaster level, and it has become uninhabitable for people to live there.

We also got acquainted ourselves with the health sector work in Tsogttsetsii and Hanbogd soums of Umnugobi aimag and studied the prevalent diseases among the local population.The results revealed that respiratory diseases, especially among children of young ages, due to dustiness, had significantly increased. Occurrence of acute respiratory contagious diseases by soum was as follows: in Khanbogd - 92 in 2010, and 175 in 2011, in Tsogttsetsii soum – 157 in 2010 and up to 486 in 2011.61

Border control and customs officers, specialized inspectors, immigration officials working in Gashuun Sukhait border port perform their duties in an environment constantly polluted with dust and soot.Since a master plan for developing Gashuun Sukhait port has not been worked out yet, no action has been taken to improve the living and working conditions of those civil servants.

Pursuant to Article 12.1.3 of the Law on Mineral Resources local administrative and self-governing bodies “are fully entitled to monitor special license holders’ compliance with their obligations to protect and rehabilitate environment, protect local population’s health and pay the relevant fees to the local budget”.Yet, in reality this provision of the law has not been fully implemented.Local administrative and self- governing bodies have insisted to transport natural resources only after building paved roads.But under a lot of pressure they have become powerless and unable to do anything.As a result, while transporting soil which contains coal and other rare elements, trucks cause irreparable damage to pastureland and environment and seriously violate the rights and interests of the local population.

A heavy-duty autoroad pass through the territory of 7 soums of Dundgobi aimag heading towards Oyutolgoi, Tavantolgoi, and other large deposits.Around 400 heavy-duty trucks pass daily by 15-25 crossroads of 250 km long and 30-50 meters wide crossing through the territory of Delgertsogt, Saintsagaan, Luus, and Khuld soums, and some 500 heavy-duty trucks pass daily on 20 crossroads of 215 km long and 60 meters wide crossing through the territory of Bayanjargal, Gurvansaikhan, and Ulziit soums.[[5]](#footnote-5) This is one of the factors for increased soil erosion in local soums and aimags and spread of desertification.

Due to such desertification-related negative phenomena as pasture decrease, decline of water resources, dust escalation in the air, herders, faced with an uninhabitable living condition were forced to leave their native land.

Based on the results of its review of the implementation of the right of local people to live in a healthy and safe environment in connection with activities of mining companies, National Human Rights Commission submitted recommendations to Prime Minister of Mongolia Mr.Batbold Sukhbaatar:[[6]](#footnote-6)

1. To set up a working group consisting of representatives from the National Human Rights Commission, Ministry of Nature, Environment and Tourism, Ministry of Social Welfare and Labour, General Agency for Speicalisied Inspection, Foreign Investment and Foreign Trade Agency, Immigration Department, General Police Department, Customs General Administration and dispatch it for 7-10 days to the area with a view to resolving some issues on the spot and formulating proposals for further action;

2. Through enhancing the capacity of control mechanisms and customs equipments at Gashuun Sukhait border port make it possible to close down Tsagaan Khad coal loading terminal;

3. To take and implement step-by-step measures in order to put an end to coal transportation by earth-road; and

4. To reflect in the relevant law a legal regulation that stipulates consultations with local administrative bodies when granting licenses for mineral resources and agreeing in advance on extraction and transportation issues.

In response to the recommendations the Government of Mongolia provided the Commission with the following information:

1. “Art Construction” LLC has been formulating a master plan for developing Gashuun Sukhait border port at the request of the Ministry of Road, Transportation, Construction, and Urban Development.By adopting this plan the necessary measures will be taken in 2012 to completely renovate the border checkpoint complex, enable passengers and trucks to freely pass the border, to develop a community area with apartments for border control agencies employees, with a conducive environment for passenger services and businesses; and to bring the community area and coal loading transfer point under an integrated management.

2. With a view to reducing the negative effects on environment caused by coal transportation by earth road from Tavantolgoi deposit to the border point, it has been decided by Government Resolution No.257 (2011) to take comprehensive measures, including expansion of the existing paved road of 245 km long with four roadways, make sure that all transportation vehicles of all companies, transporting mineral resources, will use this road, to set integrated tariffs and to regulate repair and maintenance issues by contract.

3. Articles 19.3 – 19.6 of the Minerals Law already envisage getting the opinion and permission of the Governor of the province or the capital city, the Presidium of Citizens Representatives Khural of the province or the capital city in granting mineral resources license; therefore, the Government shall monitor its implementation.[[7]](#footnote-7)

As mentioned in the “Introduction of the national review (in 2010) of the implementation of obligations of holders of mineral licenses to protect environment under the law” sent from the Ministry of Nature, Environment and Tourism to the National Human Rights Commission there was lack of initiatives and proposals to be submitted from Environment and Tourism Departments and Expert Control Offices of aimags to the Ministry of Nature, Environment and Tourism on termination of licenses in the event a license holder failed to fulfill its environmental rehabilitation obligations pursuant to Article 56.1.5 of the Minerals Law.[[8]](#footnote-8)

Due to the fact that the mineral licenses are granted to financially insolvent entities without professional mining personnel, they selectively exploit the mineral deposits choosing the best ones and leaving behind complete disorder.They violate mining work technology regime and extract the best, which causes a lot of waste.This provides the opportunity for artisanal mining entailing considerable negative environmental impacts.[[9]](#footnote-9)

“The report on mining sector review under the integrated guidelines in 2011” of the General Agency for Specialised Inspection submitted to the National Human Rights Commission stated that due the fact that coal transporting businesses and entities failed to include in their feasibility studies measures related to coal export roads, transportation, road exploitation and environmental protection, environmental damages during transportation frequently occurred.[[10]](#footnote-10)

## ANNUAL STATUS REPORT ON HUMAN RIGHTS AND FREEDOMS IN MONGOLIA, 2013

**CHAPTER ONE. MINING AND HUMAN RIGHTS**

**“The right to life.”**

(Clause 1 of the Article 16 of the Constitution of Mongolia)

**“The right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance.”**

(Clause 3 of the Article 16 of the Constitution of Mongolia)

**“The right to the protection of health and medical care.”**

(Clause 6 of the Article 16 of the Constitution of Mongolia)

**“The State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, for the prevention of violations of human rights and freedoms and for the restoration of infringed rights.”**

(Clause 1 of the Article 19 of the Constitution of Mongolia)

The mining sector contributes to socio-economic development of the country, however, it is evident that environmental degradation and serious violations of individuals’ rights to live in a healthy and safe environment, the right to health, the right to land ownership and cultural rights are being violated due to lack of proper state policies that regulate irresponsible mining.

In its 11th report on the human rights situation in Mongolia, the National Human Rights Commission of Mongolia discussed the problem that fundamental rights provided in the Constitution of Mongolia, are strongly affected in the mining sector, however, socio-economic development will be under the auspices of mining industry.

In 2012, the Commission conducted a study of the situation of human rights and freedoms relating to mining in 15 soums of eight provinces jointly with civil society organizations and a research organization. The Commission appreciates the UNDP’s support to carry out the study. Our thanks extends also to the “Sustainable Artisanal Mining Project” of the Swiss Development Agency who supported field the studies in Uyanga soum of Uvurkhangai province and Zaamar soum of Tuv province.

The results of the study were incorporated into the current report. The report also refers to reports and research findings of the government and non-governmental organizations. This report aims to look at the negative impacts of mining on the right to a healthy and safe environment, to be protected from environmental pollution and ecological imbalance, and the cultural rights of herders to exercise the nomadic customs and traditions.

### 1.1. The right to a healthy and safe environment, and to be protected against environmental pollution and ecological imbalance

The right to a healthy and safe environment and the right to be protected against environmental pollution and ecological imbalance is guaranteed in Article 16 of the Constitution of Mongolia. The International Covenant

on Economic, Social and Cultural Rights (‘ICESCR’) also provides for the improvement of all aspects of environmental and industrial hygiene (12.2.b) Moreover, Article 19 of the Constitution of Mongolia provides

that “The State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees for ensuring human rights and freedoms, for the prevention of violations of human rights and freedoms and to the restoration of infringed rights.”

This means that the State shall create conditions for its citizens to live in a healthy and safe environment and to ensure that this right is not violated, set up accountability regulations and make available effective remedies, provide access to information to the public, involve them in decision making, disseminate human rights knowledge and awareness.

Environmental degradation is accelerating in recent years due to climate change, global warming, and human actions such as irresponsible mining which causes land and pasture degradation, water deficiency and air pollution. According to the annual report of the Mineral Resource Authority, 3537 licenses were issued as of January 2013 covering 20.1

million hectars of land1. In some provinces, most parts of their territories are allowed for mining activities. This demonstrates failure to plan and well-coordinate public policy. For instance, about 40 percent of the territory of Gurvantes soum of Umnugobi province was given away for mining licenses by 11 companies which covers 1.1 million hectares of land out of 2.8 million hectares of land. At the time of the field study only three of these companies had started their operations. It would not be possible for local people to run herding in this territory once the remaining eight companies start their mining operations.

The original structure and natural beauty of the environment is lost and degraded, and there is a high risk that humans and animals fall into holes, pits and channels created by the mining operations. It is already common a matter and license holders have neglected to pay compensation.

The failure of mining companies to organize biological and technical rehabilitation shows that government inspections are insufficient. According to the Minerals Law of Mongolia, companies are responsible for rehabilitating the destroyed land and environment after mining exploration and excavation; and the government agency in charge

of environmental issues, soum, district Governors are responsible for monitoring the implementation of the Law. However, in reality the implementation of the law is insufficient. The results of the Commission study shows that there are 46.7 hectares of land in Airag soum of Dornogobi province, 562.6 hectares of land in Uyanga soum of

Uvurkhangai province, and 500 hectares of land in Bayan-Ovoo soum of Bayankhongor province left without any rehabilitation.

According to Article 38 of Minerals Law of Mongolia, the holder of the special license for exploration is obliged to pay a deposit for environmental protection activities to the local government; and holders of the special license are obliged to pay the deposit to the central government agency in charge of environmental issues. In the case of violations of the duty to protect the environment, local and central government are authorized to use this fund for the restoration of the environment. Any additional funding needed for environmental restoration related to the activities

of the companies involved must be withdrawn from the license holder without any negotiation. However, the implementation of the law is insufficient.

The illegal practice of subleasing of mining areas and the transfer of license of mines to others cause damage, and without accountability, and leads to unorganized and illegal artisanal mining, a lack of monitoring of extractive operations, tax evasion, and the avoidance of responsibilities to carry out environmental rehabilitation.

In addition, local administrative bodies don’t open up give a chance to assist with the process of appointing the citizen representative in charge of monitoring the “license holder and environmental reclamation process” stated in Clause 42.3 of the Minerals Law of Mongolia, and provides the ‘citizen representative’ with an opportunity to inspect the operations of the mining companies and the reclamation process.

Another major reason for environmental degradation caused by mining industry, is related to the transportation of natural resources. For example in two provinces (7 soums of Dundgobi province and 9 soums of Dornogobi province), trucks with 40-100 ton capacity are transporting natural resources and mining equipment on 15-32 crossroads with width of the 30-150 meter each. 245 km long tarmac road were built from Tsogttsetsii soum of Umnugobi province to Gashuun Sukhait (Umnugobi province) Border Port, but currently only the “Energy resource” and “Erdenes Tavantolgoi” companies are using this road to carry coal. Other companies carry their coal off-road saying that they had not concluded an agreement on transportation with the road company and that the road charges are high. It is getting harder and harder for humans and animals to live in the territories of these six soums where coal transportation

off-road causes soil and pasture deterioration, and huge dusts in the air.

Today, there are 6122 trucks belonging to 66 companies’ that transport coal between Tavantolgoi site and the border checkpoint at Gashuun Sukhait Border Port. In some places where the road is paved with gravel, dusts, soil and air pollution has not been reduced (Tayannuur mining of “Altain Khuder” Co., Ltd to Burgastai point). This is the situation happening in a few provinces only. It would be much worse if number of trucks and the amount of land destroyed in the territories of other provinces and soums were added together.

Local physicians in Dornogobi province noted that chest infections are growing rapidly among citizens due to the dust and other pollutants resulting from mining activities. Licensing regulation needs to ensure that infrastructure issues, including railway and roads, have been fully resolved to the satisfaction of local residents, prior to the exploitation of

large scale mineral resources such as coal and iron ore. In particular the sufficient load-bearing capacity of roads must be built to allow mining trucks to transport without causing damage to the environment.

Local people regrettably note that many hundreds and thousands of wild horses, and antelopes that used to live in the territories of Nomgon, Bayan-Ovoo and Gurvantes soums have now disappeared. The results of research conducted by the Ministry of Environment and Tourism on identifying the scope of damage due to coal transportation in Umnugobi

have shown that harm totaling to 58.1 trillion MNT was done to the environment: harm to tenure land (5.4 trillion MNT), soil (20.4 trillion MNT), flora (11.1 trillion MNT), fauna (18.7 trillion MNT), atmosphere (2,5 trillion MNT) and 35250 hectares of land was destroyed along the 235 km long road from Tavantolgoi to Tsagaankhad.

The National Development Policy based on MDGs notes the importance of protecting of water resources from pollution,the rational use of water and ensuring water supply meets the health and hygienic requirements of population. According to the 2011 water counts, 551 out of registered 6646 rivers, 1879 out of registered 9320 springs, 483 out of registered 3613 lakes were found to be dried up due to changes in water flow, resources and quality aspects caused by climate change, as well as industrial operations.

Surface-water is scarce in the Gobi region due to the unequal distribution of water resources. Despite this, the mining industry, which is considered key pillar of the country’s development, is concentrated in the Gobi region where there is serious lack of surface-water. This means that it is imperative for the mining policy to take into account the scarce water resources of the Gobi region. Otherwise, enormous damage will be made to the Gobi eco-system that will lead to negative impacts on health, the living conditions of local people, social dynamics and even the national security of the country.

The United Nations’ General Assembly recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights, through its resolution 64/292 adopted in 3rd of August 2010[[11]](#footnote-11). But the inquiry carried out by the Commission found out that this right is under serious threat in mining regions.

The Ministry of Nature and Environment have noticed[[12]](#footnote-12) that it needs to take care of the water sources - which provide 70% of Mongolia’s surface water - and underground fresh water resources under special state protection. It’s time to regulate compulsory and transparent reporting of the actual expected water usage during the exploration process

and the ongoing water usage by mining companies and other relevant organizations at regular intervals.

The Professional Inspection Agency at the central and local levels, and the Weather and Environmental Analysis Agency, and the Environmental Metric Central Laboratory and some other relevant agencies conducted monitoring and evaluation on the living conditions of local people including the levels of soil, air, and water pollution in the areas, where mining operations are concentrated.

The Professional Inspection Agency conducted a study of the air near Customs inspection point at Khairkhan bag of the Khanbogd soum, Umnugobi province in 2012 and found out that the average content of dust-cloud with large particles was 45 times higher and dust-cloud with small particles were 34-35 times higher than the MNS 4585:2007 standard on “Air quality: General technical requirements”. It was concluded that this caused pollution in the air, and a high risk to the quality and safety of soil and water as well as damage to the health of the local population[[13]](#footnote-13).

The local people critically note that the results of the above mentioned studies were not widely disseminated to the public including local administration and local people. It is one of the examples of that a Government agencies’ are lacking initiatives to ensuring the local people’s right to access to information.

Moreover, companies and individuals running mining business do not follow the procedures of using, storing and disposing of poisonous and dangerious chemical substances, without causing danger on human health and environment. The Ministry of Environment and Tourism conducted review on environmental protection, utilization and storage of poisonous chemical substances of companies running mining and oil business in 8 provinces in 2011. The result showed that 30.7 percent of the companies did not act as required. Also, according to the Ministry report, there are about 200,000 tons of toxic waste at 120 points of 10 provinces territories and 53 hectares of land and many wells are polluted because of mining industry, especially gold mining[[14]](#footnote-14). The report noted further that there is a high risk of rivers and lake basins being polluted by cyanide and sulfuric acid and other poisonous substances. Thus, the state should pay special attention to the conditions where the poisonous substances used in the mining are causing serious danger on living conditions, drinking water, health and life of local people. It is neccesary for government agencies to fullfill their obligations under the Law to regularly monitor the process of using, storing and disposing poisonous and dangerous chemical substances and ensure the openness of information to the public and strengthen the accountability mechanism.

***Case:***

Drivers scoop water with gasoline cans. Then water is contaminated and unfit for drinking. But there are no other drinking wells around and we have to use the water.

*Interview with an herder in Gurvantes soum, Umnugobi province. 2012*

Moreover, crimes and accidents related to exploration and transportation of mining products have increasing. There are many cases of death and injury from being hit by coal transportation trucks, and falling into quarries, water-holes, and holes and channels created by drilling and digging.

350 road accidents were registered within the first 9 months of 2011-2012 in Umnugobi province, and 190 or 54.2 percent out of these occurred in the coal transportation road from Tavan Tolgoi mining site to Gashuun Sukhait port and from Nariin Sukhait mining site to Shivee Khuren point. These accidents caused the death of 26 people and caused serious and mild injuries for 44 people. Let us compare the figures to that of Zavkhan province, where there is comparatively high ordinary transport and travel, but no mining transportation. Total of 131 road accidents were registered in Zavkhan province within the first 9 months of 2011- 2012 with 9 deaths and 18 cases of serious and mild injuries. This shows that the number of registered road accidents in Umnnugobi province is 2.7 times higher than that of Zavkhan province and the number of road safety offenses are 3.8 times higher. In other words, there is a high risk of road safety on the coal transportation roads in Umnugobi province that leads to a number of deaths and injuries.

Research shows that humans and animals accidentally fall down into channels and holes created by mining because of the failure of the companies to take safety measures related to their mining operations.

According to the Article 36 of Minerals Law of Mongolia, companies are obliged to place mining site boundary markers. However, it has become common practice for the companies to dig deep holes or channels around their sites to mark the boundary. The absense of detailed regulations and standards of marking the mining site boundaries result in deaths and injuries of people and animals who accidentally fall down into deep holes.

Another cause of such deaths and injuries is the water-filled holes created by drilling. Two small children of a herder’s family of Gurvantes soum, Umnugobi province fell down and drowned in such a hole. This family also lost another son because of motorcycle accident on a non-standard speed bump constructed by a mining company. But no one had taken accountability for these cases accidents and the cases were dismissed by the police.

All these facts demonstrate that the rights of local people to live in a safe environment and their right to life are under serious risks due to mining operations and technology used in the industry. Government policy and actions, including protecting its citizens, making adequate compensation available for the damage suffered, enforcing laws and regulations, and taking accountability for offenses, are seriously lacking despite the fact that people are suffering with their lives, health and property. In the event of a loss of life, and where psychological and physical damage has occurred due to mining activities, the right to a remedy and the type of remedy needs to be clearly defined by the State.

Furthermore, there is an urgent need to create enforceable regulations to ensure environmental restoration is done by mining companies in extraction areas to return holes, channels, and soil displacement to its natural state. It is important to ensure public participation throughout the process. There must be a penal mechanism for the failure to comply with these obligations such as serious legal consequences, including substantial fines, suspention of existing licenses, and non-issuance of future mining licenses to the offending company. An independent monitoring system must be in place with broad social representation.

### 1.2. The right to health of people living in the areas of mining operations

The right to live in a healthy and safe environment relates to the right to health because environmental degradation has serious impacts on human health. The right to health is not only limited by health care services but it extends to the conditions for healthy life such as nutrition and food, drinking water, accommodation and working conditions of good

quality. According to Clause 2 of Article 12 of International Covenant on Economic, Social and Culture Rights (‘ICESCR), State parties are responsible for taking steps necessary for the prevention, treatment and control of epidemic, endemic, occupational and other diseases and the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

The Commission inquiry and research by other agencies have confirmed that the right to health is affected due to mining exploration, extraction, and processing and transportation activities. Dust and other hazardous materials are released in the atmosphere from pollution sources caused during mining exploration, extraction, and production and transportation operations. Earlier in this report, air and environmental pollution and the improper utilization of hazardous and toxic substances were discussed.

Particle emitted from these sources tend to cause respiratory diseases and can damage internal organs which ultimately can lead to cancer. For instance, according to the health statistics of Umnugobi province Health Department, 1,148.5 cases of respiratory diseases were registered per 10,000 persons, who are 3.5 times higher than the national average. Moreover, respiratory disease accounts the major cause of overall deaths. In mining-affected soums, the existing capacity, equipment and budget for health services are insufficient and poor. Currently, the soum hospital staff, budget and services which are designed to serve about 3,000 people cannot meet the needs of services in soums with high influx of migrant workers due to mining. In addition, soum hospital equipment and facilities supplied in the 1980s have become old and worn out. Therefore, it’s necessary to improve access and quality of health services urgently. It is recommended that the government organizations in charge of health care, policy and research must start conducting regular monitoring and study of industry health impacts with regards to the population living in the mining regions.

In the mining sector, the number of industrial accidents and occupational diseases are increasing due to poor enforcement of occupational safety and hygiene legislations, unhealthy and unsafe working environment. Common breaches include lack of regular inspection of equipment and machinery, lack of proper lighting at night, failure to ensure electricity safety. In some companies, workers have to work often overtime and even do night shifts for up to 20 days in a row. Consequently, workers suffer from hypertension, cardio-vascular organ failures, depression which can lead to disabilities and even death.

Statistics of health institutions suggest that many artisanal miners tend to develop rheumatism and varicose due to working in wet and cold environment without proper air conditioning. They are working hazardous conditions with high risk of toxic poisoning. Alcohol abuse and respiratory and sexually transmitted diseases are widespread among the artisanal miners. Physicians of the Health Department of Gobi-Altai province reported that 68 of the 71 people examined by them got eye disorder directly caused by dust and air pollution.

It is urgently required to take actions, without delay, aimed at preventing injuries, accidents and diseases, to improve the quality and access to health services, to enhance public health education, and to provide relevant information, and ratify the Safety and Health in Mines Convention of the International Labour Organization on creation of safe work places for workers in the mining sector respectively.

# 5. Which businesses are required to provide information on hazardous substances and wastes (e.g., size, sector, operational context, ownership and structure)? Please explain, in detail, the obligations of these businesses, have with regard to the type of information they are obliged to provide, to whom the information is made available, and what measures may be taken if businesses fail to meet these obligations.

According to Government resolution from 2006 and 2007 there are only six customs points (Zamiin-Ud, Chingis khan, Bayankhoshuu, Sukhbaatar, Altanbulag, Bichig) through which hazardous substances and toxic chemicals could be imported or transited.

Article 6.1.12 of The law on hazardous and toxic chemicals says that the Government of Mongolia shall request for international assistance in case of emergency caused by hazardous substances and toxic chemicals.

Under the article 10.3 of the Law on hazardous substances and toxic chemicals in case of leak of those substances the individual that owns, private enterprises and organizations shall inform police, intelligence agency or other relevant organization within 24 hours.

# 6. When does the Government limit the right of access to information on hazardous substances and wastes? Are these criteria on limitation provided by law? Who has the authority to make decisions on the disclosure/non-disclosure of such information?

In order to control over hazardous substances since 2009 the Government of Mongolia had adopted various guidelines and rules on export, import, transit, production, test, use, risk assessment, classification, transportation and utilization. Each customs point has a laboratory to examine every hazardous substances and toxic chemicals.

The Law on the of hazardous substances and toxic chemicals says that only the Government of Mongolia shall limit the list of substances and chemicals; only the Government of Mongolia shall restrict customs point through which those substances could pass.

In cases of emergency there are certain limitations and prohibitions that is written in the Law on Emergency situation.

**Chapter two. Grounds and procedures of declaring emergency situation**

**Article 4. Under the Constitution of Mongolia the emergency situation shall be declared on the ground of followings:**

1. Live, health, life, public security of whole population or population of certain location are endangered directly or could be endangered by natural disaster, other sudden danger (such as, earthquake, hurricane, drought, zud, flood, fire, contamination by toxic chemicals and radioactive substances, human and livestock infection decease.)

**Chapter four. Actions to be taken in emergency situations**

**Article 16. Special actions.**

1. **Special actions should be taken in case when emergency situation has been declared based on the following:**
	1. **Entering, leaving and moving within the emergency situation territory**
	2. **Increase the protection of vital infrastructure**
2. **In emergency situations besides part one of this article following additional actions could be taken:**
3. **Limit or prohibit the use of loudspeakers, if necessary temporary confiscate, to control media or temporary stop broadcasting until the termination of emergency situation.**
4. **Enforce special procedure and rules on telecommunication**
5. **Prohibition of sell and distribution of weapons and ammunitions, highly concentrated toxic chemicals, alcohol containing goods**
6. **To control or discontinue the use, seizes weapons and ammunitions, edged weapons of citizens, explosive and highly concentrated toxic and radioactive chemicals used by industrial organizations, weapons and equipments that were used for the purpose of training.**

# 7. How does the Government ensure that the right of access to this information is fulfilled while also respecting the confidentiality of business information? If available, please indicate relevant cases and attach copies of relevant judgments.

The law on confidentiality of organization and its article 6 prohibits to hold information about:

1. Indicators of impact on environment and health of people caused by activities of private enterprises and individuals
2. Information on inappropriate storage and protection hazardous, toxic, radioactive substances that might jeopardize environment and health of people
3. Information related to crime and other information that should be disseminated among population by laws.

**Ministry of environment and green development of Mongolia 2014 performance report**

## May

**One. Improvement of field legislation**

*Issues addressed to the Parliament and the Government of Mongolia*

1. On October 22, 2013 official document №1/5603 was addressing Government draft resolution on “Adoption of rules” (The rule on regulation of, import, trade, use and special license issue on ozone depletion substances and its substitutes and the equipments that containing those substances) to the Cabinet secretariat of Government of Mongolia for urgent actions.

## June

**One. Improvement of field legislation**

1. “ Rule on creation and service of database on wastes” was adopted by the minister of environment and green development’s order № A-115 with further registration at the Ministry of justice in June 2014 under the number 3452. The main purpose of this rule is to create database on wastes as part of environment database and its relations on setting out the indicator, collecting and integrating, use and serving.
2. The minister of environment and green development’s order № A-116 on Rule “Nationwide registration and reporting of wastes” with further registration at the Ministry of justice in June 2014 under the number 3451 declared that the mail purpose consists in regulation of relations between state bodies, citizens, private companies and organizations on registration, analysis, reporting and preparing official statistics in order to provide with objective statistics and data on wastes, environmental pollution to make a decision or policy elaboration.

**Three. Regulations on policy implementation**

**New actions**

1. On June 25, 2014 Center of Standardization and Measurement adopted a new requirement standard on warehouse for hazardous and toxic chemicals. This standard is designed to prevent from jeopardizing environment and public health by organizations by fulfilling requirements.

## October

**One. Improvement of field legislation**

*Issues addressed to the Parliament and the Government of Mongolia*

1. National program on pesticides and its implementation action plan were adopted by Government resolution 341 on October 18, 2014. Improvement of regulations on actions related to goods and wastes containing pesticides will decrease the utilization of such goods. To create an integrated database on management system for collecting, transportation, recycle and storage of hazardous wastes, cyber and electro equipments, vehicles wastes and a database on source of pesticides, and pesticide polluted soil registration. Removal of contaminated soil which would decrease of emissions from source. That would improve the quality of environment to live in and will decrease the pesticide caused diseases.

## November

**Three. Regulations on policy implementation**

On November 27 the Center of Standardization and Measurement adopted standard on “Classification of wastes and requirements for storage of such wastes from oil production”.

1. According to the www.mne.mn/chemicals [↑](#footnote-ref-1)
2. 3.1.10. Non-governmental organizations executing the particular functions of the executive branch in accordance with the section 1, article 19, Mongolian Law on Government [↑](#footnote-ref-2)
3. Mineral Resources Authority in 2011, Zuuni medee newspaper, No302, 303, pages 15, 16 [↑](#footnote-ref-3)
4. Official memo 6/161 dated 16 January 2012 of the Ministry of Nature, Environment and Tourism. [↑](#footnote-ref-4)
5. Report of the work done following the recommendations of the National Human Rights Commission.Reference letter 1/1088 of 29 November 2011, Governor of Dundgobi province [↑](#footnote-ref-5)
6. Reference letter 1/566 dated 25 October 2011 of the National Human Rights Commission of Mongolia [↑](#footnote-ref-6)
7. Cabinet Secretariat’s official memo HEG/2045 dated 8 November 2011 [↑](#footnote-ref-7)
8. Reference letter 6/161 of 16 January 2012 of the Ministry of Nature, Environment and Tourism. [↑](#footnote-ref-8)
9. Ibid [↑](#footnote-ref-9)
10. Reference letter 1/175 of 14 January 2012 of the General Agency for Specialised Inspection. [↑](#footnote-ref-10)
11. http://www.un.org/ga/search/view\_doc.asp?symbol=A/RES/64/292 [↑](#footnote-ref-11)
12. From a speech presented by the Minister of Nature and Environment at the international conference “Mining and Human Rights in Mongolia”. Ulaanbaatar [↑](#footnote-ref-12)
13. The official letter from the General Inspection Agency No 4/2056 of 2012 [↑](#footnote-ref-13)
14. Ministry of Environment and Tourism report on the Status of Environment in Mongolia: 2008-2010 [↑](#footnote-ref-14)