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Dear Professor Ruggie,

We are writing to ask you to use your good offices to help resolve a dispute that has arisen in relation to the development of the Oyu Tolgoi mine in Mongolia.

We believe that your timely intervention with the Government of Mongolia could help calm the tension that has erupted in the capital, Ulaanbaatar and other parts of the country in recent weeks, over the government's decision to allow Rio Tinto and Ivanhoe Mines Ltd to develop a copper-gold mine in the South Gobi region without undertaking adequate environmental studies. There are a number of legal irregularities in relation to the Oyu Tolgoi agreement. For example, the Mongolian Government approved the Oyu Tolgoi Investment Agreement on 31st March 2010 without obtaining the prior consent of Mongolia's parliament (the State Great Hural) and despite the fact that the technical and economic feasibility study submitted by Ivanhoe Mines Mongolia Inc has not met in full the recommendations of Mongolia's Mineral Expert Council (which is the technical body that has the responsibility to approve mining projects).

One of the problems besetting Mongolia is the inadequacy of some of the legislation, particularly as regards the Minerals Law 2006, and structural weaknesses which leads to poor enforcement of the country's environmental laws. A recent UN study found that the environmental laws lacked clear implementation procedures and mechanisms. There is also widespread concern about the violations of the human rights of pastoralists and herders, whose livelihoods depend on access to various natural resources. The serious effects of climate change are already being observed in Mongolia such as the increased frequency and severity of drought, increase in dust storms, habitat loss, ecosystem

decline and the expansion of natural deserts. The Government of Mongolia is widely alleged to misuse its powers in the allocation of resources and in the granting mining licences. It is public knowledge, for example, that the Prime Minister N. Enkhbayar was given \$50 million by Ivanhoe Mining Ltd to settle Mongolia's debt to Russia. All of these factors have contributed to mounting discontent with the government, the parliament (Grand State Hural) and anger against foreign mining companies which culminated in demonstrations at the beginning of April.

On 4 April 2010 NGOs and 200 representatives from 18 *aimags* (provinces) gathered in Sukhbaatar Square, the main square in Ulaanbaatar, Mongolia's capital, calling on the Government to respect its election promises and objecting to the disadvantageous agreements with foreign mining interests. Tension mounted after an unprovoked assault on the demonstrators. On April 5, thousands of protesters marched to the main square to demand dismissal of parliament. The demonstration ended peacefully, but some remained in Sukhbaatar Square waiting for a reply from authorities.

On 8 April a Toyota land cruiser drove into the *ger* (traditional tent) where the protesters were based injuring eight people. The driver of the vehicle (who was allegedly mentally disturbed) was subsequently arrested by police. Seven demonstrators went on hunger strike demanding *inter alia* constitutional reforms and a review of the Oyu Tolgoi investment agreement. There are concerns about the situation of the hunger strikers, who were taken away in the middle of the night on 14 April and placed under police guard in hospitals around Ulaanbaatar. A District Health official justified these measures on the grounds that the hunger strikers' blood sugar levels were dangerously low. Police then cordoned off the square, removed the *ger* and confiscated the hunger strikers' personal belongings and documents. Some of the people on hunger strike, who had come from rural areas, refused treatment and were 'discharged' from hospital on 17 April late at night. All of these actions on the part of the Mongolian authorities seem designed to break up the demonstration and suppress the right to freedom of expression and peaceful assembly.

Rio Tinto's participation in the project is supposed to guarantee the world's best mining and environmental practices. But a major cause of concern is the absence of a full Environmental Impact Assessment and a detailed water study for the Oyu Tolgoi project which is located in the fragile ecosystem of the South Gobi Desert. Increasingly Mongolian civil society fears that the mine licences awarded to foreign companies will reduce both the quality and availability of water, threaten Mongolia's wildlife and biodiversity; and decrease the amount of pasture on which the country's traditional nomadic population depends for their survival.

On 1 April 2010, assisted by MiningWatch Canada and RAID, we filed complaints in the UK and Canada against Rio Tinto and Ivanhoe Mines Ltd for alleged breaches of the OECD Guidelines for Multinational Companies. We are appealing to you to contact the Government of Mongolia as a matter of urgency to help resolve the dispute and restore calm and to make clear to Rio Tinto and Ivanhoe Mines Ltd that as part of their due diligence they should conduct a full environmental impact assessment and water study.

Furthermore we would like you to review the fairness of the benefit sharing arrangements of the Investment Agreement so as to ensure that the project contributes to the reduction of poverty in Mongolia.

We are hopeful that your speedy intervention may help to restore calm and prevent further human rights violations. You are also well placed to encourage the companies to enter into dialogue under the auspices of the Canadian and UK NCPs without further delay. Given the overriding importance of the issue of access to water we are also copying this letter to Ms Caterina de Albuquerque, the Independent Expert on the Right to Water.

We would be very happy to provide you with further information and documents.

Yours sincerely,



Zanaa Jurmed

Chair of the Board OT Watch

This letter is being sent to

Andrew Kavchak, the Canadian National Contact Point for the OECD Guidelines for Multinational Enterprises; Sergio Moreno, the United Kingdom National Contact Point for the OECD Guidelines for Multinational Enterprises; Catarina de Albuquerque, the United Nations Independent Expert on the Right to Water; Catherine Coumans, MiningWatch Canada; and Patricia Feeney, Rights and Accountability in Development (RAID).