

FOREIGN INVESTMENT LAW OF MONGOLIA

Chapter One

General Provisions

Article 1. Purpose of the law

The purpose of this law shall be to encourage foreign investment, to protect the rights and property of foreign investors in Mongolia, and to regulate matters relating to the foreign investment. */This paragraph was rephrased by the Law of January 3, 2002/*

Article 2. Legislation on foreign investment

1. The legislation on foreign investment shall consist of the Constitution of Mongolia, this law and other relevant legislation enacted in conformity therewith.
2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions

1. "Foreign investment" means every kind of tangible and intangible property which is invested in Mongolia by a foreign investor for the purpose of establishing a business entity with foreign investment within the territory of Mongolia or for the purpose of jointly operating with an existing business entity of Mongolia.
2. "Foreign investor" means a foreign legal person or individual (a foreign citizen or stateless person not residing permanently in Mongolia or a citizen of Mongolia permanently residing abroad) who invests in Mongolia.
3. "Mongolian investor" means a Mongolian legal person or individual (a citizen of Mongolia, immigrant or stateless person permanently residing in Mongolia) who invests.
4. "Investment agreement" is an agreement and/or a contract on concession, product sharing, marketing, management, financial leasing and franchise investment concluded by foreign investors for implementation of concrete project without having to establish a legal entity. */This paragraph was added by the Law of January 3, 2002/*
5. "One stop service" is a complex service including receipt of applications and other relevant

materials to establish a business entity with foreign investment issuing licenses and certificates to start a business activity, making opinions and appraisal at one place and to organize resolution of these issues by relevant authorities, and to provide investors with necessary information as well as consultancy service." */This paragraph was added by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

Article 4. Areas for foreign investment

1. Foreign investment may take place in all areas of production and all services other than those prohibited by the laws of Mongolia.
2. Foreign investment may take place in all parts of the territory of Mongolia where the types of production to be undertaken or services to be provided are not prohibited by the laws of Mongolia.

Article 5. Types of foreign investment

A foreign investor may make investment in the following types:

- 1) freely convertible currencies and reinvestment of togrogs yielded by investments;
- 2) moveable and immovable property and property rights;
- 3) intellectual and industrial property rights.

Article 6. Forms of foreign investment

Foreign investment shall be made in the following ways:

- 1) by establishing wholly foreign-owned business entities; *(As amended by the Law of May 29, 2008)*
- 2) by establishing business entities jointly with Mongolian investors;
- 3) a foreign investor makes a direct investment by buying stocks, shares and other securities of the Mongolian business entities under the legislation of Mongolia; */This paragraph was rephrased by the Law of January 3, 2002/*
- 4) by acquiring rights by law, under concession and product sharing contract to exploit and process natural resources. */This paragraph was amended by the Law of January 3, 2002/*
- 5) Conclude marketing and management contract;
- 6) Make an investment through financial leasing and franchise. */The paragraphs 5, 6 were added by the Law of January 3, 2002/*

Article 7. Purchase of shares or other securities

Foreign investors may purchase as provided for in the legislation of Mongolia shares or other securities of any business entity which operates within the territory of Mongolia.

Chapter Two

Protection of Foreign Investment

Article 8. Legal guarantees for foreign investment

1. Foreign investment within the territory of Mongolia shall enjoy the legal protection guaranteed by the Constitution, this law and other legislation which is consistent with those laws and as guaranteed by the international treaties to which Mongolia is a party.
2. Foreign investment within the territory of Mongolia shall not be unlawfully expropriated. */The word "nationalized" was cancelled from this paragraph by the Law of January 3, 2002/*
3. Investments of foreign investors may be expropriated only for public purposes or interests and only in accordance with due process of law on a non-discriminatory basis and on payment of full compensation.
4. Unless provided otherwise in any international treaties to which Mongolia is a party, the amount of compensation shall be determined by the value of the expropriated assets at the time of expropriation or public notice of expropriation. Such compensation shall be paid without delay.
5. Losses suffered by foreign investors due to a state of emergency or war in Mongolia shall be treated equally with losses suffered by Mongolian investors.

Article 9. Treatment of foreign investors

Mongolia shall accord to foreign investors no less favourable treatment in respect of the possession, use, and disposal of their investments than that accorded Mongolian investors.

Article 10. Rights and obligations of foreign investors

1. Foreign investors shall enjoy the following rights:

- 1) to possess, use, and dispose of their property including the repatriation of investments which contributed to the equity of a business entity with foreign investment; *This subparagraph was amended by the Law of January 3, 2002/*
- 2) to manage or to participate in management of a business entity with foreign investment;
- 3) to transfer their rights and obligations to others as provided for in the legislation;
- 4) Remit the following income, profit and payments to abroad without any barriers:
 - (a) allotted stockholders income and share dividends;
 - (b) allotted income after sale of assets and securities', transfer of property right to others, termination of an investment agreement and liquidation of a business entity;
 - (c) principal debts and interest thereon, as well as other equivalent payments;
 - (d) compensation payment for confiscated property;
 - (e) other income gained in conformity with the legislation of Mongolia. /As *edited by the Law of January 3, 2002/*
- 5) such other rights as conferred by the legislation.

2. Foreign investors shall have the following duties:

- 1) to observe the laws of Mongolia;
- 2) Perform the obligations set forth in the agreement and statutes of the business entity with foreign investment; /As edited by the Law of January 3, 2002(As amended by the Law of May 29, 2008)
- 3) to implement measures to ensure the protection and restoration of the natural environment;
- 4) to respect the customs and traditions of the people of Mongolia.

Chapter Three

Activities of a foreign entity and a representative of a foreign legal person

(As amended by the Law of May 29, 2008)

Article 11. Business entities with foreign investment

1. Business entity with foreign investment shall be an entity established in accordance with the legislation of Mongolia, of amount of own property US\$ 100 thousand or equivalent amount in Mongolian togrogs in Mongolia, which not less than 25 percent of the equity is an investment of a foreign investors. /This paragraph was re-edited by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)
2. A business entity with foreign investment shall become a legal person of Mongolia from the date of its registration and shall conduct its operations in accordance with the laws of Mongolia.

Article 12. Permission of the establishing business entities with foreign investment and representative of a foreign legal person

1. The State administrative body in charge of foreign investment matters shall issue permission on establishing business entities with foreign investment and representative of a foreign legal person according on application and other relevant materials
2. In application on establishing business entities with foreign investment must include following:
 - 1/ name, address and citizenship of the investor;
 - 2/type and amount of investment;
 - 3/type of entity;
 - 4/sector of investment, operation, service;
 - 5/stage of realization, period of investment;
3. In application on establishing business entities with foreign investment must attach following:
 - 1/introduction of investor, passport and copy of the registration of legal person;
 - 2/agreement or statutes of a business entity's with foreign investment;
 - 3/certification checked on name of legal person is not subheading with other legal persons;
 - 4/definition of the bank on solvency of investor/definition on owning property;
 - 5/technical-economical grounds;
 - 6/official address of business entities with foreign investment
 - 7/relevant permission referred to Law of Mongolia on Licensing
4. The State administrative body in charge of foreign investment matters shall stocktaking application and attached materials, make decision according to the following conclusion of the supervision organization within 14 day from date of receiving application:
 - 1/consistent with laws;
 - 2/impact on environment;
 - 3/consistent with requirements of standarts, sanitation;
 - 4/valuation of technique and technology
5. Conclusion, referred to in paragraph 12.4.4 of this Law shall be made grounding on rule enacted by the Government of Mongolia.
6. Application of establishing representative of a foreign legal person shall be applied to the State administrative body in charge of foreign investment matters and must include following:
 - 1/name, address of the foreign legal person;
 - 2/registrated country of the foreign legal person;
 - 3/object address and location of representative
 - 4/official address and location of representative
7. In application on establishing representative if a foreign legal person shall be attached following materials;
 - 1/introduction and copy of the statutes of representative of a foreign legal person;
 - 2/copy of certificate of representative of a foreign legal person;
 - 3/definition of the bank on solvency;
 - 4/statutes of representative;
 - 5/address of representative;
8. If business entities with foreign investment and representative of a foreign legal person shall have permission. It will have certificate on establishing business entities with foreign investment and

- representative of a foreign legal person and it shall be approved by head of the State administrative body in charge of foreign investment matters;
9. If an agreement or statutes of a business entity's with foreign investment will have changes, it shall be reported to authorized organization within 10 work days, amendment on certificate will be resolved within 14 work days.
 10. If the State administrative body in charge of foreign investment matters rejected to application on establishing business entities with foreign investment, shall reply rejection with arguments in written form within 14 work days.
 11. The State administrative body in charge of foreign investment matters shall stocktaking application and attached materials on establishing representative of a foreign legal person, make decision within 10 day from date of receiving application. (*As amended by the Law of May 29, 2008*)

Article 13. Valuation of tangible and intangible property

1. Investors of a business entity with foreign investment shall negotiate on evaluation of the property and intellectually valuable items invested from them to form the equity of the entity following the same principle sued for convertible currency and tugrug (local currency). If investor considers it as necessary, the evaluation can be done by either Mongolian or foreign specialized company licensed to conduct asset evaluation. */This paragraph was re-edited by the Law of January 3, 2002/*
2. Conversion of togrogs into freely convertible currency shall be done at the rate of exchange set by the Bank of Mongolia and applicable at the respective time.

Article 14. Powers of the state administrative body in charge of foreign investment matters

1. The State Central administrative body in charge of foreign investment matters shall have the following powers with respect to foreign investment:
 - 1) to formulate foreign investment policy in accordance with the Government general objectives of the country's economic and social development, and monitor its implementation;
 - 2) to ensure and supervise the implementation of foreign investment legislation;
 - 3) develop proposals on leading sectors and directions of foreign investment.
2. The State administrative body in charge of foreign investment shall have the following powers:
 - (1) to implement policies and legislation with respect to foreign investment;
 - (2) to research possibilities to increase foreign investment, to organize external investment promotional activities, provide investors with relevant information, and involve foreign investors in the project tenders;
 - (3) to render foreign investors complete "One-stop service";
 - (4) from state administrative body in charge if labour, taxation, custom, social insurance and foreign citizens get and perpare statistical data on business entity's with foreign investment by half and full yearly.
 - a/amount of invesment/own property/;
 - b/payment for tax;
 - c/payment for deduction from social insurance;
 - d/number of work place;

e/permission for foreign citizens;

f/amount, title and type of the export and import. (*As amended by the Law of May 29, 2008*)

(5) decide establishment of a business entity with foreign investment, representative offices of a foreign legal person; (*As amended by the Law of May 29, 2008*)

(6) to terminate, temporarily or permanently, the activities of a business entity's with foreign investment; (*As amended by the Law of May 29, 2008*)

(7) such other rights specified in legislation.

3. The State administrative body in charge of foreign investment matters shall render some of the services specified in subparagraph 3, paragraph 2 of this Article on charge base. */This article was re-edited by the Law of January 3, 2002/*

Article 15.Registration of Business entites with foreign investment and Investment agreement

(*As amended by the Law of May 29, 2008*)

1. A business entity with foreign investment that obtained a certificate from the State administrative body in charge of foreign investment matters shall be registered with the National General Taxation Office. (*As amended by the Law of May 29, 2008*)

2. Any amendment to the Agreement or statutes of a business entity's with foreign investment shall be registered with the National General Taxation Office as approved by the State administrative body in charge of foreign investment matters; (*As amended by the Law of May 29, 2008*)

3. The State administrative body in charge of foreign investment matters will register an Investment agreement based on an application to register and a notarized copy of the investment agreement, and shall issue a certificate within 10 business days after the receipt of the application. */This article was re-edited by the Law of January 3, 2002/*

Article 16.Terminating a foreign invested entity and branch of a foreign legal entity

1. The operations of business entity's with foreign investment may be suspended or terminated on the grounds provided in the laws of Mongolia. */This paragraph was amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

2. The State administrative body in charge of foreign investment matters may be suspend or terminate the operations of business entity's with foreign investment on the grounds decision made by supervision organization that the operation of business entity's with foreign investment are breaking decision referred to in paragraph 12.4 of this Law. (*As amended by the Law of May 29, 2008*)

Article 17.Liquidation of business entities with foreign investment

(*As amended by the Law of May 29, 2008*)

1. If a business entity with foreign investment decides to suspend or terminate its operations it shall submit a decision to this effect to the state central administrative body in charge of foreign investment matters and to the General Department of National Taxation within 14 days of its issuance. */As edited by the Law of November 30, 2001 and was amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

2. An investment agreement shall be removed from the registry and a certificate shall be revoked in the event that the term of the investment agreement expires, the investor terminates the agreement of the investor violates legislation of Mongolia. */This paragraph was added by the Law of January 3, 2002/*
3. If a business entity with foreign investment is liquidating, state administrative body in charge of foreign investment matters shall be revoke certificate decision referred to in paragraph 12.1 of this Law and shall be notified to the General Department of National Taxation. *(As amended by the Law of May 29, 2008)*
4. Upon receipt of the decision referred to in paragraph 1 of this article, the General Department of National Taxation shall remove the business entity with foreign investment from the State registry and publish such fact. */As amended by the Laws of November 30, 2001 and January 3, 2002/(As amended by the Law of May 29, 2008)*
5. If the operations of the business entity with foreign investment is liquidated, then the foreign investor concerned shall be entitled to transfer the returns referred to in paragraph 4 of article 10 of this law upon completion of the final accounts of the business entity concerned. */This paragraph was amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

Article 18.Taxation

1. To business entities with foreign investment shall be levied taxes under the tax laws of Mongolia. *(As amended by the Law of May 29, 2008)*
2. Tax Relief and Exemptions related to foreign invested economic entities shall be regulated by Law on Corporate Income tax, Law on Customs tariff and customs tax, Law on Value added tax, Law on Excise tax and Law on land. *(This paragraph was deleted by the Law of January 15, 1998 and then added by the Law of January 3, 2002. Additionally, this paragraph is changed by the Law of May 20, 2008) (As amended by the Law of May 29, 2008)*

Article 19.Stability Agreement

1. In the event of a request by the investor intending to undertake an investment project of not less than US\$ 20 million or equivalent amount in Mongolian national tugriqs in Mongolia, the Member of Government in charge of taxation matters as permitted by the Government of Mongolia may sign a stability agreement with such investor as a legal guarantee for a stable environment to conduct business.
2. A sample of a stability agreement will be approved by the Government of Mongolia. The sample agreement shall ensure stable tax conditions during fixed period and contain terms as to the objectives and amount of investment, grounds for termination and term of implementation.
3. If a start-up investment amount of a foreign investor is US\$ 20.0 million or equivalent amount of Mongolian national tugriqs a stability agreement can be signed for 10 years and if the amount is over US\$ 50.0 million or its equivalent in Mongolian national tugriqs for 15 years respectively. *(As amended by the Law of May 29, 2008)*
4. In the event of a termination of activities by sole initiative of an investor before the expiration of the period set in the stability agreement when a business entity with foreign investment did not become bankrupt in accordance with the laws of Mongolia, their activities were not terminated by the respective authorities or the parties did not terminate the contract by mutual agreement the amount of tax discounts and/or exemptions afforded to such investor shall be compensated by the investor. */This article was added by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

Article 20. Conclusion of a Stability Agreement

1. An investor willing to conclude a Stability Agreement shall submit its application and draft Stability Agreement to the State central administrative body in charge of taxation policy matters.
2. The Government member in charge of taxation policy issues shall examine the application and the draft agreement within 14 business days following the receipt of the application and draft agreement shall conclude the Stability Agreement with the applicant, if no additional clarifications are required. If additional clarifications are required, the applicant shall be notified within 7 business days.
3. Information about the Stability Agreement shall be delivered to relevant authorities. */This article was added by the Law of January 3, 2002/*

Article 21. Use of land to business entities with foreign investment

(As amended by the Law of May 29, 2008)

1. To business entities with foreign may use land subject to the conditions and procedures set forth in the land legislation of Mongolia by way of lease, for fees. */As amended by the Law of January 3, 2002/ (As amended by the Law of May 29, 2008)*
2. Any lease shall include the terms and duration of use, measures required to ensure the protection and restoration of the environment to its natural state, the amount of annual ground rent, and the liabilities of the lesser and lessee.
3. A lease for the business entities with foreign investment and branch of a foreign legal entity shall be granted in accordance with the procedures below: */This paragraph was amended by the Law of January 3, 2002/*
 - 1) a lease for the use of State-owned land by a wholly foreign-owned business entity shall be entered into by the Mongolian landowner and the foreign investor and shall be authorized by the relevant local Hural of Representatives and its Presidium;
 - 2) a lease for the use of State-owned land by a business entity with foreign investment in which a Mongolian investor is a participant shall be entered into by the Mongolian landowner and the head of the business entity concerned and shall be authorized by the relevant local Hural of Representatives and its Presidium;
 - 3) a lease for the use of private freehold land by a business entity with foreign investment in which a Mongolian investor is a participant shall be entered into by the Mongolian landowner and the head of the business entity with foreign investment and shall be authorized by the competent State authorities.
4. The obligations arising from the leases referred to in sub-paragraphs 2 and 3 of paragraph 3 of this article which are entered into by the head of a business entity with foreign investment shall be borne by the Mongolian and the foreign investor in proportion to their contributions in equity of the business entity. */This paragraph was amended by the Law of January 3, 2002/*
5. The duration of any lease shall be determined by the duration of the operations to the business entity with foreign investment. The initial term of a lease shall not exceed 60 years. The lease may be extended once for a period of up to 40 years on the same conditions as the original lease. */This paragraph was amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*
6. If a business entity with foreign investment is liquidated before the expiration of the lease, then the lease shall terminate at the same time. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

7. Land may be substituted or taken back for a specific State purpose. Decisions to this effect may only be made by the Government of Mongolia. Compensation for losses suffered by foreign investors as a result of such action shall be paid without delay. The amount of compensation shall be determined on the basis of value at the time of such substitution or transfer.
8. If land is used contrary to the interest of the public health, natural environment or natural environment or the national security, then the lease shall be terminated.

Article 22. Finances, loans, accounts and inspections

1. Business entities with foreign investment shall conduct their activities in respect of finances, loans, accounts, and foreign currency operations in accordance with the laws of Mongolia. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*
2. Business entities with foreign investment shall keep account books and balance sheets in accordance with the laws of Mongolia. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*
3. The accounting books and financial and business transactions of business entities with foreign investment and branches of foreign legal persons shall be audited by State financial inspectors or by chartered auditors in accordance with the laws of Mongolia. Foreign independent auditing organisations may be invited if required. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

Article 23. Insurance

Business entities with foreign may be insured by Mongolian insurance agencies in accordance with the legislation of Mongolia. */As amended by the Law of January 3, 2002/ (As amended by the Law of May 29, 2008)*

Article 24. Labour and social security relations */This article was amended by the Law of January 3, 2002/*

1. Business entities with foreign investment shall primarily employ citizens of Mongolia. Foreign citizens may be hired for jobs requiring special or high qualifications. Matters of importing labour forces and experts shall be governed by the relevant legislation of Mongolia. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*
2. Matters of labour safety and social security relating to citizens of Mongolia who are employed by business entities with foreign investment shall be governed by the labour and social security legislation of Mongolia. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*
3. Foreign citizens employed to business entities with foreign investment shall be liable for income tax in accordance with the legislation of Mongolia and shall be entitled to transfer abroad their income after payment of tax. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

Chapter Four

Miscellaneous

Article 25. Settlement of disputes

Disputes between foreign investors and Mongolian investors as well as between foreign investors and Mongolian legal or natural persons on the matters relating to foreign investment and the operations of the business entity's with foreign investment and a branch of foreign legal persons, shall be resolved in the Courts of Mongolia unless otherwise provided by international treaties to which Mongolia is a party or in the agreement between the parties. */As amended by the Law of January 3, 2002/(As amended by the Law of May 29, 2008)*

Article 26. Coming into force of the law

This law shall come into force on 1 July 1993.

Chairman of the State Ih Hural of Mongolia

N. Bagabandi

Secretary General of the Secretariat of the State Ih Hural

N. Rinchindorj