

# LAW OF MONGOLIA

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Ulaanbaatar

## ON FOREIGN INVESTMENT

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### 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 assets of foreign investors in Mongolia, and to regulate matters relating to foreign investment. [/As edited 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 acts of legislation enacted in conformity therewith.
2. If an international agreement to which Mongolia is a party provides otherwise than this law, then the former 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.
5. "One stop service" is a complex service including receipt of applications and other relevant materials to establish a business entity with foreign investment or a branch of foreign legal person, issuing licenses and certificates to start a business activity, making opinions and appraisals at one place and to organize resolution of these issues by relevant authorities, and to provide investors with necessary information as well as consultancy services." [/The paragraphs 4 and 5 were added by the Law of January 3, 2002/](#)

##### **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 of 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 Mongolia in the following forms:

- 1/ by establishing wholly foreign-owned business entities or local branches or subsidiaries of business entities;
- 2/ by establishing business entities jointly with Mongolian investors;
- 3/ a foreign investor makes direct investment by buying stocks, shares and other securities of the Mongolian business entities as provided for in the legislation of Mongolia [/As 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. [/As amended by the Law of January 3, 2002/](#)
- 5/ conclude marketing or management contract,
- 6/ make an investment through financial leasing and franchise. [/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 removed from this paragraph by the Law of January 3, 2002/](#)
3. Property of foreign investors may be expropriated only for public purposes or interests and only in accordance with the procedure prescribed by law on a non-discriminatory basis and with payment of full compensation.
4. Unless otherwise provided in an international agreement 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 favorable treatment in respect of the possession, use, and disposal of their investments than that accorded to Mongolian investors.

#### **Article 10. Rights and duties 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; [/As 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 shareholders income and dividends;

- b/ allotted income after sale of assets and securities', transfer of property rights 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, branch of a foreign legal person and in Investment agreement; [/As edited by the Law of January 3, 2002/](#)
  - 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 BRANCH OF A FOREIGN LEGAL PERSON

#### **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 which not less than 25 percent of the equity is an investment of a foreign investor. [/As edited by the Law of January 3, 2002/](#)
- 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 legislation of Mongolia.

[/Article 12 was repealed by the Law of January 3, 2002/](#)

#### **Article 13. Valuation of tangible and intangible property**

- 1. Investors of a business entity with foreign investment shall negotiate on evaluation of the assets and intellectually property invested by them to form its owner's equity following the same principle applied for convertible currency and togrog. If investor deems necessary, the evaluation can be done by either Mongolian or foreign specialized company licensed to conduct asset evaluation. [/As 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/ formulate foreign investment policy in accordance with the Government general objectives of the country's economic and social development, and monitor its implementation;
  - 2/ ensure and supervise the implementation of the foreign investment legislation;
  - 3/ develop proposals on leading sectors for and directions of foreign investment.
- 2. The State administrative body in charge of foreign investment shall have the following powers:
  - 1/ implement policies and legislation with respect to foreign investment;
  - 2/ 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/ render foreign investors complete "One-stop service";
  - 4/ prepare statistical data on foreign investment;
  - 5/ decide establishment of business entities with foreign investment, branches and representative offices of a foreign legal persons;
  - 6/ terminate, temporarily or permanently, the activities of business entities with foreign

investment and branches of foreign legal persons;

7/ such other rights as specified in the 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 edited by the Law of January 3, 2002/\*](#)

#### **Article 15. Registration of business entities with foreign investment and branches of foreign legal persons and investment agreements**

1. A business entity with foreign investment and branches of foreign legal persons that obtained a certificate from the state administrative body in charge of foreign investment matters shall be registered with the state registry by the National General Taxation Office.

2. Any amendment to the agreement or statutes of a business entity with foreign investment or a branch of a foreign legal person shall be registered with the National General Taxation Office as approved by the State administrative body in charge of foreign investment matters.

3. The State administrative body in charge of foreign investment matters shall 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 receipt of the application. [\*/As edited by the Law of January 3, 2002/\*](#)

#### **Article 16. Termination of business entities with foreign investment and branches of foreign legal persons**

1. The operations of business entities with foreign investment and a branch of a foreign legal person may be suspended or terminated on the grounds provided in the laws of Mongolia. [\*/As amended by the Law of January 3, 2002/\*](#)

2. [\*/This paragraph was repealed by the Law of November 30, 2001/\*](#)

#### **Article 17. Liquidation of business entities with foreign investment and branches of foreign legal persons**

1. If a business entity with foreign investment or a branch of a foreign legal person 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 ~~Ministry of Trade and Industry~~ 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/\*](#)

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 or the investor violates Mongolian Law. [\*/This paragraph was added by the Law of January 3, 2002/\*](#)

3. [\*/This paragraph was repealed by the Law of November 30, 2001/\*](#)

4. Upon receipt of the ~~notice~~ decision referred to in paragraph 1 of this article, the General Department of National Taxation shall remove the business entity with foreign investment or a branch of a foreign legal person from the State registry and publish such fact. [\*/As amended by the Laws of November 30, 2001 and January 3, 2002/\*](#)

5. If a business entity with foreign investment or a branch of a foreign legal person 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. [\*/As amended by the Law of January 3, 2002/\*](#)

#### **Article 18. Taxation**

1. Business entities with foreign investment and branches of foreign legal persons shall be levied taxes under the tax laws of Mongolia.

2. Tax relief and exemptions to the business entities with foreign investment, branches of foreign legal persons and the persons implementing investment agreements shall be governed by the Business entities and organizations Income Tax Law, Customs tariff law<sup>2</sup>, Value added tax law<sup>3</sup>, Excise tax law<sup>4</sup> and Land law<sup>5</sup> of Mongolia. [\*/As added by the Law of January 3, 2002/\*](#)

## **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\$ 2 million or equivalent amount in Mongolian togrogs 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 shall 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\$ 2.0-10.0 million or equivalent amount of togrogs a stability agreement can be signed for 10 years, and if the amount is over US\$ 10.0 million or its equivalent in togrogs for 15 years respectively.
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 and/or a branch of a foreign legal person 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/\*](#)

## **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 by business entities with foreign investment and branches of foreign legal persons**

1. Business entities with foreign investment and branches of a foreign legal person 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/\*](#)
2. Any lease shall include the terms and duration of use, steps required to ensure the protection and restoration of the environment to its natural state, the amount of annual land fees, and the liabilities of the lessor and lessee.
3. Lease for the business entities with foreign investment and branches of foreign legal persons shall be granted in the following procedures: [\*/As 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 Khural of Citizens' 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 Khural of Citizens' 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 specified 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. [/As amended by the Law of January 3, 2002/](#)

5. The duration of any lease shall be determined by the duration of the operations of the business entity with foreign investment or branch of a foreign legal person. 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. [/As amended by the Law of January 3, 2002/](#)
6. If a business entity with foreign investment or a branch of a foreign legal person 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/](#)
7. Land may be substituted or taken back for a special 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 interests of public health, the natural environment or national security, then the lease shall be terminated.

#### **Article 22. Finances, loans, accounts and inspections**

1. Business entities with foreign investment and branches of foreign legal persons shall conduct their operations in respect of finances, loans, accounts, and foreign currency transactions in accordance with Mongolian Law. [/As amended by the Law of January 3, 2002/](#)
2. Business entities with foreign investment and branches of foreign legal persons shall keep accounting books and balance sheets in accordance with the laws of Mongolia. [/As amended by the Law of January 3, 2002/](#)
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 legislation of Mongolia. Foreign independent auditing organisations may be invited if required. [/As amended by the Law of January 3, 2002/](#)

#### **Article 23. Insurance**

Business entities with foreign investment and branches of foreign legal persons may be insured by Mongolian insurance agencies in accordance with the legislation of Mongolia. [/As amended by the Law of January 3, 2002/](#)

#### **Article 24. Labor and social security relations**

1. Business entities with foreign investment and branches of foreign legal persons shall primarily employ citizens of Mongolia. Foreign citizens may be hired for jobs requiring special qualifications or high skills. 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/](#)
2. Matters of labour safety and social security relating to citizens of Mongolia employed by business entities with foreign investment and branches of a foreign legal person shall be governed by the labour and social security legislation of Mongolia. [/As amended by the Law of January 3, 2002/](#)
3. Foreign citizens employed by business entities with foreign investment and branches of foreign legal persons 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/](#)

**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 entities with foreign investment and branches of foreign legal persons, shall be resolved in the Courts of Mongolia unless otherwise provided in the by international treaties to which Mongolia is a party or in the agreements between the parties [/As amended by the Law of January 3, 2002/](#).

**Article 26. Entry into force**

This law shall come into force on 1 July 1993.

CHAIRMAN OF THE STATE  
IKH KHURAL OF MONGOLIA

N.BAGABANDI