

PARTNERSHIP FOR TRANSPARENCY FUND

Mongolia: Regulation of Conflict of Interest in Mongolia by Women in Social Progress NGO

Project Completion Assessment

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1. Background

The project was implemented by the Women for Social Progress NGO with funding from ADB-PTF partnership program. An estimated total budget of the project was \$ 21,396, out of which \$ 16, 449 was funded by PTF. The project was implemented between November 2006 and August 2007.

During project implementation, WSP collaborated with Anticorruption Agency, some CSOs, legal professionals and experts in the field.

The assessment report was based on available project documents and the meetings with Ms. Burmaa, Chairwoman of WSP, Ms. Sukhgerel, Mr. Lamjav and other project staff.

Key members of the project team consisted of Ms. Burmaa, Chairwoman, WSP, Ms. Sukhgerel, Project Staff, Ms. Oyuntuya, Project Staff, Mr. Chimed (key author of a first Democratic Constitution) and Mr. Lamjav, Civic Activist.

The same questions were addressed as it was used for the assessment of WWF project.

2. Achievements of project objectives

The project' s ultimate goal was to prevent corruption by developing a transparent definition and understanding of conflict of interest (COI), building knowledge of COI among law and decision makers, increasing public awareness, and preparing a solid ground for future legislation. To achieve the goal, the project identified the following specific objectives: (i) research the legal framework of COI provisions, develop Mongolia section for COI Toolkit; (ii) research on COI cases in Mongolia; (iii) develop and disseminate a handbook or toolkit on COI, and (iv) raise public awareness.

Undertake research on Legal Framework for COI provisions. The following activities were carried out to achieve this objective.

- Review of 345 legal acts including ethical codes, political party charters for provisions aimed at managing COI. The project team researched existing laws such as Anticorruption Law, Corporate Tax Law, VAT Law, Mining Law, Election Law, Public Administration and Financial Management Law, Political Party Charters, Public and Private Sector Ethics Codes. These were used to gather, consolidate, review and analyze provisions regulating COI in public administration. The research activity enabled the project team to come up with a package of information for inclusion in the COI toolkit and evaluate the

existing legal provisions for recommendations to amend existing or develop new legislation. Based on the outcomes of analysis of legal provisions, the decision was made by the project team to translate and adopt the OECD's "Managing Conflict of Interest: A Toolkit". The project team decided to commission a translation of the manual to preserve its practical content and format. These were used as training and guidance manual in both components, i.e., managing COI and developing new legislation. A total of 500 copies of the COI were printed and disseminated among 76 Parliament members, Anticorruption Agency, Government Ministries, CSOs, media, public libraries and academia.

The Anticorruption Agency requested the project team to provide additional copies of the COI toolkit for distribution to their local rural staff and invited SWP to participate in the trainings scheduled for Anticorruption Day in December. The toolkit was also widely used by the students of public administration and law faculties. The COI Toolkit has a chapter to describe the existing legal framework in order to demonstrate inadequacy of these provisions to combat and prevent corruption.

Research on COI cases in Mongolia. The project team used many cases that were publicized in the media. In the course of the research, it became evident that 99 percent of cases were already covered in OECD toolkit. Mongolia's specific cases included final editing of laws to satisfy the interest of a ruling caucus, open violation of law, and abuse of power by the top tier public officials in procurement-related tender and in appointing Government officials.

Develop and disseminate COI toolkit and other handbooks. In addition to 500 copies of COI Toolkit, 5000 leaflets and 3000 posters, several TV and FM Radio messages on COI were produced and disseminated.

Public Awareness Campaign. This included press conferences, roundtable and TV discussions on the issues such as COI and abuse of power. The roundtable discussion was organized jointly with Anticorruption Agency involving several CSOs engaged in anticorruption issues. The participants of the discussion concluded that an extensive training and public awareness campaign were needed to improve public involvement in the fight against corruption. During a TV discussion, some MPs, CSO/NGO leaders participated and the public was provided with the opportunity to hear their opinions on COI issues. In addition, Ms. Burmaa provided numerous interviews to major TV channels.

The project also revealed that relations in many areas of government activity were being regulated by unconstitutionally edited laws. One clear example was the unconstitutional editing of Anticorruption law by the Speaker of the Parliament.

The Anticorruption Law drafted with the assistance of donors has been unconstitutionally edited and required either annulment or amendments to adequately combat corruption. The Project Team revealed two key findings from unconstitutional editing: (i) with one single word, the Speaker turned the Agency from an independent agency to one that reports to the Parliament, and

(ii) took out top tier public officials from the subjects governed by this law, which made the law applicable only to mid-low level public officials.

Ms. Burmaa and Mr. Lamjav appealed to the Constitutional Court. It was then confirmed by the Constitutional Court that the final edits introduced by the Speaker had, in fact, altered the content, intent, and principles of laws passed by the Parliament. As such, it represented an act of encroachment upon lawful authorities of the Mongolian Parliament. This was the first case in Mongolian political history which set a precedent for (i) victory of civic action against top tier political authority; (ii) the Constitutional Court making an independent decision against MPRP practices; (iii) resignation of a top tier political official for abuse of power; (iv) open and transparent public discussion of acts by top tier authority. The high visibility of this case opened up the opportunity to achieve the greater outcomes during implementation than expected at the onset of the project.

While the initial project objectives aimed to raise public awareness through media campaigns and discussions with public officials based on research work and COI Toolkit, the unexpected outcome of its legal research, which resulted in a constitutional debate, created immediate and highly visible and nationwide discussions on COI, abuse of power and corruption. The involvement of Ms. Burmaa and Mr. Lamjav in the Constitutional debate enhanced the role of and respect for CSOs and civic activists and their actions as a whole.

3. Sustainability of the Project Outcomes

A number of positive changes that ensure the sustainability of the project outcomes were observed during the assessment:

- Currently, the COI Toolkit and the other public awareness materials prepared by the project team enjoy the greater attention of Anticorruption Agency and the public. The Anticorruption Agency will definitely use the Toolkit in their daily operations.
- Currently, public debate is centered on demanding the Government to revise unconstitutionally edited laws and the media highlights coverage on COI, abuse of power, and corruption cases involving top tier officials. The demand for clean politicians has become apparent.
- The closer monitoring of CSOs and the public will most hopefully entail changes in conduct of future governments.

4. Cost versus benefits

The total cost of the project was estimated \$ 21,396 with \$ 5,405 as WSP contribution and \$ 16,449 funding from PTF. According to Ms. Burmaa, the project has not yet received its final tranche, but it needs to be verified with the project accountant.

The engagement of Ms. Burmaa with the Constitutional debate and maternity leave of the financial accountant resulted in some delays in project reporting and accounting of project expenditures. The team had no choice but to borrow some money from other projects to cover the printing of the toolkit and other expenses last June-October 2007. There was also shortage of funding due to unexpected additional activities for Constitutional debate. WSP eventually decided to carry out this activity separate from ADB-PTF funding. However, this activity contributed largely to the achievement of the project outcomes.

Overall, the project fund was used efficiently for the planned activities and generated positive outcomes.

5. Lessons learned

- The revelation of unconstitutional editing during the research work by the project team required additional lawyers and experts to be involved in the Constitutional debate. This entailed need for more funding. WSP decided to carry out this activity separate from ADB-PTF funding. This was a politically sound decision by WSP to appeal and engage in constitutional debate over abuse of power and violation of constitutional issues. Without this, the discussions and public awareness campaign of the project would not have succeeded. The unexpected turn during project implementation clearly demonstrated the need for better project planning in the future.
- The project clearly demonstrated that COI, abuse of power and corruption cases are widely existent in Mongolia and the establishment of a clean society will require more time and more efforts.
- The project also demonstrated the importance of CSO/NGO role in public awareness and public education on COI, abuse of power and corruption issues.
- The victory of Ms. Burmaa and Mr. Lamjav in the Constitutional debate empowered the whole civil society to set up their activities against corruption and unlawful decisions of public officials.

6. Follow up actions

The follow up actions that are urgently need in the next phase include building on the current achievements and improving the legal environment for COI, abuse of power and corruption. It is recommended that the next phase can include the following activities:

- Reprinting and disseminating of the COI Toolkit;

- Support WSP and other interested parties in drafting COI Law to maintain the momentum gained in the project implementation;
- COI Training for Anticorruption Agency officials, CSO/NGO leaders and mass media.

I would not recommend PTF to support pursuing precedent cases with the Constitutional Court as this is a sensitive political matter involving top tier political officials. This activity should be carried out by the local CSO/NGOs and civic leaders separate from and outside donors support.

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