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**ISTANBUL ANTI-CORRUPTION ACTION PLAN**  
**JOINT FIRST AND SECOND ROUNDS OF MONITORING**

**MONGOLIA**

**PROGRESS UPDATE**

This document contains the progress update and assessment of implementation of recommendations from the Joint First and Second Rounds of Monitoring of the Istanbul Anti-Corruption Action Plan for Mongolia adopted at the 17th ACN Plenary meeting on 15 September 2016 in Paris and the progress update adopted at the 18th ACN Plenary meeting on **13 September 2017** in Paris.

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## BACKGROUND

### **About the OECD**

The OECD is a forum in which governments compare and exchange policy experiences, identify good practices in light of emerging challenges, and promote decisions and recommendations to produce better policies for better lives. The OECD's mission is to promote policies that improve economic and social well-being of people around the world. Find out more at [www.oecd.org](http://www.oecd.org).

### **About the Anti-Corruption Network for Eastern Europe and Central Asia**

Established in 1998, the main objective of the Anti-Corruption Network for Eastern Europe and Central Asia (ACN) is to support its member countries in their efforts to prevent and fight corruption. It provides a regional forum for the promotion of anti-corruption activities, the exchange of information, elaboration of best practices and donor co-ordination via regional meetings and seminars, peer-learning programmes and thematic projects. ACN also serves as the home for the Istanbul Anti-Corruption Action Plan. Find out more at [www.oecd.org/corruption/acn/](http://www.oecd.org/corruption/acn/).

### **About the Istanbul Anti-Corruption Action Plan**

The Istanbul Anti-Corruption Action Plan is a sub-regional peer-review programme launched in 2003 in the framework of the ACN. It supports anti-corruption reforms in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Ukraine and Uzbekistan through country reviews and continuous monitoring of participating countries' implementation of recommendations to assist in the implementation of the UN Convention against Corruption (UNCAC) and other international standards and best practice. Find out more at [www.oecd.org/corruption/acn/istanbulactionplan/](http://www.oecd.org/corruption/acn/istanbulactionplan/).

## **PROGRESS UPDATE METHODOLOGY SUMMARY**

After the adoption of the Monitoring Report, the evaluated country presents a Progress Update at each subsequent ACN Plenary meeting.

The **Progress Update** begins with a description of the methodology, followed by the summary of the assessment of implementation of recommendations, as agreed during the Plenary Meeting of September 2016. It then goes into each recommendation separately, providing the country report, as well as the ACN and expert evaluation. Each recommendation section includes all progress updates since the last monitoring report.

**The Progress Update follows the following steps:**

**1. Progress Update reports are prepared by country representatives**

These documents include information on implementation measures taken for each recommendation, and may also cover additional anti-corruption developments. Country representatives submit a written Progress Update report to the ACN Secretariat through appointed National Co-ordinators, together with supporting documents, such as laws and statistical data. Civil society also submits alternative reports on progress.

**2. Preparation of preliminary assessment by ACN Secretariat and experts**

The Secretariat and the experts who contributed to the Monitoring Reports (or delegates replacing the experts) study the Progress Update reports and prepare a draft progress assessment for the Plenary Meeting. Civil society is also invited to contribute to the evaluation.

**3. Discussion at ACN Plenary meeting**

ACN Secretariat and experts discuss the Progress Update during a bilateral preparatory meeting with country representatives. The Plenary then discusses and endorses the assessment.

**4. Finalisation of Progress Update**

Following the Plenary Meeting, the Secretariat adds the final assessment to the Progress Update reports, finalises and publishes them on the ACN website.

## PROGRESS UPDATE SUMMARY

**17<sup>th</sup> ACN Plenary on 14-15 September, 2016:** last monitoring report on Mongolia was adopted in October 2016.<sup>1</sup> First progress update was submitted by IAAC of Mongolia on 1 September 2016. The report was presented by Ms Dorjsuren Dulamsuren from IAAC and assessed by experts from Uzbekistan (Mr. Evgeny Kolenko) and EBRD (Mr. Chiawen Kiew), with the assistance of Olga Savran from the ACN Secretariat. Lack of progress was recorded for 10 out of 19 recommendations, progress for 6, and significant progress for 1; two recommendations (from the review report) will be examined later. Recent parliamentary elections have slowed down legislative work resulting in lack of progress on most recommendations requiring changes in legislation; there are concerns regarding broadening of exemptions from public procurement law and cancelling financial stability of the judges that go against the recommendations. At the same time, the IAAC continues good job regarding surveys, awareness raising and business integrity.

**18<sup>th</sup> ACN Plenary on 12-14 September, 2017:** Mongolia's second progress report was presented by Mr Tuvshinsaikhan Bayarkhuu, Director for Prevention and Public Awareness, Independent Authority Against Corruption. It was assessed by experts from Uzbekistan (Mr. Evgeny Kolenko) and Latvia (Mrs. Sintija Helviga-Eihvalde), with input from the EBRD (Mr. Chiawen Kiew) with assistance from Ms. Olga Savran and Mr. Brooks Hickman of the OECD Secretariat. Out of the 19 recommendations issued during the First and Second Joint Round of Monitoring, Mongolia was assessed as having made "significant progress" for 4, "progress" for 7, a "lack of progress" for 8 recommendations. Since the previous progress report, Mongolia's Government approved a National Anti-Corruption Strategy – its first in many years. Significantly, this Strategy was shaped by the survey results that the IAAC and other organisations have conducted on the corruption situation in Mongolia. Other major developments included the entry into force of Mongolia's new Criminal Code and a new law on access to information. At the same time, Mongolia has not made any progress, or only limited progress, on a variety of recommendations concerning immunities and the statute of limitations for corruption offences, building capacity of law enforcement, mutual legal assistance, and political corruption. At the ACN Plenary, however, Mongolia reported that its new Strategy addresses many areas in which Mongolia has not yet made progress. Thus, it hopes that it will be able to report more positive developments in the future.

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<sup>1</sup> Experts from Lithuania, Armenia, Azerbaijan, EBRD and World Bank took part in the monitoring.

Recommendation	Progress in implementation	
	Significant progress/ Progress/ Lack of Progress <sup>2</sup>	
	17 <sup>th</sup> Plenary Meeting, September 2016	18 <sup>th</sup> Plenary Meeting, September 2017
<b>Recommendation 1.1.-1.2:</b> Political will, anti-corruption policy	Lack of progress	Significant progress
<b>Recommendation 1.3:</b> Corruption surveys	Progress	Significant progress
<b>Recommendation 1.4-1.5:</b> Public participation and raising awareness	Progress	Progress
<b>Recommendation 1.6:</b> Specialised a-c policy/co-ordination institution	<i>[to be completed later]</i>	<i>[not assessed due to limited information]</i>
<b>Recommendation 2.1-2.2:</b> Offences and elements of offence	Lack of progress	Progress
<b>Recommendation 2.3:</b> Definition of public officials	Lack of progress	Progress
<b>Recommendation 2.4-2.5:</b> Sanctions and confiscation	Lack of progress	Progress
<b>Recommendation 2.6:</b> Immunities and statute of limitations	Lack of progress	<i>[not assessed due to limited information]</i>
<b>Recommendation 2.7:</b> International co-operation, mutual legal assistance	Lack of progress	<i>[not assessed due to limited information]</i>
<b>Recommendation 2.8:</b> Application, interpretation and procedure	Progress	Lack of progress
<b>Recommendation 2.9:</b> Specialised a-c law-enforcement bodies	Lack of progress	Lack of progress
<b>Recommendation 3.2:</b> Integrity of civil service	<i>[to be completed later]</i>	<i>[not assessed due to limited information]</i>
<b>Recommendation 3.3:</b> Promoting transparency in public administration	Significant progress	Significant progress
<b>Recommendation 3.4:</b> Public financial control and audit	Lack of progress	Progress
<b>Recommendation 3.5:</b> Public procurement	Lack of progress	Progress
<b>Recommendation 3.6:</b> Access to information	Progress	Significant progress
<b>Recommendation 3.7:</b> Political corruption	Lack of progress	Progress
<b>Recommendation 3.8:</b> Integrity in the judiciary	Lack of progress	Lack of progress
<b>Recommendation 3.9:</b> Private sector	Progress	Progress

**Note:**

**Significant progress** - important practical measures were taken by the country to adequately address many elements of the recommendation (more than a half). This can involve the adoption and/or enforcement of an important law.

<sup>2</sup> A new methodology with new ratings has been adopted for the Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan. The full methodology is available online [here](#).

**Progress** - some practical measures were taken towards the implementation of the recommendation. For example, drafts of laws that have been at least approved by the government and submitted to the parliament would constitute "progress" for the assessment of Progress Updates.

**Lack of progress** - no such actions were taken.

Recommendations, that appear to be fully addressed can be closed for the progress update procedure and further evaluated only as a part of the monitoring procedure.

## PROGRESS UPDATES BY RECOMMENDATION

### Recommendation 1.1 – 1.2: Political will and anti-corruption policy

**1) Adopt as soon as possible a new national anti-corruption strategy (programme) and an action plan with clearly defined goals, tasks, specific activities, measurable implementation indicators, responsible persons or institutions, timeframes, mechanism for coordinating and monitoring implementation, allocation of necessary funds. The new policy documents should be based on evidence of sound analysis of the corruption situation and trends, assessment of the previous anti-corruption efforts and set main priorities. Civil society and business sector organisations should be involved in the process of development and monitoring of implementation of anti-corruption policy documents.**

**2) Establish an effective high-level mechanism (e.g. a national council) for anti-corruption policy co-ordination and implementation that is sufficiently independent from the government, represents different authorities and includes a meaningful representation of the civil society, is supported with adequate resources including dedicated staff; reports on anti-corruption strategy and action plan implementation should be regularly prepared and made public.**

**3) Consider developing sectoral anti-corruption strategies or action plans for areas particularly vulnerable to corruption.**

#### 17<sup>th</sup> ACN Plenary Meeting, September 2016

##### Government report

1. Since the withdrawal of the “National Program to Combat Corruption and Strengthening Accountability and Justice” from discussion by the State Great Hural in 2015, the draft of the document is re-submitted to the Parliament. Mr. Kh. Enkhjargal, the newly appointed Director General of IAAC called for newly elected members of State Great Hural to adopt the National Program during the Parliamentary session where the agenda of the day was his appointment. In Article 2 of the National Program references international survey results such as Corruption Perception Survey and Global Corruption Barometer released by Transparency International as well as domestic surveys results such as Mongolian Corruption Index, Corruption Risk Assessment and Research on Corruption and Malfeasance Offences. Furthermore, the draft mentions 46 recommendations stated in the review report of implementation of Chapter III and IV of UNCAC. Inclusion of aforementioned information as part of the National Program certifies the awareness and consideration of the Working Group and international experts during the drafting of the document. The draft document provides that the Head of the Standing Committee on Legal Affairs, Prime Minister and the Director General of IAAC obliged to submit for adoption the annual action plan of the National program. In addition, the draft contains amendment to the Anti-Corruption Law of 2014. The Article 2<sup>1</sup>.1 stipulates that “the Great State Hural shall adopt the Anti-Corruption National Program and its action plan shall be adopted by a period according to the time period stipulated in the National Program”. Furthermore, the National Program states that “according to the law, the public organizations and the officials are obliged the common duty to implement the National Program and report the results to the relevant body”. Facilitation of participation of the civil society was thoroughly covered in the previous assessment report.

The Article 5 of the draft National Program specifies the implementation period, the

phases and targeted outcome. According to this, the National Program shall be implemented for a period of 6 years with 2 phases. The document provides the detailed outcome of each phase. Furthermore, the Article 6 of the draft National Program provides the following 3 sources of funding:

- State and local municipal budget;
- Loan, trust fund and project fund to be provided by the donors and international organizations;
- other sources.

2. The Paragraph 7.1 of the Article 7 of the National Program provides that the President of Mongolia, the State Great Hural and the Government shall champion in ensuring the implementation of the Program and the courts, prosecutor's office, the anti-corruption agency, government and non-government organizations, the media and the private sector shall implement the functions provided by the Program. In addition, the draft stipulates that the President of Mongolia shall provide with the general management for those who is in charge of the organization of the implementation of the National Program. The Secretariat of the National Security Council shall implement the function of National Program Secretariat. According to this draft the Government shall provide with the general management and coordination of the implementation of the National Program for those ministries, agencies, local administrations and local self-governing bodies.

3. IAAC adopted the sectorial anti-corruption action plans on such sectors as health, education, construction and mining with the relevant government ministries. The implementation is pending due to a formation of new government structure.

#### ***Assessment of Progress - 17<sup>th</sup> Plenary: Lack of progress***

The draft of the National Anti-Corruption Programme – that was prepared before the elections - was re-submitted to the Parliament after the elections, but it was not adopted yet. The draft is based on the results of various international and national surveys and studies on corruption. It establishes the main directions for the future anti-corruption work, and the general provisions on financing and monitoring. The Action Plan for the implementation of the Programme has not been developed yet, it is not known yet what indicators will be used for its monitoring, or the exact cost of various activities. According to the draft Programme the National Security Council will continue serving as a Secretariat for the implementation of the Programme, and the Parliament will review reports on the implementation of the Programme annually based on the reports by the implementing entities. The National Security Council is comprised of 3 members including the President, the Prime Minister and the Speaker of the Parliament Speaker, this institutional setting does not meet the recommendation to provide "an effective high-level mechanism (e.g. a national council) for anti-corruption policy co-ordination and implementation that is sufficiently independent from the government, represents different authorities and includes a meaningful representation of the civil society, is supported with adequate resources including dedicated staff". The adoption of the plans by IAAC for health, education, construction and mining sectors is a good initiative; however, the good practice suggests that the leaders of the sectors should take main role in developing such plans to ensure their implementation; little knows about the quality of these plans and resources that will be dedicated for their implementation.

#### ***18<sup>th</sup> ACN Plenary meeting, September, 2017***

##### ***Government report:***

1. The National Anti-Corruption strategy approved by the Parliament of Mongolia, by

resolution number 51 of 2016. The following objectives have been set for implementation of the national program. These include:

- Strengthen the integrity, accountability and transparency of public service and improve ethics
- Ensure openness of public service and increase access and efficiency
- Ensure transparency of budget, finance and auditing activities and improve accountability
- Increase the oversight, accountability and efficiency of procurement
- Strengthen the fairness, transparency and independence of the judiciary and law enforcement authorities and improve co-operation
- Reduce the risk of corruption in private sector and promote fair competition
- Promote initiatives and participation of civil society organizations
- Improve the legal environment of journalism and professional ethics and accountability of journalists
- Strengthening justice within the political sphere
- Raise anti-corruption education
- Strengthening international cooperation.

The strategy will be implemented in two phases from 2016 to 2023. The first phase will take place between 2016-2019, and the second phase will be implemented between 2020 and 2023.

The National Anti-Corruption strategy will be financed from the state and local budgets, International organizations, grants, loans and other sources. Article 5.1 and 5.2 of the National Program are detailed outcomes in each step of phases of the program.

The Action Plan for Implementing National Program was approved by the Government in 2017, Decree No.114. According to this plan, activities, responsibilities, partners, and schedules for implementing the 11 goals set out in the National Program are detailed.

2. Article 7 of the Action Plan for Implementing National Program specifies the program implementation, evaluation and organization. In particular, the State Great Hural shall oversee the implementation of the program, approve the draft of law, and coordination of the implementation of the program by the President of Mongolia, and coordinate the activities of the Government, in line with the ministries, agencies, local self-governing organizations and administrative organizations. 7.1.4 of the National strategy establishes an Office to implement the strategy within IAAC. The Office shall coordinate the implementation of the strategy, monitor and evaluate its implementation, develop recommendations and methodologies, coordinate the activities of the implementing agencies, develop cooperation with regional and international organizations, provide citizens and the public information about program implementation and a function to evaluate the implementation. In Article 7.1.5, IAAC shall monitor the implementation of the program and report the implementation to the relevant Standing Committee of the State Great Hural. The General Director of IAAC shall approve and apply the criteria and methodology for evaluating the implementation of the program. Currently, IAAC is in the process of preparing the draft indicators and methodology.
3. IAAC and OSCE are implementing joint project aimed at capacity building of private sector and law enforcement agencies. The following 4 main activities are planned under the project: trainings and workshop for private sector, trainings and workshop for law enforcement practitioners, trainings and workshop for officers of IAAC and capacity building of Analysis and Research Division of IAAC primarily providing professional

software on statistics. Under the private sector workshop, OSCE in cooperation with IAAC and the Business Council of Mongolia (BCM) and with support from Transparency International (TI) Mongolia, organized a three-day modular training course from 8th to 10th May 2017 to cover fundamental topics in anti-corruption and business integrity and to identify opportunities for collective action in the fight against corruption. The course focused on anti-bribery legislation, the Mongolian National Anti-Corruption Program, anti-bribery management systems, transparency in public procurement, and corruption risks in customs and trade facilitation.

***Assessment of Progress: Significant Progress***

Mongolia has adopted a National Anti-Corruption Strategy. In addition, the Mongolian Government has adopted an Action Plan for Implementing the National Programme in 2017. Under this Action Plan, an Office will be created within the IAAC to implement the Strategy. Mongolia's efforts in this sphere constitute significant progress as Mongolia had not adopted an anti-corruption strategy since the previous one expired in 2010.

## Recommendation 1.3: Corruption surveys

**1) Continue conducting regular corruption surveys, including on specific sectors, with focus on public trust, corruption perception and experience. At least part of surveys should be commissioned to independent organisations on competitive basis.**

**2) Ensure that findings of the surveys be used for drafting, amending and monitoring implementation of the anti-corruption policies. Results of surveys should be made public.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. The IAAC conducts the following surveys regularly:

**Integrity Assessment.** According to the Anti-corruption law of Mongolia, IAAC conducted Mongolian Corruption Index survey and Integrity Assessment of Governmental Organizations. The index was calculated in 2009, 2011 and 2013. Also the Integrity Assessment of Governmental Organizations was carried out in 2010, 2012, and 2014 by IAAC.

After three times of conducting surveys, the two surveys needed to improve its concepts and methodologies. Then IAAC have combined its two surveys into one assessment. The new survey is called Integrity assessment, which is focuses on public perception and experience of the corruption. And the assessment methodology was completely based on South Korean Integrity Assessment.

IAAC introduced and carried out the Integrity Assessment survey in end of 2015. The newly created Integrity assessment has advantages to coverage more number of sectors and institutions, and conduct assessment every year. Also the data gathering of the Integrity assessment is organized by independent research organizations with competitive basis as international recommendations. Conducting the assessment every year is ensuring the results of the assessment to use for drafting, amending and monitoring implementation of the anti-corruption policies and decision-making. According to the Anti-corruption law of Mongolia, results and findings of the Integrity assessment were informed to public and placed at official website of IAAC.

Integrity assessment is consists of External integrity, Internal integrity and Policy Costumers survey. The integrity assessment's average score of 62 organizations (all ministry and government agencies) was 73.8 in 2015 (out of the full score of 100 points).

The survey conducted by independent research organization, MMCG-Company, gathered data of 2330 citizens and businesses who directly experienced services of 62 public organizations, and 1390 public officials, and 620 policy costumers and experts.

**Mongolian Corruption Index** survey is based on desk research on corruption and malfeasance crime as well as perception survey of 4000 respondents from 21 aimags, the capital city, 330 soums and 9 districts; 2000 public officials of state central administrative body. Local municipal administration and local self-governing bodies; 352 experts of government and non-government organizations and the private sector. This survey is last taken in 2015 and is conducted once in two years.

**The Survey on Assessment of Integrity Level of Public Organizations** is planned to be conducted in the late 2016 and is aimed at identifying the type, the scope and the cause of the corruption. It is conducted once in two years.

**Experts' Perception Survey on Corruption in Political and Law Enforcement Organizations** is conducted once a year and aimed at identifying the situation, the type, the scope and the cause of the corruption in the mentioned sectors. IAAC conducts this survey in cooperation with independent research organizations. The findings of the survey used for assessing the implementation anti-corruption policies and its results are informed to the public.

**Youth Integrity Survey.** Weakness of integrity should be found not only from the improper or ineffective ethics management system for public servants but also from the insufficient integrity education for youth in schools as well as at home. In this regard, review of current education system on the value of integrity is inevitable. Mongolian Authority against Corruption conducted the Youth Integrity survey in 2015, which it is sixth survey. Youth Integrity survey was carried out with the cooperation with National office for children and Department of development of Children and Family. The data for survey was gathered from 21 provinces and 9 districts of capital city. Youth Integrity survey was designed to measure belief system of youth and its behavioural characteristics from compliance (law-abiding) to integrity (morality), and, in between them, ethics or 4 dimension Morals and Ethics, Righteousness, Law Abiding, Intolerance to Corruption. As results, IAAC preparing programs for Youth Integrity education, as well as trainers for Integrity education and awareness.

Analysis on complaints and reports is done on a monthly basis and based on reports from internal teams of IAAC such as Inspection and Analysis Department and Investigation Department and Prevention and Public Awareness Department in charge of resolving the complaints and reports according to their respective statutory functions.

In addition, the Asia Foundation commissions "Survey on Perception and Knowledge of Corruption" since 2006 once in a half year and presents the results of the findings to the general public and the representatives of the government organizations. Due to the end of the STAGE project from which the surveys are funded directly, it is now conducted once a year since 2015.

2. **The Mongolian Corruption Index** is one of the criteria which serves as an indicator of the implementation of 24<sup>th</sup> objective on "Strengthening spirit of zero tolerance to corruption in all level of society" which is included in 9th MDG on "Strengthening Human Rights and Fostering Democratic Governance". Experts' Perception Survey on Corruption in Political and Law Enforcement Organizations is also included in the criteria for assessing the implementation of MDG.

The analysis on complaints and reports is considered in monthly evaluation of the activities of internal units of IAAC.

IAAC publishes in paper format and on its website the findings of the aforementioned surveys. The printed survey findings are disseminated to public organizations and other interested parties.

#### **Assessment of Progress - 17<sup>th</sup> Plenary: Progress**

Mongolia continues conducting surveys, as recommended. There are 5 regular surveys conducted by the IAAC, and NGO surveys. The methodology for the Integrity Survey was improved; it is conducted by an independent research organizations selected through open tender. IAAC's annual budget for surveys is around 25 thousand USD. The survey of youth integrity appears a very useful initiative. While the surveys are published and analysed by the IAAC, it is not clear how their findings will be used in the monitoring of the programme, as there appears to be a disconnect between the surveys produced by the IAAC and the monitoring mechanism of the

Security Council.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

1. IAAC conducts research on political corruption, governmental integrity level surveys, and children integrity surveys. After the questionnaire is filled, the data collection process is performed by a selected professional organization based on the selection procedure. The compilation of the survey is done by the Research and Analysis Division of IAAC. The division also conducts a special survey which meets the requirements of the IAAC. For example, in March of 2017, focus group discussions were held in 100 central and local government organizations. The goal of the focus group was to interview and collect the necessary information for the implementation of the National Anti-Corruption strategy and to identify the circumstances of corruption and the high risk of corruption within the sector and organization. The Asia Foundation's representative office in Mongolia regularly conducts an "Assessment of Corruption Perceptions in Business sector". This study is conducted regularly and is considered as a tool for evaluating integrity in the business environment. The results of the assessment is regularly reviewed and considered in prevention activities implemented by IAAC, primarily in developing contents such as presentations of trainings.
2. The results of IAAC's findings are publicly available through publications and distributed as pamphlets. Also the survey results released by IAAC along with other notable international studies such as TI Perception of Corruption Survey and Global Corruption Barometer was used in developing the current National Anti-Corruption Program.

**Assessment of Progress: Significant Progress**

The IAAC continues to conduct regular surveys on its own initiative and through selected professional organisations, at both the national and local levels. The IAAC actively publishes the results as well as other prominent surveys conducted by non-governmental organisations. Significantly, Mongolia reports that the results of these various studies were considered when developing Mongolia's current National-Anti-Corruption Programme.

## Recommendation 1.4 - 1.5: Public participation, raising awareness and public education

**1) Ensure that awareness raising and public education campaigns are carefully planned and correlate with the anti-corruption programme objectives and tasks; clearly define the target groups, main issues and expected outcome of these activities.**

**2) Regularly assess the results of awareness-raising and educational activities, in particular by seeking external independent assessment.**

**3) Ensure that civil society organisations and other non-governmental actors are involved in a meaningful way in the development and implementation of anti-corruption policy measures, including designing, implementing and evaluating awareness-raising and public education campaigns.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### Government report

- 1) The youth campaign “Together for Fair Society” is organized by IAAC once every year. The campaign is organized according to the specific action plan and the developers of the plan consider the results of the previous year. The campaign’s plan is included in annual plan of IAAC. The purpose of the campaign is to explain the negative impact of corruption in society and teach the lessons and tools to prevent from such ill practices for youth aged between 16 and 25. The expected outcome of the campaign is to improve the understanding and strengthening the zero tolerance to corruption mind-set and anti-corruption behaviour of the youth.

IAAC covers in its training plan the public organizations with lower ratings according to the Integrity Assessment and the Mongolian Corruption Index and which is in category of high corruption risk. The content of the training is regularly updated and calibrated to the peculiarity of the activity conducted by the public organization.

Based on the findings of surveys conducted by IAAC and international organizations, IAAC identified health sector and organized campaign named “Expressing the Gratitude Correctly”. During the campaign period, the organizers conducted step by step measures to strengthen the transparency, provided technical assistance and organized training and workshop.

For the purpose of impart the knowledge on rule of law, IAAC published and disseminated handbook titled “Adventures of a Little Rabbit” to students of secondary schools. The handbook is accompanied by a board game with anti-corruption content.

IAAC elaborated and implemented specific program aimed at implementing anti-corruption measures and prevention activities in the Customs Service.

- 2) After each anti-corruption training, IAAC conducts survey among participants in order to study and improve the effectiveness of the session. The results of the survey are presented to the executive manager on a regular basis.

As part of the Project on “Strengthening Anti-Corruption Agencies in Asia and the Pacific of Transparency International, the Independent Research Institute NGO conducted review on legal framework and activities of IAAC. The review is conducted according to the methodology adopted by Transparency International. The main purpose of the review was to make comparison of legal framework, independence, human and financial resource and capacity of IAAC with other seven anti-corruption agencies of the region

based on the similar indicators and identify challenges as well as providing recommendations. The findings of the review are delivered and IAAC is working on the implementation of the recommendations.

- 3) The IAAC, the organizers are open to any cooperation from third party if the interests of third party are aligned with the goals set by the campaign. With support from UNDP Project on “Ensuring Transparency with Citizens’ Participation”, 16 short animation movies on anti-corruption legislations as well as handbook on anti-corruption monitoring for CSOs.

**Assessment of Progress - 17th Plenary: Progress** The youth awareness campaign appears well designed and targeted. It also appears to be linked to the survey of youth integrity. Awareness measures targeting risk sectors such as health and customs is also a positive development. Example of cooperation with NGOs on awareness raising is good, however, further engagement of NGOs in the design and delivery of the awareness programme is welcome. Efforts of IAAC to study impact of the awareness raising work is a good practice, engagement of NGOs and other external reviewers of impact can be pursued to study the change of the societal attitude to corruption. Additional awareness raising measures are needed to focus on such complex issues as political corruption.

#### **18<sup>th</sup> ACN Plenary meeting, September, 2017**

##### **Government report:**

- 1) The IAAC workgroups working in the Ministries, Agencies, Agencies, and Districts, were formed by the decree of General director of IAAC on March 9, 2017 and they worked from March 9, 2017 to May 20, 2017 in their planned organizations. During this activity, more than 100 government officials were trained and provided information about the National Anti-Corruption strategy. As of the first half of 2017, IAAC conducted 80 training sessions in 2017, with 5660 people enrolled in double counting. 58.2 percent of these organized training programs were promoted by the National Anti-Corruption strategy. As of 31 December 2016, IAAC organized a total of 240 training sessions and enlisted 14300 people. In addition to training on public awareness, anti-corruption publications and manuals were distributed to government agencies. In the first quarter of 2017, 1891 publications promoting anti-corruption legislation was distributed to government agencies. These include: Anti-Corruption legal volumes, manuals for public officials and manuals on conflicts of interest. These activities are reflected in the IAAC's Action Plan of 2017, and in particular, work activities in Ministries, Agencies, and Capital City and Districts has become a preparation for the National strategy.
- 2) No assessment made by external organizations.
- 3) IAAC has an open policy on cooperation with non-governmental organizations and civil society on public awareness. For example, IAAC cooperates with Mongolian National Chamber of commerce and industry, Employers union, business representatives and non-governmental organizations to strengthen cooperation between public and private sectors in prevention of corruption in accordance with the Action Plan for the Implementation of the National Anti-Corruption strategy.

Furthermore, on 12<sup>th</sup> October 2016, the Public Council at IAAC submitted recommendations aimed at improving transparency of public organizations, improving access to information, encouraging the public participation. The core of the recommendation was introduction of public oversight in government agencies. According to this recommendations, IAAC was handed a task to introduce Sub-Councils for Public Oversight in all ministries, agencies and local administrations. The procedure of the Sub-Council was adopted by the joint resolution of the Minister of Justice and Director

General of IAAC No a/53/44 of 2017. IAAC is now conducting the selection of candidates for the roles of the members of the Sub-Council.

**Assessment of Progress: Progress**

Mongolia continues to conduct an extensive awareness-raising campaign about corruption issues. While Mongolia's written submission mainly focussed on its public-sector activities, Mongolia reported during the plenary that it also regularly conducts anti-corruption outreach to other audience, such as youth and students. The IAAC also has an established track record of cooperating with Mongolian non-governmental organisations and the private sector to improve transparency and to encourage public participation. Overall, Mongolia has shown progress on this recommendation.

**Recommendation 1.6 (from the Review Report): Specialised policy and co-ordination institution**

**1) Strengthen capacity of the specialised anti-corruption agency by guaranteeing its institutional, functional and financial independence; put in place effective mechanisms to prevent various forms of hierarchical pressure and undue interferences with corruption investigations and prosecutions; strengthen regional focus of the agency's work, in particular by considering establishing regional (local) offices of the agency.**

**2) Introduce competitive and transparent merit-based selection of the Head and Deputy Heads of the specialised anti-corruption agency; establish clear criteria and procedure for merit-based and competitive recruitment of the agency's staff.**

**3) Improve annual planning of the Independent Authority Against Corruption by emphasizing in its action plans the priorities, clearly defining the content and expected outcomes and outputs of activities, timeframe, setting measurable indicators of implementation and controlling their fulfilment.**

**17<sup>th</sup> ACN Plenary Meeting, September 2016**

**Government report:** No information provided

**Assessment of Progress:** not assessed due to limited information

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:** No information provided

**Assessment of Progress:** not assessed due to limited information

**Recommendation 2.1-2.2: Offences and elements of offence**

**1) Align offences of active and passive bribery with international standards, in particular by criminalising offer or promise, acceptance of offer/promise of a bribe, request of a bribe as complete offences, bribery through a third person or for the benefit of a third person.**

**2) Enact a statutory definition of "bribe" which should include non-pecuniary and intangible undue advantages.**

**3) Introduce liability for bribery in the private sector and trafficking in influence in line with international standards; consider providing release from liability for active bribery in cases of**

*extortion/request of a bribe when the bribe-giver reported such extortion/request to law enforcement authorities in line with the best international practice.*

*4) Clarify the terms used in offences of abuse of powers and money laundering to ensure legal certainty; through legislative amendments and/or changes in practice, explicitly provide that conviction for predicate offence is not required for prosecution and conviction for money laundering.*

*5) Review the offence of "Improvement in the financial state by illegal means" to bring it in line with Article 20 of the UNCAC. 6) Establish effective liability of legal persons for corruption criminal offences with proportionate and dissuasive sanctions, including liability for lack of proper supervision by the management which made possible commission of the offence; corporate liability should be autonomous and not depend on detection, prosecution or conviction of the actual perpetrator.*

*6) Establish effective liability of legal persons for corruption criminal offences with proportionate and dissuasive sanctions, including liability for lack of proper supervision by the management which made possible commission of the offence; corporate liability should be autonomous and not depend on detection, prosecution or conviction of the actual perpetrator.*

#### **17<sup>th</sup> ACN Plenary Meeting, September 2016**

##### **Government report**

**Side Comment:** The Government of Mongolia has submitted the request to the State Great Hural to suspend the enforcement of the new Criminal Code and Law on Infringement until 1 July of 2017. The irregular session of the SGH have started and the government's request was discussed and cleared for standing committee discussion. As it seems more likely that the SGH would approve this request based on the assumption that the ruling party has the majority of the seats in the SGH, IAAC decided to answer the questions related to Criminalization within the scope of the Criminal Code of 2002.

##### **Source: Criminal Code adopted in 2002, Criminal Procedure Code adopted in 2002**

1. No new provisions have been introduced in the Criminal Code of 2002.
2. The statutory definition of "bribe" is not defined directly in the Criminal Code of 2002
3. 4. 5. 6. No new provisions or clarification have been introduced in the Criminal Code of 2002.

##### **Assessment of Progress - 17th Plenary: Lack of progress.**

The reform of the Criminal Code is on hold following the government's request to suspend the enforcement of the Criminal Code due to lack of proper preparation and lack of implementation mechanism; it is expected that the Code will be adopted/enter into force by 1 July 2017.

#### **18<sup>th</sup> ACN Plenary meeting, September, 2017**

##### **Government report:**

1. 2. 3. In December 3, 2015, the Criminal code of Mongolia was drafted and came into effect July 1, 2017. The concepts of receiving of a bribe and giving of a bribe were defined in accordance with the United Nation's Convention against corruption. Article 22.4 of the Criminal code defines Giving of a bribe as the following:

Article 22.4. Receiving a bribe

1. If a person received a bribe directly or indirectly for performing or to perform their duties for the interests of the briber shall be punishable by deprivation of the right to hold certain positions for a period of 2 to 5 years with a fine of 2700-14000 unit equivalent or imprisonment from 6

months to 3 years.

2. If a public official received a bribe directly or indirectly for performing or to perform their duties for the interests of the briber shall be punishable by punished by deprivation of the right to hold public office for a period of 2 to 5 years and a fine of 5400-27000 units equivalent to or the deprivation of movement from 1 year to 5 years or imprisonment from 2 years to 8 years.

3. If a person received a bribe directly or indirectly for not performing or not perform their duties or executed or to execute unspecified actions for the interests of the briber shall be punishable by deprivation of the right to hold public office for a period of 2 to 5 years with a fine of 2700-14000 units equivalent to or restriction of movement from 6 months up to 3 years or imprisonment from 6 months to 3 years.

4. If a public official received a bribe directly or indirectly for not performing or not perform their duties or executed or to execute unspecified actions for the interests of the briber shall be punishable by deprivation of the right to hold public office for a period of 2 to 5 years with a fine of 10000-40000 units equivalent or imprisonment from 2 years to 8 years.

5. If the crime stated in paragraph 2 of this article was committed by an politically exposed person or organized crime group, creating impediments shall be punishable by punished by deprivation of the right to hold public office for a period up to 8 years with a fine of 10000-40000 units equivalent or imprisonment from 2 years to 8 years.

6. If a crime stated in paragraph 4 of this article was committed by an politically exposed person or organized crime group, creating impediments shall be punishable by imprisonment from 5 years to 12 years.

#### Article 22.5. Giving a bribe

1. Persons who transferred tangible and intangible resources or handed the rights to possess, provided of service without charge or with preferences or pledged, proposed such in connection with their with function, power, position to obtain preferences for himself or others shall be punishable by deprivation of the right to hold public office for a period of 2 to 5 years with a fine of 2700-14000 units equivalent or restriction of movement from 6 months up to 3 years or imprisonment from 6 months to 3 years.

2. If the same crime was committed by a public official or organized crime group shall be punishable by deprivation of the right to hold public office for a period of 2 to 5 years and a fine of mnt in size from 5400-27000 units equivalent or restriction of movement from 1 year to 5 years or imprisonment from 1 year to 5 years.

3. If same crime was committed on behalf of legal legal person or for the interest of the legal person shall be punishable by deprivation of the right to conduct a particular activity with a fine of 120000-400000 units equivalent.

A clarification: -If a person gave a bribe due to impediments and received public service which is provided in accordance with the functions of government officials and disclosed it to the competent authority, the public service which has received this person remains and be exempted from punishment.

-The person will not be exempted from punishment if this person planned for an illegal to be executed by the receiver, deliberately gave the bribe. Voluntary disclosed about this competent authority will be considered grounds for mitigation of the penalty.

#### 4. Article 22.1 Abuse of power

22. 1. Abuse of power, office or non-performance by a state official resulting in preferences to himself or others shall be punishable by a fine equal to 5400 units to 27000 units with deprivation of the right to hold specified positions for a term of 2-5 years or restriction of movement for a term of 1-5 years or incarceration for a term of 1 to 5 years.

22.2. Abuse of power, office or non-performance by a state official resulting in preferences to himself or others that caused damage in a large amount shall be punishable by a fine equal to 5400 units to 27000 units with deprivation of the right to hold specified positions for a term of 2-

5 years or restriction of movement for a term of 1-5 years or incarceration for a term of 1 to 5 years.

22.3. The same crime committed by a politically exposed person shall be punishable by a fine equal to 10000 units to 40000 units with deprivation of the right to hold specified positions for a term of 5-8 years or incarceration for a term of 2 to 8 years.

#### Article 22.10 Illicit enrichment

22.1. Any public officials that cannot justify their additional amount of income and assets shall be punishable by a fine equal to 2700 units to 14000 units with confiscation of the additional income and assets and deprivation of the right to hold specified positions for a term up to 2 years or restriction of movement for a term of 6 months to 3 years or incarceration for a term of 6 months to 3 years.

22.2. The same crime committed by a politically exposed person shall be punishable by a fine equal to 5400 units to 27000 units with confiscation of the additional income and assets and deprivation of the right to hold specified positions for a term of 2-5 years or restriction of movement for a term of 1 to 5 years or incarceration for a term of 1 - 5 years.

5. and 6. The Criminal code and Criminal procedure code, effective of July 1, 2017, provides criminal liability for legal persons. Chapter 9 of the General section provides the following:

#### Criminal liability for legal persons (Article 9.1 of the Criminal code)

9.1.1. Criminal liability for legal persons shall be held for committed crimes specified in the special part of the Criminal code against solely the executive officer, representing the legal person or persons issuing a joint decree or actions, inactions for the benefit of the legal person will counted as basis for punishing a legal person.

9.1.2. Executive officer, representing the legal person to issue decrees, issued a decree or gave permission to commit crimes stated in this law by other persons on behalf and for the benefit of the legal person or committed a crime by not performing their duties in a way of inaction or action shall be criminally liable.

9.1.3. Criminal liability for legal persons in 9.1.1, 9.1.2 should not be understood as release from penalty for executive officers issuing decisions or authorizing.

9.1.4. Subsidiaries and representative offices of foreign legal persons committing crimes on the territory of Mongolia shall be criminally liable same as other legal persons.

#### 9.2. Types of penalty for legal persons

9.2.1. The following penalties will be applied against legal persons:

9.2.1.1. Fine,

9.2.1.2. If the court views it necessary to comply with article 5.1 of this, the following additional penalties may be applied:

9.2.1.2.1. Revoke of permit,

9.2.1.2.2. Liquidation,

9.2.1.2.3. Confiscation of assets and income.

#### 9.3. Fine

9.3.1. Legal persons shall be punishable by a fine equal to 10000 units to 400000 units.

#### 9.4. Revoke of permit

9.4.1. Legal persons shall be punishable by restriction of one or more permits for a period of 1-8 years or revoke of permit.

#### 9.5. Liquidation

9.5.1. Liquidation will be applied under circumstances stated in the special part of the Criminal code.

9.5.2. Under circumstances of liquidation applied against a legal person, assets and income shall be confiscated and be used for recovering caused damages and court will make a decision whether transfer the leftover assets to state budget.

9.5.3. Subsidiaries or representative offices of a legal person committing a crime shall be

liquidated.

#### 9.6. Confiscation of assets and income

9.6.1. The equivalent of the income and assets gained in relation to a committed crime or damages caused to others in relation to a committed crime shall be confiscated from the assets and income of the legal person.

9.6.2. The procedure in article 7.5 of this law shall be complied in executing the penalty of confiscation of assets and income of legal persons.

#### 9.7. Accurateness of criminal liability of legal persons

9.7.1. The following legal persons shall be liable to criminal liability in-case the legal person liable to criminal liability has changed its form:

9.7.1.1. The new legal person integrated and formed from other legal persons,

9.7.1.2. If the legal person integrated with another legal person then the legal person integrating,

9.7.1.3. If the legal person separated or isolated then rationally depending on who possess the property, non-property rights, duties and activity related to the crime,

9.7.1.4. If the legal person changed its organizational type, form, purpose then the legal person which was reformed,

9.7.1.5. If the main company committed a crime for the benefit of its founders, shareholders then the main company.

9.7.2. In-case a legal person was purposely dissolved in connection to criminal procedure then the damage shall be recovered from shareholders who received divided assets related to the criminal liability, persons with common interests who received assets, property and non-property related rights of the legal person in any unjustified ways and forms, other legal persons which transferred assets, property and non-property related rights without any compensation.

9.7.3. In-case the criminal liability mentioned in article 1.3 of this law does not comply with purpose of the criminal liability and the principle of justice then the judge shall make a decision to hold liable the legal person responsible for assets, property and non-property related rights, activity when the crime took place.

9.7.4. Criminal liability shall be applied notwithstanding that it was known before the reformation of the legal person.

#### ***Assessment of Progress: Progress***

In June 2017, Mongolia's new Criminal Code came into effect. According to Mongolia, the new law defines both the giving and receipt of a bribe in accordance with the UN Convention Against Corruption. However, it does not appear to make the "offer" or "promise" of a bribe a separate offence. The Criminal Code also provides for the criminal liability of legal persons, in certain circumstances, though the conditions for imposing such liability will need to be examined in future evaluations. Mongolia, however, has taken a positive step by also including provisions on successor liability directly in its Criminal Code.

## Recommendation 2.3: Definition of public officials

**1) Introduce in the Criminal Code definition of national public officials subject to corruption offences which would cover all state and local self-government employees, as well as other persons who perform public functions and candidates for elected offices.**

**2) Establish bribery offences involving foreign public officials in line with international standards and clearly define such officials in the Criminal Code.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. 2. No new provisions have been introduced in this regard in the Criminal Code of 2002.

#### **Assessment of Progress: Lack of progress**

### 18<sup>th</sup> ACN Plenary meeting, September, 2017

#### **Government report:**

1. Article 3.1.4 of “the Regulation of public and private interests and prevention of conflict of interests in public services” gives the definition of public officials and the public officials are stated in article 4.1 as the following persons: officials in the political service, administrative service, executive service and professional officers in the special service categories of the civil service, executive officers and general and senior accountants in the public service category of the civil service, executive officers of state and municipal owned legal entities or legal entities with state and local equity, head of the board of director, its members and executive director of the National television and radio of Mongolia, executive officers of NGOs performing on basis of funding from the state, President, Parliament, candidates for all stages of the Citizens representation council, heads and members of all stages of the Citizens representation council and other officials included in the list by the competent authority.
2. Article 22.6 of the Criminal code specifies “bribing of an official of a foreign government institution, international organization and the penalty is 5-12 years of imprisonment.  
22.6.1. Directly or indirectly demanding, receiving, accepting a proposal for a bribe by an official of a foreign government institute, international organization in connection with their line of duties for the benefit of the giver shall be punishable by incarceration for a term of 5 to 12 years.  
22.6.2. Persons transferred tangible and intangible resources or handed the rights to possess, provided of service without charge or with preference or pledged, proposed such to officials of foreign state institutions, international organizations for the purpose of obtaining preferences or maintain preferences in connection with their mandate, position and international activity shall be punishable by a fine equal to 5400 units to 27000 units with deprivation of the right to hold specified positions for a term up to 3 years or restriction of movement for a term of 1-5 years or incarceration for a term of 1-5 years.

#### **Assessment of Progress: Progress**

Mongolia’s Criminal Code expressly criminalises the bribing of a public official of a foreign government or international organisation. While the Criminal Code still does not appear to define “public official”, the definition used for purposes of regulating conflict of interests broadly covers political officials and civil servants, including officers of state-owned companies.

## Recommendation 2.4 - 2.5: Sanctions and confiscation

**1) Review criminal sanctions for corruption offences to ensure that they are effective, proportionate and dissuasive.**

**2) Compile and analyse statistics on application of sanctions for corruption offences to see how effective they are in practice (e.g. how often conditional release is applied, whether imprisonment is the main sanction for serious offences).**

**3) Revise provisions on confiscation to enable mandatory application of the confiscation of instrumentalities and proceeds to all corruption and corruption-related offences, including converted or mixed proceeds, benefits derived from proceeds and value-based confiscation; consider reversing burden of proof in confiscation proceedings (criminal or civil) and introduce extended confiscation.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. No review has been made with regard to the recommendation in the Criminal Code of 2002.
2. Statistical reports are made regularly by the Mongolian authorities.
3. No new provisions have been introduced in the Criminal Code of 2002.

#### **Assessment of Progress - 17th Plenary: Lack of progress**

### 18<sup>th</sup> ACN Plenary meeting, September, 2017

#### **Government report:**

1. Article 5.2 of the Criminal code specifies the following types of penalty: 1.1. Fine, 1.2. community service, 1.3. restriction of movement, 1.4. imprisonment, 1.5. limitation of rights and article 9.2 of the Criminal code specifies the following types of penalty for entities: fine, limitation of rights, liquidation of entity, confiscation of income and assets.
2. and 3. Persons committing a crime shall be fined for 100 units to 40,000 units and entities shall be fined for 10,000 units to 40,000 units.  
Imprisonment is when a person who has committed crime and has been restricted from his freedom for a certain period or for their whole life (life sentence) in an open or closed prison. A person can be imprisoned for a period from 6 months to 20 years in an open or closed prison. A person who has been imprisoned for their whole life will be placed in a closed prison. After 25 years of imprisonment, courts will examine circumstances of the crime, damage, behavior of this person and make a decision whether to release from penalty.  
Community service is when a person who has committed crime works without pay for the benefit of the society. Taking to consideration the circumstances of the crime, damage, behavior of this person, court will make a decision on the period of community work no more than 4 hours a day and a total of 240-720 hours.  
Restriction of movement is when a person who has committed crime has been restricted from moving from their registered address, going someplace and will travel under directed route, change registered address with the consent of the competent authority and this restriction of right of movement can be held for a period of 1 month to 5 years.  
Person who has committed crime can be deprived of the right to hold specified positions or engage in specified business for a term of 1 to 8 years.

***Assessment of Progress: Progress***

Although Mongolia did not explicitly state that it has reviewed the effectiveness of its sanctions or whether confiscation is mandatory, the ACN Plenary deemed Mongolia to have made progress on this recommendation by adopting a new Criminal Code with penalties including fines, imprisonment, confiscation, and other measures.

## Recommendation 2.6: Immunities and statute of limitations

**1) Review the system of immunities of public officials by narrowing down their scope and list of relevant officials to the extent necessary in a democratic state; remaining immunities should be functional, cover only period in office, exclude situations in flagrante, allow effective investigative measures into persons with immunity; establish swift and effective procedures for lifting immunity based on clear criteria.**

**2) Increase statute of limitations for corruption offences; consider establishing fixed, sufficiently long statute of limitations for all corruption crimes regardless of their gravity; stipulate that statute of limitations be interrupted by bringing of charges or other procedural action, as well as by the period when person enjoyed immunity.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. No new provisions have been introduced regarding system of immunities of public officials except two developments in Law on Constitutional Court. Article 5.3 of the Law states that The State Great Hural may recall (the member of a Constitutional Court) based on decision of the Constitutional court and proposal issued by the organization which initially offered (the candidate) if the conviction to an offence is established by a court or violation of a law was identified by the competent body. This provision is the amended on 19 January 2016 and was suspended by the Constitutional Court starting from 15 February 2016. Also, the amended version of Article 5.4 of the Law stipulates that “it is prohibited to dismiss, recall or transfer to other post the member of the Constitutional Court before the end of his/her tenure on a basis of other than personal request, health reason, retirement age specified in the Civil Service Code or Article 5.3 of this Law. This amendment is enacted on 19 January 2016.

The Law on Legal Status of a Judge introduced “Declaration on Influence” in judicial practice. As stated in the Law, the General Judicial Council adopted form of “Declaration on Influence” and “Procedure on resolution of Declaration of Influence”. According to the Article 22.1 of the Law on Legal Status of a Judge, a judge or a panel of judges shall keep “Declaration on Influence” and submit the document to General Judicial Council. The jury also obliged to follow the same practice according to the Article 7.2 of the Law on Legal Status of Jury. Consequently, the General Judicial Council shall review the declarations and shall choose to submit the inconsistencies either to IAAC, the Police Agency or relevant court based on the jurisdiction. In 2014, nine judges submitted the “Declaration on Influence”, of which 3 cases were measure.

2. No new provisions have been introduced in the Criminal Code of 2002. The statute of limitation is provided by the newly adopted Criminal Code are as follows:
  1. One year for an offence punishable by imprisonment for a period of one year;
  2. Five years for an offence punishable by imprisonment for a period of eight years;
  3. Twelve years for an offence punishable by imprisonment for a period of twelve years;
  4. Twenty years for an offence punishable by imprisonment for a period of above twelve years.

According to the newly adopted Criminal Code, the statute of limitation starts from the day the offence is committed and ends the day when the person is accused for an offence.

#### **Assessment of Progress - 17th Plenary: Lack of progress**

The amendments recently introduced to the Law on Constitutional Court do not address the recommendation. No other actions were taken, no information was provided regarding and consideration regarding “establishing fixed, sufficiently long statute of limitations for all corruption crimes....” as was recommended.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

1. Currently, there is no narrow list of relevant officials to the extent necessary as in a democratic state, however the legal opportunity to investigate public officials in connection to committed crimes is still open. Article 34.7 of the Parliament law states that it is restricted to detain, punish in an administrative procedure and search home, office, vehicle, body of a Member of parliament. Also articles 6.6.6 of this law states that if a decision by the court has been to convict then the mandate (immunity) of the Member of Parliament will come to an end.  
Article 16 of the President Law states that body, house, home, communication, transport will be under government protection.
2. Statute of limitation period starts from the day of the committed crime and until the court order will be effective.  
Statute of limitation period pasted for the following:  
Statute of limitation period will be 1 year for crimes punishable by imprisonment to 1 year and below or restriction of movement for a period up to 1 year and below;  
Statute of limitation period will be 5 years for crimes punishable by imprisonment of a period of min 1- max 8 years and below or restriction of movement for a period up to 1 year and above;  
Statute of limitation period will be 12 years for crimes punishable by imprisonment to min 5- max 15 years;  
Statute of limitation period will be 20 years for crimes punishable by imprisonment to min 12- max 20 years with no life sentence.  
Statute of limitation period will stop if the defendant has escaped and will continue from the moment the person has been found or has given himself up. If the person intentionally commits another crime during period mentioned in section 1 of this article then the statute of limitation shall be newly counted separately for the crimes starting from the crime committed last. Statute of limitation period shall not be counted for crimes against security of human kind and crimes against peace with a penalty of life sentence.

**Assessment of Progress: Lack of Progress**

Based on the information provided, it does not appear that Mongolia has taken any steps to implement this recommendation.

## Recommendation 2.7: International co-operation and mutual legal assistance

**1) Ensure effective international mutual legal assistance in investigation and prosecution of corruption cases, in particular by implementing recommendations of the UNCAC Review; encourage various forms of direct co-operation, in particular through interagency co-operation agreements; establish clear responsibilities of national authorities with regard to international co-operation in criminal cases, including on asset recovery.**

**2) Ensure that the staff of units responsible for international co-operation within the central authorities are well trained, have adequate resources, including translators, necessary means of communication, and are easily accessible to the investigators and prosecutors in the field.**

**3) Collect and analyse data about practical application of available international co-operation instruments during investigation and prosecution of corruption cases and relevant challenges.**

**4) Provide in the legislation measures for direct asset recovery as envisaged by Article 53 of the UN Convention against Corruption, as well as procedure for and conditions of recovery and disposal of assets in accordance with Article 57 of that Convention.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

**Source: Criminal Code 2002, Criminal Procedure Code 2002**

1. No new agreements were concluded with foreign jurisdiction on criminal matters except the agreement with Hong Kong on transfer of convicted person. According to phone call with Ministry of Justice draft agreements on the criminal matter with the foreign jurisdiction is pending to be signed.
2. In the Ministry of Justice, it is informed that two officers are responsible for international co-operation on criminal matters. The General Prosecutor's Office also has two officers in charge of MLA on criminal matters.

In 2015, IAAC with support from UNDP published "Handbook on Mutual Legal Assistance on Criminal Case". This handbook is the byproduct of the cooperation between StAR Initiative and IAAC. The content of the handbook consists of legal and practical (in particular drafting the request) aspects of the MLA on criminal matters.

3. According to the phone call with the Ministry of Justice no MLA request have been received from or sent to the foreign jurisdiction since the last assessment report.

No new provisions have been introduced in this regard.

**Assessment of Progress - 17th Plenary: Lack of progress** Preparation of the agreement with Hong Kong is a positive development. Development of the Handbook on MLA is a useful initiative. However there are no tangible results yet. It would be useful in the next progress update to provide information about any new or ongoing investigations of corruption cases that required MLA from other countries, draft agreements on the criminal matter with foreign jurisdiction(s) that are pending to be signed, the use of the handbook to provide trainings, and any "interagency" co-operation agreements that may have been concluded to address "the most challenging practice for investigators of IAAC is obtaining information from organisation where the suspect is employed".

### 18<sup>th</sup> ACN Plenary meeting, September, 2017

#### **Government report:**

1. 2. 3. 4. The legislation defines evidence as information such complaints and information provided citizens and entities to prosecutors, investigators and government institutions, the resolution procedure of violations other than crimes and inspection by a specialized institution conducted in accordance to legal procedures and requirements and solid information provided from foreign states in accordance with the procedure states in chapter 42 of the Criminal procedure code.

Article 42. If it is necessary to execute, on the territory of foreign country, interrogation, examination, search, experiment, seizure of property or other criminal proceedings provided in this law, the issue shall be carried out according to mutual or other international agreements on rendering legal assistance.

***Assessment of Progress: Lack of Progress***

Based on the information provided, it does not appear that Mongolia has taken any steps to implement this recommendation.

## Recommendation 2.8: Application, interpretation and procedure

**1) Consider clarifying the Criminal Code and interpretation of corruption offences in practice so that intent can be inferred through circumstantial evidence, thereby eliminating the requirement of direct evidence of intent.**

**2) Build capacity of investigators and prosecutors to conduct financial investigations and use circumstantial evidence; encourage use of in-house or outsourced specialised expertise.**

**3) Ensure effective access of law enforcement officials to bank, financial, and commercial records.**

**4) Collect and analyse data on corruption cases to identify trends in types of corruption detected, investigated and prosecuted, to determine what practical challenges arise and how they can be tackled; improve statistical databases and methodologies for collecting, organising and analysing case-related information.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. No changes have been made in this regard.
2. IAAC encourages the investigators to use in-house or outsourced experts in conducting investigations if the specialized knowledge is necessary. In addition, IAAC encourages and organizes capacity building activities for its investigators and other law enforcement officers. In May 2016, IAAC hosted training on basis of accounting for investigators and officers. Furthermore, training on audit, procurement and taxation conducted for investigators. Some of the investigators are allowed to participate in long and short term seminars and trainings organized by universities and professional centers.
3. IAAC acquires the right to access to bank information by submitting the request which was prior confirmed by the prosecutor. In emergency situations, IAAC may access to bank information immediately or set due date of response in its request. Furthermore, the investigator may inspect the bank document in person. The tax and custom information can be acquired in a similar procedure. The most challenging practice for investigators of IAAC is obtaining information from organization where the suspect is employed. For instance, if the tax inspector is suspected for an offence, the most challenging aspect of the investigation would be acquiring information from the tax authority.
4. Analysis on complaints and reports is conducted on a monthly basis and based on reports from internal teams of IAAC such as Inspection and Analysis Department and Investigation Department and Prevention and Public Awareness Department. Discussion on the theme "Issues of Concern and Modalities of on Corruption Crime Investigation and Prosecutor's Review" was organized jointly by General Prosecutor's Office, Prosecutor's Office of the Capital City and IAAC. The findings of the meeting were elaborated and participants are planning to cooperate in order to implement the works provided by the proposals.

#### **Assessment of Progress - 17th Plenary: Progress**

Efforts of IAAC to train its investigators are positive. Ensuring access to bank information is also positive. Analytical work of IAAC in cooperation with the GPO is a good initiative. In the next update, it would be useful to provide findings of monthly analysis of complaints and reports, examples of solutions proposed, and the results meetings with the Prosecutor's Office on these matters.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

1. 2. 3. 4. The Criminal code includes a chapter on Corruption crimes and the crimes are reflected in accordance with UNCAC. In connection with the adoption of a new criminal code, the experts who worked in the working group on the criminal law project and trained trainers from the Ministry of Justice and Internal affairs organized trainings for judges, prosecutors, law enforcement officials, lawyers across the country.

**Assessment of Progress: Lack of Progress**

Based on the information provided, it does not appear that Mongolia has taken any steps to implement this recommendation. While the adoption of the Criminal Code is a positive step, the issues related to ensuring capacity and resources to conduct complex criminal investigations as well as the application of the bribery offences in practice will require further attention as practice develops.

## Recommendation 2.9: Specialised anti-corruption law-enforcement bodies

- 1) *Establish independent internal investigative units in government agencies, particularly in law enforcement agencies, to enhance the resources and abilities of corruption-specific law enforcement agencies.*
- 2) *Strengthen capacity of the Anti-Corruption Authority in investigation of corruption offences, in particular by increasing the number of investigators and establishing its investigative units in the regions.*
- 3) *Ensure effective specialization of prosecutors in anti-corruption cases with special guarantees of autonomy for the relevant prosecutors (units).*
- 4) *Provide for continuous role of a prosecutor – from supervising investigation to supporting charges in the court.*

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. No action have been taken in this regard.
2. No further actions have been taken in this regard.
3. Currently, there is no structure or unit of prosecutors specialized in corruption cases in prosecution service. The Law on Prosecution Service provides political, economic, legal, social and other guarantees for prosecutors.
4. The continuous role of a prosecutor is complied in the practice and strengthened in the Criminal Procedure Code. The Constitution of Mongolia and the Criminal Procedure Code provides provisions which ensures the continuous role of a prosecutor. The Article 56.1 of the Constitution states that “the prosecutor shall supervise the registration of cases, investigation and the execution of punishment and participate in the court proceedings on behalf of the state”. The Article 30.1 of the Criminal Procedure Code stipulates that “Procurators shall monitor the application of provisions of law during inquiry and investigative actions and take part in court hearing as public prosecutor”.

#### **Assessment of Progress - 17th Plenary: Lack of progress**

In the next progress update, could Mongolia please explain the lack of action on this recommendation? For instance, is there a problem with budget, or was the timeline affected by the election to the SGH. Regarding (4), Mongolia argues that the existing system is sufficient to ensure the continuous role of prosecutor. In the next progress update, please provide a detailed description of supervision provided by prosecutors to the investigators and their role in courts, does the same prosecutor supervise the case from the beginning to the end and present it in court?

### 18<sup>th</sup> ACN Plenary meeting, September, 2017

#### **Government report:**

1. 2. 3. 4. This recommendation has not been implemented.

#### **Assessment of Progress: Lack of Progress**

### Recommendation 3.2 (from the Review Report): Integrity in civil service

- 1) Establish clear legislative delineation of political and professional public service; ensure merit-based appointments and promotions for all categories of public officials based on transparent and objective criteria; ensure that remuneration system for public officials is fair, transparent and objective.**
- 2) Review the prohibitions and restrictions for public officials and ensure that all types of conflict of interests are covered by law and properly enforced.**
- 3) Ensure that competent authorities empowered to apply sanctions for breach of the anti-corruption laws are clearly identified and procedures are described in detail and effective sanctions for non-compliance are provided.**
- 4) Ensure that asset declarations system cover all categories of public officials, including those in political offices; ensure effective verification mechanism for asset declarations and their proactive publication, first of all on Internet. Provide for effective and dissuasive sanctions for the failure to submit declarations and for submitting false information.**
- 5) Introduce mandatory reporting of corruption offences and protection of whistleblowers.**

<b>17<sup>th</sup> ACN Plenary Meeting, September 2016</b>
<b>Government report: No information provided</b>
<b>Assessment of Progress: Insufficient information to make assessment.</b>
<b>18<sup>th</sup> ACN Plenary meeting, September, 2017</b>
<b>Government report: No information provided</b>
<b>Assessment of Progress: Insufficient information to make assessment.</b>

### Recommendation 3.3: Promoting transparency and reducing discretion in public administration

- 1) Introduce anti-corruption screening of draft laws and other normative legal acts with publication of relevant findings.**
- 2) Adopt an administrative procedure act in line with international standards to regulate procedures of the public administration.**
- 3) Review procedure and practice of mandatory preliminary administrative complaint (before appealing against administrative decision, action or inaction to the court) and introduce amendments, if needed, to ensure effective appeal system against public administration.**

<b>17<sup>th</sup> ACN Plenary Meeting, September 2016</b>
<b>Government report</b> <ol style="list-style-type: none"><li>1. The screening of draft laws and regulations to be adopted by the Parliament is regulated by a newly enacted Law on Legislations. According to Article 17 of Law on Legislations,</li></ol>

the effectiveness of the drafts of the laws and regulations shall be assessed by methodology adopted by the government and if necessary, the relevant laws and regulations and its articles and sections shall be re-drafted. The Article 19 of the Law states that the Central Administration Body in charge of legal affairs and the Secretariat of the State Great Hural shall provide conclusion respectively on whether the draft laws and regulations prepared by the Government and legislatures meet the requirements set by this law. The Government adopted “Methodology on Assessing Effectiveness of Draft Laws and Regulations” by its 59th Resolution of 2016. The Section 4.10 of the Methodology provides the questions the assessment should be based on. Of which the question 4.10.15 asks that “whether the draft contains articles aimed at creating corruption and bureaucracy”. The General Administrative Law states that the effectiveness of draft administrative normative acts shall be assessed by methodology to be adopted by member of the Cabinet in charge of legal affairs. Consequently, “the Methodology for Conducting Analysis on Effectiveness of Administrative Normative Act” was adopted by A/222th Resolution of the Minister for Justice on 1 July 2016. The Section 2.1 of the Analysis on Effectiveness provides the questions to be asked when conducting the assessment. Of which, the question 2.1.4 inquires that “whether the draft contains the regulations which may limit human rights, freedom and competitions, hinder economic, social and other activities and create any conditions causing corruption and bureaucracy.

2. The General Administration Law was adopted on 19 June 2015 and enacted on 1 July 2016. The purpose of this law is to form the basic legal regulations for communication activities conducted by the administrative body which implements power of executive branch in the scope of public law with citizen and legal person in a way of issuing administrative act, administrative normative act or administrative contract. Furthermore, the Administrative Procedure Act was adopted on 4 February 2016 and enacted 1 July 2016. The purpose of this law is to regulate relations related to ensuring the protection against violation or potential violation of lawful interest of natural and legal person due to illegal activities of administrative organizations and resolving administrative case in the court according to the petition issued by competent person with right to represent public interest and administrative organization if stated in the law.
3. The General Administrative Law was enacted on 1 July 2016. The Chapter 9 of the Law provides the detailed regulation regarding the complaint issuance procedure. The Article 93 of the Law stipulates that the natural and legal person shall submit the complaint to the administration superior to the organization issued the administrative act or administrative organization in charge of resolving the complaint and if such organization does not exist, the complaint shall be submitted to the organization which issued the act. The Article 94 of the Law provides time periods for issuance and resolution of the complaint. According to this article, the complaint shall be submitted to the organization in charge of resolution within 30 days since the issuance of the administrative act was informed to the natural or legal person. If the statute of limitation is expired due to justifiable reason, the complaint can be recovered within 3 months since its expiry. The complaint shall be received as stated in the Law on Resolution of Complaint and Application Issued by Citizens to State Organizations and Officials and shall be resolved and responded within 30 days if not stated otherwise in the law. If necessary, the executive official of the administrative organization may extend the period for up to 30 days. The complaint issuer shall be informed on the extension of the complaint resolution period. The Article 96 of the Law states that the administrative organization in charge of resolution of the complaint shall suspend the enforcement of the administrative act in

cases other than provided in the law by a request of the participant of administrative activity or natural and legal person whose lawful interest is affected. The suspended act shall be valid until the resolution of the complaint. The Article 99 of the Law specifies that the administrative organization which resolved the complaint shall inform and document the complaint issuer within 5 days since the issuance of the resolution in written. The Article 14 of Administrative Procedure Code provides that the administrative court shall resolve the petition if the administrative organization failed to accept or comply the decision of the organization which resolved the complaint or if the administrative organization failed to resolve the complaint within 30 days.

**Assessment of Progress - 17th Plenary: Significant progress**

The adoption of the Law on Legislation that provides for the anti-corruption assessment of drafts prepared by the government is a positive development. It is not clear if there is a mechanism to analyse anti-corruption risks in the legislative work of the parliament. Adoption of the Administrative Law and the Administrative Procedure Code is a very important achievement. This Law also provides new procedures for dealing with complaints. It will be important in the future to analyse the application of the new legislation in practice to ensure its effectiveness.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

1. Legislation adopted by the Parliament will be monitored by the Law on legislation adopted in 2015 and administrative acts will be monitored by the Administrative law. Article 12.1.3 of the Law on Legislation states that the Government shall approve the methodology for assessing the effectiveness of the drafted legislation. Accordingly, the Government adopted a methodology for evaluating the effectiveness of the drafted legislation in 2016 by resolution number 59. In Section 4.10 of this methodology, "Compliance Checking of the drafted legislation" examines by questionnaire of 16 questions to define the coordination of the drafted legislation. 15 of these 16 questions asks whether the drafted legislation contained provisions for corruption or bureaucracy. Article 61.6 of the Administrative Law states that the member of the Government in charge of legal issues shall approve the methodology for impact analysis to the Administrative acts. Following this, Decree A/222 of the Minister of Justice approved a methodology for impact analysis of drafting administrative acts. 2.1.4 of the methodology specifies analysis for human rights, freedoms, competition, restrictions on economic, social and other activities, and whether there is a potential for bureaucracy and corruption.
2. In connection with the adoption of the Administrative law, the Law on administrative procedure was adopted in 2016 and came into effect the same year.
3. Article 14 of the Law on administrative procedure states if the rights were violated due to illegal administrative actions and highly level authority did not recognize or the lower level authority did not recognize the decision of the highly level authority or does implement the decision of the highly level authority, citizens may submit a complaint to the Administrative court within 30 days. The procedure for submitting a complaint to the highly level authority prior to submitting a complaint to court is regulated by the Administrative law.

**Assessment of Progress: Significant Progress**

Mongolia has continued to implement the Law on Legislation, including the methodology for evaluating the effectiveness of draft legislation, which was adopted in 2016. The effectiveness of the procedures for challenging administrative actions will need to be evaluated in subsequent ACN monitoring.

### Recommendation 3.4: Public financial control and audit

**1) Strengthen coordination and harmonisation capacity in the government to effectively implement internal control, financial management and internal audit functions in the public sector.**

**2) Clearly delineate the internal audit and financial inspection functions in the public sector to avoid duplication. Ensure independence in practice of internal audit units in central and local state entities.**

**3) Adopt and implement the Law on Internal Audit in line with international standards.**

**4) Strengthen institutional and operational independence of the Mongolian National Audit Office in line with international standards, particularly with regard to budget and staff remuneration autonomy. Introduce merit-based competitive selection of the Auditor-General.**

#### 17<sup>th</sup> ACN Plenary Meeting, September 2016

##### **Government report**

1. No new information is available.
2. No further actions taken with regard to delineation of internal audit and financial inspection functions in the public sector.
3. The Law on Internal Audit has not adopted up until now.
4. No further actions taken with regard to strengthening institutional and operational independence of the National Audit Office.

##### **Assessment of Progress - 17th Plenary: Lack of progress**

#### 18<sup>th</sup> ACN Plenary meeting, September, 2017

##### **Government report:**

1. The Internal audit rule is an appendix to the Decree 483 of 2015 of the Government of Mongolia which defines the purpose, scope, principles, organization, internal auditor, financial inspection activities of the internal activities beside the general budget governor, central budget governor, direct budget governor and regulates internal audit, financial inspection process, co-operation with external auditing organizations. The National Anti-corruption strategy has included article 4.1.4 "To ensure transparency of budget, financial, audit and to increase accountability". The following goals have been put forward in implementing the strategy.  
The Following actions are implemented to increase budget, financial, audit management and monitor, to ensure transparency, to improve the efficiency of spending and accountability of budget, foreign loans and aid:
  - 4.1.3.1. To improve the state and local budget and financial management system and to ensure compliance of principles of transparency, openness, and accountability;
  - 4.1.3.2. To increase the efficiency of budget planning, performance, external monitoring over expenditure, and accountability;
  - 4.1.3.3. To ensure transparency and control over finance of the special fund of the Government and expenditure;
  - 4.1.3.4. To ensure public participation in discussing budget proposals;

- 4.1.3.5. To improve bank and financial institution policies on finance and loans and to stop the barriers caused to citizens and entities with their preferences;
- 4.1.3.6. To improve the public financial audit and inspection and the accountability system;
- 4.1.3.7. To improve the actions to be taken in compliance with the audit conclusion and accountability system;
- 4.1.3.8. To provide the possibility for independent, lawful audit performance and to legal environment for performance by internationally recognized foreign audit organizations in certain necessary cases;
- 4.1.3.9. To improve independence of state audit organizations, capacity building for audit quality and to provide support in preventing corruption;
- 4.1.3.10. To improve system for information of state audit reports, conclusions and recommendations to the public and to ensure public oversight over activities and results of public service and public officials.

2. In accordance with article 69.5 of the Budget Law, the Government shall adopt an Internal Audit rule. Article 8 of the Rules of the Internal Audit adopted in 2012 specifies internal audit as an independent activity. It also states that general budget governor shall ensure support in all aspects of the performance of the internal auditor independently and without any influence to the internal auditor. The activities of internal audits of all public organizations are supervised and coordinated by the Internal Audit, Analysis and Evaluation Division of Financial Control and Risk Management Department of the Ministry of Finance. The internal inspection function is implemented directly by the Ministry of Finance. The Financial Inspection Division of the Financial Control and Risk Management Department of the Ministry of Finance is responsible for financial inspection of the public sector.
3. The Parliament Resolution No 11 of 2017 on adoption of the main direction on improving the legislations provides that the Law on Internal Audit shall be submitted to the Parliamentary discussion by the Government in 2017. It also reads that the Ministry of Finance shall take the main responsibility for drafting the project of the law. According to this document, the Law on Internal Audit shall define legal basis of the principles and organization and cover such relations as conducting, awarding, implementing and inspection of internal audit functions.
4. No action has been taken on this issue.

***Assessment of Progress: Progress***

In addition to its general internal audit rules (found in an annex to Decree 483/2015, Mongolia's newly adopted National Anti-Corruption Strategy includes several goals to promote budget, financial and audit transparency and accountability. Moreover, the Mongolian Parliament in 2017 adopted a law requiring the Government to draft a Law on Internal Audit. This represents limited progress in fulfilling sub-part 3 of Recommendation 3.4, although Mongolia should consider international standards when preparing the legislation.

## Recommendation 3.5: Public procurement

### **1) Review the Public Procurement Law to:**

**Cover procurement contracts financed by the Development Bank of Mongolia and in the road sector**

- **Prohibit unreasonable splitting of works, goods or services which circumvents competitiveness and openness of respective procurement**
- **Minimise application of domestic preferences**
- **Streamline time limits in the law to reflect international best practice**
- **Strengthen criteria for professionalism of evaluation committee members**
- **Expand affiliation rules.**

**2) Revise the public-private partnership and concession award procedures to ensure fair competition, efficiency and transparency**

**3) Extend e-Procurement system to fully cover all public procurement at all levels. Create a single entry government web-portal for disclosure of procurement information and e-procurement.**

**4) Ensure publication of key information in respect of procurement contracts**

**5) Strengthen review mechanisms by ensuring adequate level of independence of relevant bodies, transparency of their procedures and guarantees of fair proceedings.**

**6) Revise the scale of fines to ensure that sanctions are dissuasive and further develop the debarment system in line with international best practice and standards.**

### **17<sup>th</sup> ACN Plenary Meeting, September 2016**

#### **Government report**

1. With regard to:

- The Public Procurement Law still does not cover procurement contracts financed by the Development Bank of Mongolia and in the road sector. Exclusions from the scope of this Law increased by two provisions by amendment of 5 Feb 2016: procurement related to organization of elections and procurement related to activities conducted by Future Inheritance Fund and Future Inheritance Fund Corporation.
- The splitting of works, goods and services is regulated by Article 8 of the Public Procurement Law. Article 8.6 provides that the purchaser may split the tender in to multiple packages for the purpose of promoting competition depending on purpose, assortment and geographical location as well as the same type and similarity. There is no activity or revision regarding this provision since the last monitoring.
- Provisions regulating the domestic preference in public procurement remain the same since the monitoring. Article 10.1.2 regulates the advantages to be offered to persons participating in the tender. It says that Citizen and legal person of Mongolia as well as foreign invested legal entities, the share not below the 50 per cent of which belongs to citizens of Mongolia and which is registered in Mongolia shall have advantage during the evaluation of tender materials. Also Article 9 of the Law strictly provides that foreign persons shall only be given permission to participate in the following tenders: works budgeted above MNT 10,000,000,001 as well as goods and services budgeted above MNT 100,000,001. The tenders which fall short of requirements regarding the cost estimates other than mentioned above are closed for foreign tenderers. Furthermore, Article 101 states that if the goods to be supplied by the domestic manufacturer are of the same

standard and quality, the foreign tenderers are prohibited from contract award. It also regulates that the Government of Mongolia shall adopt the list of goods to be purchased from domestic manufacturer. However, Article 9 is exempt from this list.

- No significant change taken place as regards the time limits.
  - As regards strengthening the criteria for professionalism of evaluation committee members, no significant steps were made since the last monitoring. Both the Public Procurement Law and Procedure on Organization, operation and formation of the evaluation committee adopted by the Minister for Finance provides that the staff of the Evaluation Committee shall be have professional qualification in the field of procurement. The Law further extents the requirement on qualification and says in its Article 47.3.1 that the member of the evaluation committee shall have professional qualification in field of procurement or of that goods, works and services. The remaining requirements relate to conflict of interest and duties of public official.
  - No action taken as regards the affiliation rules.
2. No action taken as regards public private partnership and concession award procedure since the last monitoring.
  3. and 4. No action taken on this regard since the last monitoring. Due to the Parliamentary election on June 2016, a new cabinet was formed. According to the new cabinet structure, the Government Procurement Agency was dissolved and integrated into newly formed Policy Coordination Agency for State Properties. At this stage, no official information available regarding functions and mandates of this new agency.
  5. No changes on the Law since the last evaluation.
  6. According to the Article 57 of the Procurement Law, the official who violated this law shall be subject to sanctions specified in Civil Service Law if the misconduct has no criminal nature. The natural and legal person who violated this law shall be subject to Criminal Code and Law on Infringement. This article is amended on 4 December 2015 due to adoption of new Criminal Code and Law on Infringement. A slight change in the Article 57 of the Procurement Law have been introduced on 5 July 2015 which states that the budget governor who failed to comply Article 101 (purchase from the domestic manufacturer) shall be imposed by a fine equal to 15 amounts of monthly minimum salary.

**Assessment of Progress - 17th Plenary: Lack of progress**

Lack of progress and worsening of the situation in the public procurement area is a serious concern. Broadening of exclusions from the law and failure to address other recommendations continues to provide a significant corruption risk in Mongolia.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

1. The following measures has been implemented. These include:
  - The Law on procurement of goods, works and services with state and local funds remains the same by not including purchases of road maintenance, election by the Development Bank, and Future Heritage of goods, works and services related to the activities of the Future Heritage Fund Corporation.
  - In Article 8.6 of the Law, the Client can to support the competition, specify that the procurement of goods, works and services may be carried out in a number of packages, in the same manner and in a number of different ways, taking into account the purpose, type, and geographical location. There are no specific actions on this recommendation.
  - The work stipulated in this section of the recommendation has not been implemented.
  - No specific action has been taken on this section of the recommendation.
  - There are no specific actions on this issue.

- There are no specific actions on this issue.

According to the Parliament Resolution No 11 of 2017 on adoption of the main direction on improving the legislations, draft of the new Law on Procurement shall be submitted to Parliamentary discussion by 2017. The Working Group consists of delegation from Ministry of Justice, Ministry of Finance, the Government Agency for Policy Coordination of State Property, Procurement Agency of the Capital City as well as representatives from NGOs specialized in procurement activities are processing the draft of the law. According to the member of the Working Group, Mr. Buyannemekh from the Government Agency for Policy Coordination of State Property, the concept of the law was drafted and pending approval from the Ministry of Justice. Once the Ministry approves the concept, the bill would be submitted to the Parliament in time as provided by the Main Direction. The new law aimed to tackle the drawbacks which were inherent to the current law in particular, the new version of the law would introduce advanced procurement method.

2. In accordance with the concession legislation, the concession is carried out as follows: To approve the list of concession items, the Government receives proposals and approves the list from relevant ministries and governmental bodies. Complying this list, the National Development Agency announces concession and receives relevant tender materials from companies. These materials are gathered and presented to the Council who work aside and are appointed by the Government. The Council is comprised of representatives from relevant governmental organizations, non-governmental organizations, professional associations and the private sector, and they make the decisions on the concession. According to this decision, relevant government agencies and ministries conclude concession agreements with the selected companies. The concession law was approved in 2010 and the concession competition was not reviewed and the competition process is conducted accordingly with the rule procedure.
3. and 4) The newly formed Government Agency for Policy Coordination of State Property is implementing the previous Procurement Department's functions. The website of the website contains a list of invitation bids from government organizations, results of tenders and procurement. The website of the organization is <http://www.pcsp.gov.mn>. Also, the government procurement system is available on <http://www.meps.gov.mn/> web address. Public oversight and reporting on tender invitations and announcements by government agencies will be monitored regularly. As regards another new development in the field of e-procurement, e-signature is introduced in the Government Agency for Policy Coordination of State Property and e-procurement is conducted with e-sign procedure at this agency as an experiment.
5. the Government Agency for Policy Coordination of State Property has the following functions: These include:
  - Submit proposals to improve procurement policy and program drafting and procurement system, and ensure implementation;
  - Planning, organizing, implementing and reporting on the procurement process to the public in a transparent and competitive manner;
  - Ensure transparency in procurement information and provide information to potential purchasers;
  - Provide the activities of local procurement units with professional and methodological recommendation;
  - promptly receive and resolve requests from citizens and the public on procurement;
  - Develop proposals and recommendations for efficient use of investment and budget

- funds and improve their efficiency;
- Improve the efficiency of projects and activities implemented by public investment and recurrent expenditures;
  - Implementation of the 100% online purchase goal. The Division also conducts a full-time job with 15 staff members, senior staff and staff.
6. Article 57.1 of the Law on Procurement of Goods and Services of State and Local Property specifies that actions of an official in violation of this law shall impose liability provided by the Law on Civil Service, if the violation does not contain criminal elements and 57.2 specifies that violation of persons, entities shall be subject to liability under the Criminal Code or Law on violations. The above information has been described in detail in the previous information and there is no further information to be provided. The unified listing of the blacklist is register by the Ministry of Finance and is currently insufficient of registers and information on the list.

**Assessment of Progress: Progress**

Mongolia made limited progress in implementing this recommendation when its Parliament adopted Resolution 11/2017, which calls for a draft Law on Procurement to be submitted in 2017. The actual details of the law, if adopted, will be assessed against international standards in future ACN evaluations.

**Recommendation 3.6: Access to information**

**1) Ensure that all public law institutions and entities receiving public funding or performing public functions are covered by the transparency and access to information requirements.**

**2) Stipulate that no category of information should be absolutely exempt from disclosure; any restriction of access to information, including state secrets, should be based on the law, be necessary and proportionate and possible only upon compliance, on a case-by-case basis, with the harm and public interests tests in line with international best practice. The law should also establish information which may not be restricted in access, in particular on corruption and other infringements of the law, any use of public money and other public resources.**

**3) Remove unnecessary formalities from the law with regard to obtaining of information on request by simplifying and clarifying the procedure as much as possible.**

**4) Introduce dissuasive administrative sanctions for violation of the access to information provisions by public officials.**

**5) Establish an independent supervisory mechanism for enforcement of the access to information right with adequate resources and powers, including access to any classified information and issuing of binding decisions.**

**6) Decriminalise all defamation and insult offences; ensure that civil law provides effective constraints not to stifle freedom of information with unjustified defamation lawsuits**

**7) Improve budget transparency, oversight and public engagement by implementing recommendations given to Mongolia as the outcome of the 2012 Open Budget Index.**

## 17<sup>th</sup> ACN Plenary Meeting, September 2016

### **Government report**

Source: Law on Information Transparency and Right to Information, Law on State Secret, Law on List of State Secret, Law on Secret of Organization.

1. 2. 3. No new provisions have been introduced in this regard.

4. Due to adoption of Law on Infringements and a new Criminal Code, the public official who violated the Law on Information Transparency and Right to Information, Law on State Secret and Law on Secret of Organization shall be punishable by a Law on Civil Service, if the nature of his/her action has no criminal element. With regard to natural person or legal person who committed the violation shall be punishable in accordance with Law on Infringements or Criminal Code. The aforementioned amendments are introduced on 4 December 2015 and shall be effective starting from 1 September 2016.

5. No action taken towards establishing independent supervisory mechanism for enforcement of the access to information right.

6. No new measures taken towards decriminalizing defamation and insult crime within the scope of the current Criminal Code. The new Criminal Code has no provision regarding defamation or insult offence. However, the enforcement of new Code is very likely projected to be suspended for a year as the Standing Committee of Legal Affairs of the Parliament is discussing this issue at this moment.

7. Since the enforcement of the Law on Glass Account, the unified "glass account" website was launched and is fully operational. The website is in Mongolian: <http://www.shilendans.gov.mn/>

Furthermore, all public organizations and entities pertinent to the scope of the law, publish information which are subject to disclosure in their websites.

In 2015, the "Methodology on Assessment of Anti-Corruption Activities of the State Bodies" was revised and re-adopted by A/88th resolution of the Director General of IAAC. The purpose of this methodology is to reduce the bureaucracy and ensure transparency of the public service, strengthening ethics in public sector, improve the integrity of public servants, encourage the anti-corruption initiatives, promote the capacity of the public organizations, evaluate the anti-corruption activities conducted by the civil service and facilitate the engagement of civil society in evaluation. In 2015, the team of independent experts comprised from civil society organizations which were qualified based on open selection procedure conducted the assessment according to the new methodology in 124 organizations. The findings of the assessment was reported to the general public through the media and websites.

### **Assessment of Progress - 17th Plenary: Progress**

Introduction of sanctions for violation of the access to information law is a good step forward, but it is on hold due to the pause in the reform of the criminal legislation. Exclusion of defamation from the new CC is a good development as well, but it is on hold for the same reason. Transparency of the budget has improved with the launch of the 'glass accounts' web site, however no further action was taken to improve oversight and public engagement.

## 18<sup>th</sup> ACN Plenary meeting, September, 2017

### **Government report:**

1. Article 3.1.4 of the Law on Transparent Account states that entities and organizations that are engaged in investments, projects, programs, activities, services and services of state and local budget; 3.1.5 states that the works and services pertaining to the state functions are governed by the law and the contractor shall comply the law. The

Transparent Account Law regulates the decisions and activities to implement the management of the budget, efficiently and transparently, and facilitates public monitoring of information systems for efficient use of state and local budgets and state and local property.

2. Law on State Secrecy and the Law on the List of the State Secrets were invalidated from December and September 2016 respectively and the Law on State and Official Secrets was adopted and entered into force on 1st September 2016. Article 4.1 of this Law provides that the information shall be guided by the principles of reasonable and timely compliance with the law in respect of matters pertaining to state and official secrecy and confidentiality. Article 13 of this law provides for a list of 65 types of information that are classified as state secrets. The law also regulates the procedure of certain officials such as the President and Prime Minister are authorized to review state secrets and the procedures for confidential information for other citizens are regulated separately. However, the law does not include the type of information that is not restricted.
3. In accordance with Article 24 of the Law on State and Official Secrets, public officials and citizens shall be denied the right to access state secrets on the following grounds:
  - did not meet the requirements of state secrets;
  - refused to provide written confirmation of protection of state and official secrets;
  - failure to present or disclose your personal information or other relevant information to security investigations;
  - repeated or serious violations of the rules on the protection of state and official secrets;
  - criminal offense committed by criminal offense or is subject to criminal offense;
  - Request for withdrawal from Mongolian nationals;
  - determined by mental illness;
  - Dependent on narcotics and psychotropic substances and alcohol.Article 25 of the law states that if a person is suspected or accused of a criminal offense or breaching the procedure for protecting state or official secrets, the Intelligence agency may suspend his right to access state and civil secrets until the court decision comes into force or until the inspection conclusion has been made. Also the National Intelligence agency can revoke the right to access state, official and civil secrets, if dismissed from work, temporary suspended or circumstances mentioned in article 24 was found, competition of work performing contract, repeated violation of the procedure for protecting state or official secrets or serious violation. Furthermore, article 26 states that intelligence agencies can conduct security checks on officials and citizens.
4. If an official violates the right to information according to Article 25.1 of the Law on Information transparency and the right to information shall be liable to impose sanctions provided in the Law on Public service, if it does not have criminal elements. The disciplinary sanction may be imposed on public officials, including remedies in accordance with Article 26 of the Law on Public Service, to reduce the amount of salary by up to 20% for up to 6 months, and dismissal of the right to return to public service for a one-year period. Article 14.2 of the Criminal Code of Mongolia states punishment of a fine of four hundred and fifty to two thousand seven hundred units or 240-720 hours of community service or restriction of movement for 1-6 months for forcing or threatening the right of citizens to seek and receive information not required to be confidential but legally protected by the State and its bodies.
5. No action has been taken on this issue.
6. The new Criminal Code of 2015 does not provide for criminal offense and defamation.

However, as provided in 6.21 of the Law on violation of 2017, public disclosure of false information to sabotage a person dignity or reputation and business reputation of an entity disseminated through the media or public network then the person shall be subject to a fine of 2000 units and entities shall be subject to a fine of 20000 units.

7. Implementation of the Transparent Account is being conducted and government organizations are providing relevant information on the website of the Transparent Account as according to the legal obligations. There is no new report on this issue.

**Assessment of Progress: Significant progress**

Since the 17<sup>th</sup> ACN Plenary, Mongolia repealed the Law on State Secrecy and the Law on the List of the State Secrets. Moreover, the Law on State and Official Secrets was adopted and entered into force on 1st September 2016. The effects of the new framework on access to information will need to be assessed in future evaluations. In addition, Mongolia's new Criminal Code now decriminalises defamation, which is a positive step. The contents and application of the new 2017 concerning the dissemination of false information, however, will need to be evaluated as well.

### **Recommendation 3.7: Political corruption**

**1) Strengthen the system of regulation of political party financing by establishing limits on membership fees, broadly defining the term "donation" to include in-kind donations, extending donation restrictions to all entities related or controlled by the party, specifying rules on publication of information on donations, prohibiting donations from companies that received funding through public procurement or other public source.**

**2) Ensure balance between private and public funding of the political parties and implement restrictions on the use of funds received from the state budget. Provide public funding to parties that obtained a certain level of popular support at the national elections even if it is lower than the electoral threshold.**

**3) Ensure transparency of party finances, by requiring detailed annual consolidated financial reports with all contributions (except for very small ones) and each contributor, as well as all party expenses reported; such reports should be standardised and published on the internet.**

**4) Improve rules for disclosure of election campaign finances, including submission and publication of detailed financial reports before election day.**

**5) Establish without delay a system of independent monitoring and supervision for party finances and financing of election campaigns with adequate resources and powers, in particular to impose proportionate and dissuasive sanctions. Consider assigning powers of supervision over political party financing to the Anti-Corruption Agency. Ensure that the General Election Commission is a professional and independent body consisting of employed full-time members selected according to their merit, preferably based on an open competition.**

**6) Revise the rules on ethics and integrity of members of the parliament, including decision-making procedure for violations, and ensure an effective mechanism of their enforcement.**

17<sup>th</sup> ACN Plenary Meeting, September 2016

Government report

Source: Law on Election, Law on Central Election Body, Law on Political Party

1. The following legislations were annulled due to the enforcement of Law on Election on 25 December 2015:

Law on Local Election, Law on Presidential Election, Law on Parliamentary Election

No further action taken with regard to membership fee of political parties in the Law on Political Parties.

According to Article 49 of newly adopted Law on Election, the donation shall be monetary and non-monetary. The monetary donation shall not exceed three million MNT for a natural person and fifteen million MNT for a legal person.

The natural and legal persons are eligible to give donation once per year. The legal person is prohibited to give cash as a donation while the identification number and the full name of the natural person who donated cash shall be recorded by a competent person and the donation shall be deposited on behalf of the donor.

According to this Law, non-monetary donation consists of utilization of immovable and movable properties free of charge and free services.

The non-monetary donation shall be given to the candidate during campaign period and based on donation contract. The value of the donation shall be negotiated between the contracting parties and the contract amount shall not exceed the ceiling set in monetary donation. The work which is performed by a person who is contributing to the election campaign without any monetary exchange shall not be considered as a donation according to Article 51.5 of the Law. Furthermore, the Law provides that the non-monetary donation shall be disbursed according to the contract.

According to Article 58 of the Law, the expenditure report of the candidate of Presidential and Parliamentary Election as well as candidate of Citizens' Representative Khural shall include, among other things, the following: the donation income; full name, residence of the natural person, amount of donation and type; name and address of the legal person, full name of the executive director, size of donation and type.

According to Article 60.3 of the Law, the State Audit Office shall report the general public within 90 days since the delivery of election expenditure reports and announce the natural persons who donated one million MNT or more and legal persons which donated two million MNT or more. No specific regulation found in the Law.

2. According to the Law on Political Parties, a political party shall receive one time lump sum payment within 3 months after the election. The size of the lump sum payment is equal to total votes received during the election. Each vote is valued at one thousand MNT. In addition, a seat in the State Great Khural is valued at ten million MNT and is paid once a year until the end of tenure. The law provides that 50 per cent of the payment shall be disbursed in the parliamentary election unit area. There is no further change that has been introduced in this regard.
3. The newly adopted Law on Election states that the political party is obliged to submit its report on donations received in the last year to the state audit body for review and validation. The law further stipulates that the request on participation in election shall be received by the relevant body based on the validated report. No further action taken since the last assessment with regard to transparency of party finances in particular publication of party financing through the websites. No information related to party's expense as well as consolidated financial report with contributions published on the official website of the Mongolian People's Party and the Democratic Party. The former is the current ruling party while the latter is the opposition party.
4. According to Article 60 of Law on Election, the central election body and election

body in aimags, soums and districts shall submit the election expenditure reports to state supreme audit body, state audit body in aimags, soums and district respectively. Also, the central election body shall submit copy of the election expenditure report to state administrative body in charge of taxation. The State Audit Office shall report the general public within 90 days since the delivery of election expenditure reports by the central election body and announce the natural persons who donated one million MNT or more and legal persons which donated two million MNT or more. The political party, coalition or the candidate who failed to submit the election expenditure report within the due date shall be exempt from the registration of the next election. No new changes have been introduced with regard to submission and publication of detailed financial reports before the election day.

5. The Law on Political Party provides that the financing of the political party shall be monitored by the institution of that party in charge of control and the political party is obliged to commission the audit on its financial activity annually. The state audit body is allowed to conduct joint audit on donation, financing and disbursement of election candidate, political party and coalition with other state bodies during the election campaign by the Law on Election adopted on 25 December 2015. According to this provision the state audit body is eligible to cooperate with IAAC in reviewing the election campaign financing. No further actions have been taken with regard to this recommendation.

6. In 2009, the code of conduct of the member of the State Great Hural was adopted by the 34th resolution issued by the Parliament. The code of conduct consists of such provisions such as ethics to be adhered related to official activity, conflict of interest, asset and income disclosure, business trip, receiving gifts and souvenirs, election campaign activity. Furthermore, the code of conduct prohibits the member of the State Great Hural to misuse of the power given by the office to improve the financial state of himself/herself and the family, engage in financial, commercial or other similar contracts and agreements which conflict his/her statutory duties, utilize state owned building, transportation, information, communication and financial resources in the election campaign etc. The Sub-Committee on Ethics of the State Great Hural is conducts regular review in the implementation of the Code of Conduct. The rule on activities of the sub-committee is adopted by the resolution of the State Great Hural.

***Assessment of Progress - 17th Plenary: Lack of progress***

The new Law on Elections adopted in 2015 increased the limits on donations, including in-kind donations; but it falls short of prohibiting donations from companies benefiting from public procurement and limiting membership fees. The Law establishes rules for reporting about party financing to the State Audit Office, and the Office has to inform the public about major donations 90 after they were provided; however, there is no practice of publishing financial reports by parties. State Audit Office is responsible for controlling financial reports by parties and IAAC can be involved in this process; so far there is no information about the implementation of such controls in practice 30 and their results. The Code of ethics for MPs exists since 2009, and has not been revised since; the sub-committee of Parliament on ethics is responsible for its implementation. However, there is no information about implementation measures or their impact.

***18<sup>th</sup> ACN Plenary meeting, September, 2017***

***Government report:***

There are no amendments regarding the election, Political Party and Law on Central Elections. OSCE observers who visited Mongolia during the Presidential Election on 26 June 2017 presented their findings to the media on election campaigns and candidates' campaigning. According to the

observers, the Presidential election in Mongolia has been competitive and well-organized, but the international observers say that there is uncertainty over the nominations due to cases in the courts. The police pointed out that over 150 complaints were filed, and 86 were complaints said votes were sold. The press conference included the Special Coordinator from the Organization for Security and Cooperation in Europe (OSCE), the Coordinator of Short-Term Observers, Gilielel Pieti, head of the delegation from the European Parliament, Lyme Andrienene, head of the delegation from the OSCE Parliamentary Assembly, Yoriros Vareménios and the head of the committee of the OSCE's Election Observation, Ambassador Gerd-Hinrich Arenas. OSCE also announced that it is ready to cooperate with Mongolia on improving the legal framework for Mongolia's elections.

After this election, the ruling party has been criticized the current Election Laws, and said that the President, the State Great Hural and the local election law should be separately regulated. The current Law on Elections generally regulates the election process.

**Assessment of Progress: Lack of Progress**

The information provided by Mongolia does not indicate any progress in implementing this recommendation. At the same time, the information indicates that election-related issues are generating much attention, which may enable the IAAC to mobilise anti-corruption efforts in this sphere.

### **Recommendation 3.8: Integrity in the judiciary**

**1) Consider excluding political institutions (the President and parliament) from the appointment and dismissal of judges (by replacing them with the Judicial General Council); review procedure for appointment of judges to ensure that it is merit-based and competitive; introduce mandatory initial training of judges (before or after appointment) in the national school of judges.**

**2) To ensure better guarantees of judicial independence: provide that chief judges be appointed and dismissed by judges of the relevant court; introduce through the law an automatic random distribution of cases among judges and make the decision on case assignment publicly available.**

**3) Align composition of the Judicial General Council with international standards, in particular by ensuring that it consists of majority of judges representing different levels of the court system and elected by other judges.**

**4) Fix remuneration rates and all wage increments of judges directly in the law; avoid payment of bonuses to judges.**

#### **17<sup>th</sup> ACN Plenary Meeting, September 2016**

**Government report**

1. No action with regard to excluding political institutions from the appointment and dismissal of judges; No amendments made in Law on Legal Status of Judges and Resolution on Selection of Judges issued by the President of Mongolia. The Judicial General Council planned 45 trainings for judges. The plan provides separate training for such topics as Code of conduct and Responsibility of Judges and judicial proceedings on money laundering offence.

2. No changes have been made in this regard.

3. No changes have been made in this regard.
4. There are two main provisions in the Law on Legal Status of Judges which alludes the economic independence of judges. Article 23.1 of the Law states that “the size of the wage of the post of a judge shall provide the possibility of being enough and assured for living and working independently from others in terms of economy” which is still effective.  
However, Article 23.5 of the Law stipulating that “when adopting the budget of the court, the component and size of the wage of judges shall not be decreased was annulled” by amendment of 10 November 2015. The Government of Mongolia decided to decrease the salary fund of the judges by 35 percent due to economic downturn. At the time of writing this answer, the General Judicial Council and Mongolian Bar Association is trying to negotiate with the Government on the matter but without any success.

**Assessment of Progress - 17th Plenary: Lack of progress**

No measures were taken to address the parts of the recommendations regarding the exclusion of political influence on the appointments of judges. Regarding remuneration of judges, no information was provided regarding the bonuses; however information about a significant decrease of judges' salaries is a very negative step.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

- 1) No amendment to the law has been made on this matter. The General judiciary council develops and implements training programs for improving the profession of judges each year.
- 2) Amendments relating to independence of judges are not included in applicable law. Arbitrarings are not governed by law and are solved by a judicial convocation of the court. The schedule of the judicial session is presented to the public.
- 3) No specific measures have been taken on this matter.
- 4) Changes for judges' salaries are not included in the law. There is also no change in the amount of salary received by the judges.

**Assessment of Progress: Lack of Progress.**

The ACN plenary determined that the efforts described did not constitute progress in implementing this recommendation.

**Recommendation 3.9: Private sector**

**1) Develop specific measures in the new anti-corruption strategy and action plan to promote business integrity; ensure clear allocation of responsibility for coordination of implementation of these measures with the relevant state bodies; ensure that business partners are involved in the development and monitoring of the implementation of these measures.**

**2) Involve business sector in the process of elaborating of legislation establishing responsibility of legal persons for corruption; consider developing incentives for compliance with this legislation such as the possibility of defence from responsibility for companies with effective anti-corruption compliance programmes.**

**3) Assist companies and business associations to assess integrity risks, organise awareness raising, provide advice and guidance on prevention of corruption in business operations.**

**4) Develop and implement joint projects with the business entities such as collective actions against corruption and integrity pacts, especially in the risk areas.**

**5) Introduce comprehensive measures to strengthen corporate governance, transparency, internal control and corruption prevention systems in state and municipally-owned enterprises.**

**6) Consider introducing recording and disclosure of beneficiary owners of all legal entities during their state registration.**

### 17<sup>th</sup> ACN Plenary Meeting, September 2016

#### **Government report**

1. Article 4.6 of the National Program provides activities which support reduction of corruption risk and ensuring fair competition in the private sector. Please see the attached translation of “National Programme to Combat Corruption and Strengthening Accountability and Justice”.

2. No actions have been taken in this regard.

3. On 23 December 2015, IAAC and MNCCI jointly organized discussions on two separate topics: Corruption in Construction Sector and Corruption in Industrial, Commercial and Service Sector. As a result of the discussions, the participants have agreed to join the efforts for the following directions in order to reduce the corruption risk and eradicate cause of the corruption:

- Strengthen the governance system within the respective sectors and increase the role of NGOs and CSOs in decision making level;
- Reform the legal framework;
- Increase the role and participation of NGOs and CSOs in elaboration of sectoral laws and regulations.

Furthermore the participants proposed to elaborate action plan aimed at reforming legal framework of construction sector and facilitate the participation of NGOs, CSOs and research institutions. In addition, the participants proposed to disseminate news releases and interviews on the pressing issues present in the sector.

IAAC commissioned the following special editions of business journals: “VIP expert” and “Business and Development”. Business and Development is published quarterly by MNCCI and is targeted to private companies which have its membership. “VIP expert” is issued by a private media company and its subscribers are not limited to any particular group. The special editions of “Business and Development” and “VIP expert” was issued on January 2016 and December 2015 respectively. The entire edition of “VIP expert” was dedicated to the grand corruption and was disseminated to central and local government organizations as well as state or municipal owned enterprises.

4. The joint work plan was signed on 10 May 2016 by Mongolian National Chamber of Commerce and Industry, Mongolian Employers Federation, Ulaanbaatar Chamber of Commerce, Independent Authority Against Corruption, the Asia Foundation in order to cooperate within “Strengthening Democratic Participation and Transparency in Public Sector in Mongolia” Project for a period between 2016-2018. The following three main areas of cooperation included in the work plan:

- To promote transparent, accountable, fair and ethical business principles and practices;

- Monitoring on public organizations' activities related to business activities;
  - To mobilize private sectors in the areas related to ethics and corruption prevention and to increase knowledge and awareness of businesses and their workers and employers.
- According to the program, the parties will jointly conduct business meetings, discussions and trainings, develop proposal on establishing sound ethical practices in business entities, translate Corporate Social responsibilities ISO 26000 and organize training in order to impart the standards among business entities, conduct bureaucracy index survey and study possibilities to elaborate the content of the Corporate Governance Training Program etc.

5. IAAC introduced annual anti-corruption action plan in all state and municipally owned enterprises. At the end of each calendar year the action plans are evaluated by methodology designed for assessing such action plans. The evaluation is conducted by independent experts commissioned by IAAC.

Mongolian National Chamber of Commerce and Industry (MNCCI) conducts a training on foreign trade management for people with various types of professional background. The training continuous for a period of one year which is two semesters and awards certificate of foreign trade manager to successful trainees. In response to the request from IAAC, MNCCI introduced such topics as prevention from corruption and conflict of interests and code of conduct of the business entity in its curriculum starting from the class of 2015-2016.

Furthermore, IAAC is successfully negotiating with MNCCI and Mongolian Employers' Federation in order to include topic on corruption and conflict of interests in the curriculum of the joint training on corporate governance organised by the aforementioned NGOs. The training is designed for members of the Board, executive managers, competent officials and other entrepreneurs.

**Assessment of Progress - 17th Plenary: Progress**The new Anti-Corruption Programme includes a section on business integrity, which is a positive development. There is no action plan yet, and it is therefore not known which actions will be able to implement the goals established in the Programme. It is not clear how the private sector delegates will be involved in the monitoring of the implementation of the Programme. It is not clear either if there is an "allocation of responsibility for coordination of implementation of these measures with the relevant state bodies" as recommended; it will be important to clarify this point in the next progress update. Significant efforts were made by the IAAC to develop dialogue with the private sector on business integrity; it would be important to pursue the plan to develop corporate governance training, including business integrity. Development of anti-corruption plans in SOEs is also a positive development, more information should be provided in the future on the substance of these plans, their implementation and impact. There is no progress regarding the development of corporate liability that can provide incentives for compliance programmes and on disclosure of beneficial ownership.

**18<sup>th</sup> ACN Plenary meeting, September, 2017**

**Government report:**

No action have been taken in this regard.

1. Article 4.1.6 of the National Anti-Corruption Strategy, adopted by the resolution 51 of the Parliament in 2016, specifies the objectives to reduce the risk of corruption in the private sector and ensure fair competition. The following actions will be taken to strengthen of public-private partnership in prevention of corruption. These include:
  - To support the anti-corruption network activity of the private sector and to effectively enable anti-corruption partnership of the World Economic Forum;
  - To improve the capacity of the private sector organizations and outline the public-private

- partnership boundaries and the possibilities of outsourcing some government functions;
- To expand the cooperation between public and private sector in preventing corruption and to support initiatives and cooperate;
- To improve the legal environment of restricting cartels and unfair competition;
- Ensuring transparency of extractive industries.

The activities of the implementing agencies and period are reflects the Anti-Corruption Action Plan adopted Resolution No.114 from 2017 by the Government of Mongolia. In accordance with the Action plan, Mongolian National Chamber of Commerce and Industry, Employers union and the Business council of Mongolia will represent and participate on behalf of the private sector and public institutions such as Cabinet secretary of the Government, Ministry of Finance, Ministry of Mining and heavy industry, Independent Authority Against Corruption, Authority for fair competition and consumer protection, Specialized inspection agency, Customs authority, Tax authority, Agency for standard and metrology, National development agency, Mineral resources and Petroleum authority will represent and participate on behalf of the state. The Extractive Industries Transparency Initiative's Office will also be involved in the issues related to the mining industry.

2. There is no specific work on this issue.

3. The US Asia Foundation's representative office in Mongolia plans to organize an "Assessment of Corruption Perceptions in Business sector" in fall. This study will be conducted regularly and is considered as a tool for evaluating integrity in the business environment. Currently, there are no similar studies in Mongolia. IAAC is involved and supports the initiative of the Asia Foundation. Since 2016, the Business Council of Mongolia has been actively initiating activities to prevent and combat corruption. The Council held meetings and discussions on 25 April 2017 with representatives from the private sector, IAACs and other government agencies on topics such as "Anti-Corruption Policy, Law", "Procurement " and "Custom Process." During the consultation, participants exchanged views on the causes and risks of corruption. The discussion was organized in two phases, and at the first stage of the session, the private sector exchanged views on the difficulties and challenges faced in the private sector and then a consultation with representatives of government agencies at the next stage. As a result of this consultation, a draft of recommendations was submitted to the Government. Most of the proposals made by the private sector suggest that there is no integrated platform for information sharing between public and private institutions which creates risk of corruption. According to the private sector, due to absence of such platforms, the private sector is in a position to give bribes to public officials because of the lack of information on public services. In the discussion, guests from the OSCE, specialist from the Swiss Customs who represented landlocked countries and other specialists participated and shared their opinions and experiences.

4. The Action Plan for Implementing National Program provides that the following measures aimed at improving integrity at the public sector:

- promote anti-corruption action implemented by the public sector, activate cooperation of anti-corruption partnership of the World Economic Forum
- capacity building of private sector institutions, consider and implement the execution of the public functions by private sector, delineate the partnership of the government and private sector
- improve cooperation with regard to corruption prevention between the government and private sector as well as private sector to private sector, promote and support any

initiatives in this regard

- improve legal framework which limits cartel and unfair competition
  - improving transparency of the extractive industry.
5. Under the approved anti-corruption action plan, IAAC has advised state and local companies to develop plans to prevent corruption and to ensure improvement of transparency and governance. Before, state-owned and state-owned enterprises developed anti-corruption plans and the organization of this work based on the previous plans and the new plan will be more closely aligned with the National Strategy.
6. There is no specific action on this issue.

***Assessment of Progress: Progress***

The ACN plenary decided that Mongolia's adoption of its National Anti-Corruption Strategy, which contains objectives designed to reduce corruption risks and promote fair competition in the private sector, constituted limited progress towards fulfilling this recommendation. In addition, Mongolia's planned collaboration with the Asia Foundation to conduct an assessment of corruption perceptions in the business sector should help the IAAC and other authorities take more active steps to fulfil this recommendation.