

LAW OF MONGOLIA

June 12, 2003

Ulaanbaatar

ON COORDINATION OF FOREIGN LOANS AND GRANT AID

/“State Bulletin”, No. 24, 2003/

Chapter One

General Provisions

Article 1. Purpose of the Law

1.1 The purpose of this law is to regulate relations arising from acceptance of loans and grant aid (hereinafter referred to “Foreign Loans and Grant Aid”) by the Mongolian Government from international organizations, donor countries and their utilization, the development of projects to be implemented, their approval, accumulation of loan and grant aid funds, recording and monitoring.

Article 2. Legislation on Coordination of Foreign Loans and Grant Aid

2.1 The legislation on coordination of foreign loans and grant aid is comprised of the Law on International Treaties, Law on Consolidated Budget of Mongolia, this Law and other relevant legislation enacted in conformity with those laws.

2.2 If an international treaty to which Mongolia is a party provides otherwise, the provisions of the international treaty shall prevail.

Article 3. Terms of the law

3.1 The following terms stipulated in this Law shall be understood as follows:

3.1.1 “foreign loans” are repayable financial resources provided to Mongolia by international organizations and donor countries through Government channels;

3.1.2 “foreign grant aid” are non-repayable financial resources provided to Mongolia by international organizations and donor countries through Government channels in the form of humanitarian aid, grants or technical assistance;

3.1.3 “international organization” shall refer to bodies referred to in provision 5, Article 3 of the Law on International Treaties;

3.1.4 “donor country” is a foreign country that extends loans and aid to Mongolia;

3.1.5 “project implementing agency” is an organization contracted to implement projects financed by foreign loans and grant aid with authorization from the Government;

3.1.6 “project executing agency” is a business entity or organization that has won the tender to implement specific projects financed by foreign loans and grant aid.

Article 4. Requirements of Foreign Loans and Grant Aid

4.1 The following are the requirements of foreign loans and grant aid:

4.1.1 to be related to the medium term development strategy, the state budget and public investment planning;

4.1.2 requirements agreed with international organizations and donor countries should be consistent with national interests

4.1.3 to have concessionary circumstances;

4.1.4 to have low costs for total consulting services

4.1.5 to contain detailed estimates on expected results of loan and aid projects, including costs of production, repairs and maintenance, fulfilment of technical, financial, economic, social and environmental requirements;

4.1.6 as for loan projects, domestic tax, fee discount, and exemption and if provided in the agreement costs of domestic supply of goods, works, and services should be estimated on domestic financing results.

Chapter Two

Development of Foreign Loans and Grant Aid Financed Projects Selection and Conclusion of Agreement

Article 5. Development of Foreign Loans and Grant Aid Financed Projects and Selection of the Project Executing Agency

5.1 The development of project proposals and detailed estimates of projects in specific sectors and regions in accordance with the foreign loan policy, medium-term development strategy and priorities shall be done by a relevant ministry and submitted to the State Central Administrative Organization in charge of Foreign Loans and Grant Aid.

5.2 The development of project proposals and selection of project executing agencies shall be governed by the “Law on Regulations on Procurement of Goods, Works and Services to be funded from state and local government budgets”, if parties agree, the procedure of the donor shall be followed.

5.3 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall review the project proposals submitted by the line ministries in compliance with the medium term development strategy, state budget, investment plans, the priority sectors for foreign aid, social and economic impact, policies and procedures of the counterpart organizations and will present the projects to the Government for resolution.

5.4 Government shall present its decision on the proposed projects to be presented to international organizations and donor countries upon a review of the social and economic impact and project duration as follows:

5.4.1 to present the supported project proposals to the international organizations and donor countries;

5.4.2 to return rejected projects to the relevant State Central Administrative Organization with a justified explanation for doing so.

Article 6. Conclusion of Agreements on Receiving Foreign Loans and Grant Aid

6.1 The contracts and agreements shall be concluded, when official commitment is made by international organizations and donor countries to provide foreign loans and grant aid.

6.2. The State Central Administrative Organization in charge Foreign Loans and Grant Aid shall include representatives of relevant line ministries, agencies and other professional organizations in the process of negotiation and conclusion of agreements with international organizations, donor countries and their authorized organizations.

6.3 The draft agreement shall be signed upon consensus of concerned parties.

6.4 The Government member in charge of foreign loan and grant aid shall sign the contracts, agreements of accepting foreign loans and grant aid on behalf of the Government, in cases when not specifically authorized otherwise.

Chapter Three

Acceptance of foreign loans

Article 7. Acceptance and Utilization of Foreign Loans

7.1 Activities related with the acceptance of foreign loans shall be undertaken by the State Central Administrative Organization in charge of Foreign Loans and Grant Aid together with relevant line ministries and agencies.

7.2 The foreign loans funds received in cash from international organizations and donor countries shall be accumulated in the state fund account at the Bank of Mongolia, if it is not provided otherwise in the contracts and agreements.

7.3 The project executing agency, in association with the State Central Administrative Organization in charge of Foreign Loans and Grant Aid, shall receive the foreign loans provided in the form of goods and products recording and monitoring the article names, quantities, prices and quality of each shipment.

7.4 Registration regulation referred to in Article 7.3 of this Law shall be approved by the Government member in charge of foreign loans and grant aid.

Article 8. On-lending of Foreign Loans

8.1 Loan funds shall be on-lent to the project implementing agency on a basis of a contract in order to mobilize domestic funds to repay the loans.

8.2 The Government shall approve the procedures and pro-forma contracts of domestic on-lending activities of foreign loans.

Article 9. The Oversight of Project Implementation

9.1 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall enable the overall oversight of receiving, utilizing and the implementing and reporting stages of foreign loans and grant aid assets; a daily monitoring shall be done by the relevant line ministry.

9.2 Project executing agencies shall produce quarterly and annual reports, undertake auditing and submit the report to the project implementing agency. The project implementing agency shall enable a review of the report by the Government member responsible for reporting and submit it to the State Central Administrative Organization in charge of Foreign Loans and Grant Aid.

9.3 The Government member in charge of Foreign Loans and Grant Aid shall approve the procedure and sequence of the project progress reports.

Chapter Four

Powers of State Authorities on Foreign Loans and Grant Aid

Article 10. Powers of the State Ikh Khural

10.1 Parliament shall exercise the following powers in relation to foreign loans and grant aid:

10.1.1 to determine the state policy toward foreign loan and grant aid;

10.1.2 to give consent and ratify loan contracts and agreements concluded by the Government with international organizations and donor countries;

10.1.3 to discuss the progress and performance reports of Government projects, programs and activities implemented with foreign loans and grant aid;

10.1.4 to review the implementation of foreign aid-funded projects, programs and activities;

10.1.5 to approve the required government domestic financing for programs, projects and activities;

10.1.6 other powers specified by law.

Article 11. Powers of the Government

11.1 The Government shall exercise the following powers in relation to foreign loans and grant aid:

11.1.1 work out and approve a medium-term program on foreign aid in compliance with State policy;

11.1.2 review and approve project proposals to be funded by foreign loans and grant aid and present the proposals to international organizations and donor countries;

11.1.3 review progress and performance reports of projects and activities implemented;

11.1.4 conduct an the audit of activities, related to foreign loans and grant aid, of project implementing and executing agencies, and of utilization of loan and grant aid and take corrective follow up measures;

11.1.5 administer the funds received as foreign loans and grant aid;

11.1.6 determine the project-implementing agency;

11.1.7 other powers specified in the law.

Article 12. Powers of State Central Administrative Organization in charge of Foreign Loans and Grant Aid

12.1 The State Central Administrative Organization in charge of Loans and Grant Aid shall exercise the following powers:

12.1.1 to conduct due diligence on justification, cost-benefit analysis, estimates and research of proposed programs, projects and activities related to foreign loans and grant aid;

12.1.2 to reflect domestic resource funding required for programs, projects and other activities in the annual state budget; to develop proposals on concessions and exemptions from taxes and other payables;

12.1.3 to develop and submit to the Government the proposal for foreign loans and the needs on annually required foreign loans in line with the guidelines for social and economic development;

12.1.4 to conclude on-lending agreements with the project implementing agency on repayable terms;

12.1.5 to open an income account at the Bank of Mongolia to conduct foreign loan payments, accumulate proceeds from the sale of grant aid goods, to accumulate the funds and to establish revolving capital and settle payments;

12.1.6 to develop a detailed schedule of outstanding payments of loans for each program, project and activity and estimate the possible adverse consequences and implications on the state budget, maintain an integrated registry and track foreign loans, grant aid and debt management;

12.1.7 to demand necessary documentation on foreign loans and grant aid from relevant entities; to approve related procedures and rules;

12.1.8 to monitor the fulfilment of agreement and contractual obligations of projects and activities within the framework of bilateral and multilateral cooperation; take adequate measures to ensure the fulfilment of such contractual obligations;

12.1.9 to initiate meetings and discussions to seek new financing sources; to broaden the community of international organizations and donor countries;

12.1.10 to create and restructure required structures within the framework of implementation of foreign loans, grant aid and economic cooperation strategy and program; nominate and have approved candidates to work as representatives to foreign countries and international organizations in charge of economic cooperation and foreign aid.

Article 13. Powers of the State Central Administrative Organization in charge of Foreign Affairs

13.1 The State Central Administrative Organization in charge of Foreign Affairs shall exercise the following powers in relation to foreign loans and grant aid:

13.1.1 to make official requests on loans and grant aid to international organizations and donor countries on behalf of the Government, and exchange official notes to such effect;

13.1.2 to make research into the foreign aid policies of international organizations and donor countries and to provide information to relevant organizations and officials.

Article 14. Powers of Line Ministries and Government Agencies

14.1 Line ministries and government agencies shall exercise the following powers in relation to foreign loans and grant aid:

14.1.1 to develop project proposals and submit requests for projects and provide information to interested parties as stipulated in Provision 5.1 of this Law;

14.1.2 to participate in the conclusion of contracts and other agreements, providing required information and reports;

14.1.3 to facilitate the implementation of programs, projects and activities, and ensure internal monitoring;

14.1.4 to register assets and property supplied as foreign loans and grant aid in the accounting books;

14.1.5 to organize sale of grant aid products, accumulate proceeds from such sale and loan payments in the special account as stipulated in Article 12.1.5 of this Law.

Article 15. Powers of Aimag Governors and Capital City Mayor

15.1 Aimag Governors and the Capital City Mayor shall exercise the following powers in relation to foreign loans and grant aid:

15.1.1 to develop and submit through relevant line ministries to the Government project proposals and activities to be implemented in their respective locations;

15.1.2 to ensure the implementation of projects funded by the foreign loans and grant aid and monitoring of the activities of project implementing and executing agencies of projects;

15.1.3 other powers specified by law.

Chapter Five

Payments and accounts of Foreign Loans and Grant Aid

Article 16. Provision of Government Financing and Repayment of Foreign Loans

16.1 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall collect domestic resource funds of foreign loans in an account opened at the Bank of Mongolia.

16.2 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall exercise authority in administration of the funds in this account upon authorization by the Government.

16.3 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall be responsible for the repayment of foreign loans, if not provided otherwise in laws or agreements.

16.4 Taxes shall be levied on goods and products supplied as foreign loans and grant aid according to relevant tax laws.

Article 17. Transactions from the foreign loan deposit account

17.1 The Bank of Mongolia shall administer transactions from the foreign loan deposit account upon the authorization of the State Central Administrative Organization in charge of Foreign Loans and Grant Aid.

Chapter Six

Coordination of Foreign Grant Aid

Article 18. Receipt and Utilization of Foreign Grant Aid

18.1 The activities related to acceptance of foreign grant aid shall be undertaken by the State Central Administrative Organization in charge of Foreign Loans and Grant Aid together with relevant line ministries and agencies.

18.2 The project executing agency in association with the State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall receive the foreign grant aid provided in the form of goods and products, recording and monitoring article names, quantities, prices and quality in each shipment.

18.3 The proceeds from sale of aid goods shall be utilized according to bilateral agreement between governments.

18.4 Registration regulation referred to in Article 18.2 of this Law shall be approved by the Government member in charge of foreign loans and grant aid.

Article 19. Transfer of Foreign Aid Assets

19.1 The assets received as humanitarian and grant aid are to be transferred to the selected project executing agency on a basis of concluded contract. The contract shall be concluded with the State Central Administrative Organization in charge of Foreign Loans and Grant Aid.

19.2 The contract shall reflect the procedures for reporting the storage, maintenance, condition and utilization of foreign aid assets.

19.3 Foreign aid assets provided as technical assistance shall be transferred to the project implementing agency equally by applying Articles 19.1, 19.2.

Article 20. Collection of Proceeds of Grant Aid

20.1 A recipient of foreign grant aid shall sell such goods and products on the local market at market prices during that given time frame; the proceeds from such sales should be deposited in the account opened as stipulated in Article 12.1.5; related documentation should be submitted to the State Central Administrative Organization in charge of Foreign Loans and Grant Aid within 3 business days.

20.2 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid may open separate special accounts at the Bank of Mongolia for each donor country.

Article 21. Transactions of the Deposit Account

21.1 The Bank of Mongolia shall execute transactions of the special grant aid account with authorization from the State Central Administrative Organization in charge of Foreign Loans and Grant Aid.

Chapter Seven

Miscellaneous

Article 22. Integrated Registry and Database of Foreign Loans and Grant Aid

22.1 The integrated registry of projects and database shall consist of the following information:

22.1.1 Foreign loan-funded projects;

22.1.2 Grant aid-funded projects and activities;

22.1.3 Foreign debt.

22.2 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall record and track the integrated registry and database.

22.3 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid shall develop a procedure on design and use of the integrated registry and database.

Article 23. Evaluation of Projects and Activities Financed by Loans and Grant Aid

23.1 Biannual monitoring of projects and other activities in a given sector shall be exercised by line ministries together with project implementing agencies. Relevant monitoring organizations and officials may be involved in the monitoring process when necessary.

23.2 The State Central Administrative Organization in charge of Foreign Loans and Grant Aid together with international organizations and donor countries, based on monitoring reviews of part 1 of this Article, shall approve the final evaluation of annual results of projects and other activities.

Article 24. Liabilities for breaching the legislation

24.1 Business entities, organizations and officials found to be in violation of the Law on Foreign Loans and Grant Aid shall bear liabilities according to relevant legislation.

VICE CHAIRMAN OF
THE STATE IKH KHURAL

J. BYAMBADORJ