U.S. Department of State

2024 MONGOLIA INVESTMENT CLIMATE STATEMENT

July, 2024

Executive summary

Mongolia's frontier market and vast potential natural resource reserves represent potentially lucrative opportunities for investors but vulnerability to external economic and financial shocks, ineffective dispute resolution, and lack of input from stakeholders during rulemaking warrant caution. Mongolia imposes few market-access barriers, and investors face few investment restrictions, enjoying mostly unfettered market access. Franchises such as fast food and convenience stores, outperforming expectations, suggest that investors can bring successful international business models to Mongolia. The cashmere apparel and agricultural sectors also show strong promise. However, investing into potentially highly lucrative but politically sensitive sectors, including mining and energy, carries higher risk.

Mongolia attracts investor attention but has trouble converting interest into investment. Unless and until Mongolia embraces a stable business environment that transparently creates and predictably implements laws and regulations, investors may find Mongolia too risky and opt for more competitive countries. Businesses face substantial and unpredictable regulatory burdens at every level, asserting that officials across ministries and agencies, ignoring the actual statutes and regulations, routinely make decisions contravening existing legislation. Investors continue to cite long delays in reaching court judgments, followed by similarly long delays to enforce decisions and report that such administrative bodies as the General Tax Authority are so chronically unable and unwilling to resolve disputes that their behavior creates an indirect expropriation risk. Investors are particularly concerned about a tax process that effectively lets officials issue excessive, confiscatory tax assessments to coerce settlements. Finally, the perception that the government favors its own state-owned entities over private sector companies discourages existing investors from expanding, and new investors from coming. While Mongolia's economy, and particularly its trade and transport sectors, have recovered strongly from COVID-19's aftermath, investors also cite ongoing and potential of supply chain issues for critical imports related to developments following Russia's full-scale invasion of Ukraine as a source of risk. More positively, parliament has streamlined procedures for, and reduced the required number of, permits and licenses while the government has moved delivery of most services onto digital platforms, increasing efficiency of its business registration processes.

In 2023, senior government officials and members of parliament publicly supported more domestic and foreign investment into Mongolia and initiated legislation that may improve the climate broadly and for key resource sectors. The business community, which includes domestic and foreign investors and traders, has signaled support for these efforts. However, the business community also notes these legislative actions are not accompanied by a commitment to make their implementation predictably consistent with the actual law, making government and parliament actions more a symbolic gesture than a practical effort.

Table 1: Key Metrics and Rankings

Measure	Year	Index/Rank	Website Address
TI Corruption Perceptions Index	2023	121 of 180	https://www.transparency.org/en/countries/mongolia
Global Innovation Index	2023	68 of 132	https://www.globalinnovationindex.org/analysis-indicator
U.S. FDI in partner country ($M USD, historical stock positions)	2023	$680 USD	https://stat.mongolbank.mn/?lang=en
World Bank GNI per capita	2022	4,260 USD	https://data.worldbank.org/indicator/NY.GNP.PCAP.CD?locations=MN

Openness To, and Restrictions Upon, Foreign Investment

POLICIES TOWARDS FOREIGN DIRECT INVESTMENT

Mongolia generally does not discriminate against foreign investors with two major exceptions. First, foreign investors must invest a minimum of $100,000 to establish a venture; in contrast, Mongolian investors face no investment minimums. Second, while foreign investors may obtain land-use rights, which allows holders to utilize a given resource (land, water, minerals and metals, etc.), the Constitution and land laws specifically bar transfer, collateralizing, or outright sale of those rights. These steps are only available to those with ownership or land possession rights, which are limited by law to Mongolian nationals or entities. Mongolia's Ministry of Economy and Development, responsible for FDI promotion has restored its one-stop-shop for assisting foreign investors through its Investment and Trade Agency. The Investment and Trade Agency of Mongolia http) provides investors with services related to visas, taxation, notarization, dispute resolution with government agencies, and business registration. While most Investment and Trade Agency services are directed at new-to-market investors, existing investors continue to encourage the government to develop policies aimed at retaining existing foreign direct investment, noting the government has offered neither specific, consistent retention measures nor created an ongoing formal mechanism to discuss this and other investment challenges.

LIMITS ON FOREIGN CONTROL AND RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

Except for real estate and certain land use and land possession rights, foreign and domestic investors have the same rights to establish, sell, transfer, or securitize structures, shares, use rights, companies, and movable property. However, foreign investors and companies are explicitly bared from owning land; and while they may obtain land-use rights, which allows holders to utilize a given resource (land, water, minerals and metals, etc.), the Constitution and land laws specifically bar transfer, collateralizing, or outright sale of those rights. These steps are only available to those with ownership or land possession rights, which are limited to Mongolian nationals or majority-Mongolian owned entities. Parliament in 2024 revoked a clause in the Law on Investment that laid out a legal mechanism for foreign and domestic investors to obtain land possession and use rights, aspects of which were legally inconsistent with restrictions on foreign land possession rights laid out in the Constitution and 2002 Law on Land. Following this amendment, the process for foreign and domestic investors to obtain use rights are now governed by the Law on Land.

Mongolia generally imposes no statutory or regulatory limits on foreign ownership and control of investments, except for foreign state-owned entities. The Mining Law allows the government to acquire up to 50 percent of mineral deposits deemed of "strategic" value to the state by parliament. Since 2019, Article 6.2 of Mongolia's Constitution also requires the state to take a "majority" share of the "benefits" of strategic mining projects. Investors continue waiting for the government and parliament to clarify the meaning of "benefits" derived from mining activities, which according to government officials may mean profit and may also include such non-cash contributions as development programs, employment, or technology transfers. The Nuclear Energy Law also grants the state participatory rights to develop uranium and other radioactive elements. Mongolia also limits foreign ownership and operational control in the energy and transportation sectors. Investors also observe that excessive regulatory discretion allows bureaucrats de facto control over the use of legally granted rights, corporate governance decisions, and ownership stakes, stating that in some cases regulators make up rules beyond their actual statutory remit. Finally, the Law on Investment specifically states that direct investment by foreign state-owned enterprises in three sectors – mining, banking, and telecommunications – is subject to an unspecified national security review process. Nonetheless, Mongolia has no other formal or informal investment-screening mechanism, although the National Security Council (composed of the

Speaker of Parliament, the President of Mongolia, and the Prime Minister) has barred investments from some foreign state-owned entities.

OTHER INVESTMENT POLICY REVIEWS

UNCTAD assessed Mongolia's readiness for eTrade in 2023, in its Mongolia: eTrade Readiness Assessment– https://unctad.org/publication/mongolia-etrade-readiness-assessment. Mongolia underwent its regular World Trade Organization Trade Policy Review in 2021 (WTO | Mongolia). The Extractive Industries Transparency Initiative (EITI) published its 2021 16th Reconciliation Report on Mongolia's mining and petroleum sectors in December 2022. This report discusses the regulatory and statutory environment as well as state involvement in the extractives sector https://eiti.org/documents/mongolia-2021-eiti-report .

BUSINESS FACILITATION

Mongolia has signed the WTO Investment Facilitation for Development Agreement; and through its new Investment and Trade Agency, assists foreign investors with business establishment and facilitation services, including support with registration, taxation, residency and visa issues, among other services h. Mongolia's business registration process is reasonably clear on paper. Foreign and domestic enterprises must register with the State Registration Office h. Registrants can obtain required forms online and submit them digitally, according to the State Registration Office. However, foreign businesses report that they cannot submit documents digitally and must submit paper documents. While the State Registration Office aims at a two-day turnaround for the review and approval process, investors report bureaucratic discretion often adds weeks or even months to the process and state more transparent adherence to the relevant laws and regulations would yield a consistent, streamlined process. Once approved by the State Registration Office, a company must register with the General Tax Authority h. Upon hiring its first employees, a company must register with the Social Insurance Agency h.

The ease of opening a business does not apply to closing a business, however. Foreign investors and legal contacts report the onerous bureaucratic and judicial process of disestablishment takes no less than 18–24 months.

OUTWARD INVESTMENT

While the Mongolian Government neither promotes nor incentivizes outward investment, it does not generally restrict domestic investors from investing abroad, although politically exposed persons and their families may undergo additional scrutiny or may even be barred from investment abroad.

Bilateral Investment and Taxation Treaties

While Mongolia has ratified the U.S.-Mongolia Agreement on Transparency in Matters Related to International Trade and Investment between the United States of America and Mongolia (Transparency Agreement), the government is more than six years behind in its commitment to implement public-notice and comment periods for new laws and regulations affecting international trade and investment. With assistance from USAID, Mongolia has made some progress standing up the website LegalInfo.mn (HYPERLINK "https://www.legalinfo.mn" \t "_blank"LegalInfo) as a centralized platform to solicit public comment on proposed regulations and legislation, but the site is not fully operational. Parliament's D-Parliament system allows public and comment and review of draft legislation under parliamentary consideration h. A copy of the Transparency Agreement is available: US-Mongolia Transparency Agreement .

Mongolia and the United States have no bilateral tax or free-trade agreements but do have a bilateral investment treaty United States Bilateral Investment Treaties – United States Department of State. For Mongolia's other agreements see UNCTAD: Mongolia Trade and Tax Agreements.
Mongolia is also a member of the OECD Inclusive Framework on Base Erosion and Profit Shifting and party to the Inclusive Framework's October 2021 deal on the two-pillar solution to global tax challenges, including a global minimum corporate tax h. The Economic Partnership Agreement between Japan and Mongolia entered into force in 2016. Mongolia has also ratified the Asia-Pacific Trade Agreement, APTA. Mongolia and the Republic of Korea officially initiated free trade agreement negotiations in 2023. Mongolia and the Eurasian Economic Union also formally announced the intention to initiate talks regarding an interim trade agreement in March 2024.

Legal Regime

TRANSPARENCY OF THE REGULATORY SYSTEM

The Law on Legislation sets out who may draft and submit legislation; the format of these bills; the respective roles of the Mongolian parliament, government, and president; and the procedures for obtaining and employing public comment on pending legislation. The Law on Legislation states that law initiators–members of parliament, the president of Mongolia, or cabinet ministers–must fulfill these criteria: (1) provide a clear process for developing and justifying the need for draft legislation; (2) set out methodologies for estimating costs to the government related to a bill's implementation; (3) evaluate the impact of the legislation on the public; and (4) conduct public outreach before submitting bills to parliament.

Initiators must post draft legislation for public comment and publish reports evaluating costs and impacts on parliament's official website (Parliament of Mongolia/Projects) at least 30 days prior to submitting bills to parliament. Posts must explicitly state the time for public comment and review. Initiators must solicit comments in writing, organize public meetings, seek comments through social media, and carry out public surveys. No more than 30 days after the public comment period ends, initiators must prepare a matrix of all comments, including those used to revise the bill as well as those not used, which must be posted on parliament's official web site. After a law's passage, parliament must monitor and evaluate its implementation and impacts.

Ministries and agencies have not fully fulfilled these statutory requirements, according to businesses. However, investors report that parliament itself is now posting most relevant draft legislation submitted to parliament its D-Parliament website h), where public comment is possible. Members of parliament, and in some instances government ministries, sometimes but not consistently, post draft legislation on the D-Parliament platform prior to formal introduction to parliament.

While General Administrative Law Article 6 aligns Mongolia's regulatory drafting process with Transparency Agreement obligations, investors report the government is not generally enforcing it. Under the Transparency Agreement, originators of regulations must seek public comment by posting draft regulations in a single journal of national circulation, designated as LegalInfo.mn. Drafters must record, report, and respond to significant public comments. The Ministry of Justice and Home Affairs must certify each regulatory drafting process complies with the General Administrative Law before a regulation enters force. After approval, the statutorily responsible government agency monitors implementation and impacts.

Businesses also note unpredictable, nontransparent regulatory burdens at the local—province and county—levels. They note inconsistent application of regulations and statutes among central, provincial, and municipal jurisdictions and a lack of expertise among local inspectors. Regional tax, health, and safety inspectors are cited as particularly problematic. The Economic Policy and Competitiveness Research Center of Mongolia annually ranks local regulatory burdens: http://en.aimagindex.mn/competitiveness .

Mongolia's so-called Glass Budget Law requires all levels of government to publicly post proposed and actual budget expenditures, and the law, according to businesses and transparency experts, has generally been followed. However, parliament can waive these transparency requirements for emergencies and for budgetary bills.

The government has considered devolving certain regulatory processes to nongovernmental organizations or private sector associations but has not passed legislation to do so; nor does the government promote or require environmental, social, and governance (ESG) disclosures from companies to facilitate transparency and/or to help investors and consumers distinguish between high- and low-quality investments. The government does, however, limit the right to invest in such high-risk securities as digital tokens and cryptocurrencies to professional investors and other high net-worth individuals.

INTERNATIONAL REGULATORY CONSIDERATIONS

Mongolia, which has generally eschewed regional economic blocs, acceded to the Asia-Pacific Trade Agreement (APTA) in 2021. Also, Mongolia often seeks to adapt European standards and norms in such areas as construction materials, food, and environmental regulations; looks to U.S. standards in the hydrocarbon sector; and adopts a combination of Australian and Canadian standards and norms in the mining sector. Mongolia also tends to employ World Organization for Animal Health standards for its animal health regulations. Mongolia, a member of the WTO, asserts it will notify the WTO Committee on Technical Barriers to Trade (TBT) of all draft technical regulations.

LEGAL SYSTEM AND JUDICIAL INDEPENDENCE

Investors state that judges frequently avoid controversial decisions in business disputes, preferring to delay judgment for as long as possible—sometimes years. If a decision is made, businesses often face long delays enforcing court orders. In some instances, cases have taken so long—in some cases exceeding four years—that by the time an enforcement is executed, the counterparty has liquidated assets and vanished. Investors note similarly long delays with respect to inspection agencies, such as the General Tax Authority, as well as with other agencies, especially those related to mineral licenses and health matters.

In 2021, parliament revised the Law of the Judiciary to bring it into line with the amended constitution. This law limits the powers of the government, parliament, and the president to influence the selection and removal of judges; and vests the Judicial Disciplinary Council with responsibility for disciplining jurists, except in matters involving criminal acts. Investors agree these reforms have helped to somewhat restore judicial independence.

Under Mongolia's hybrid civil law-common law system, trial judges may use prior rulings to adjudicate similar cases but are not required to follow legal precedent as such. Mongolian laws, and even their implementing regulations, often lack the specificity needed for consistent judicial and prosecutorial interpretation and application. All courts may rule on matters of fact as well as matters of law at any point in the judicial process.

Mongolia has specialized laws for contracts but no dedicated courts for commercial activities. Contractual disputes are usually adjudicated through the Civil Court division of the district court system. Criminal Courts adjudicate crime cases brought by the General Prosecutors Office. Disputants may appeal to the City Court of Ulaanbaatar and ultimately to the Supreme Court of Mongolia. Mongolia has several specialized administrative courts adjudicating cases brought by citizens, foreign residents, and businesses against official administrative acts. Mongolia's Constitutional Court, the Tsets, rules on constitutional issues. The General Executive Agency for Court Decisions enforces judgments and orders. Investors and legal sector experts say that the Administrative Court is procedurally competent, fair, and consistent but that the Civil Courts deliver highly inconsistent judgments.

Overall, investors have argued that the courts will favor domestic interests over foreign interests, particularly when a Mongolian business is involved in a dispute against a foreign investor or foreign company. Regarding state-owned enterprises (SOE), domestic and foreign investors perceive the courts fail to hold SOE's the same legal standards as private companies, because of pressure from parliament and the government to "go easy" on companies supplying more revenue to the state than private sector entities. To our knowledge, no foreign plaintiff has ever prevailed against an SOE in Mongolia's courts. Mongolia-based legal experts claim foreign investors and exporters may experience preemptory, non-transparent court treatment up to outright discrimination from judges. Most investors and legal experts advise using legal, non-judicial dispute resolution mechanisms when confronting Mongolian SOEs.

LAWS AND REGULATIONS ON FOREIGN DIRECT INVESTMENT

The 2013 Investment Law sets the general statutory and regulatory frame for all investors in Mongolia. Under the law, foreign investors may access the same investment opportunities as Mongolian citizens and receive the same protections as domestic investors. Investment domicile, not investor nationality, determines if an investment is foreign or domestic. The law provides for a more stable tax environment and offers tax and other incentives for investors; and authorizes a single point of registration, the State Registration Office (www.burtgel.gov.mn), for all investors. The law offers qualifying companies transferable tax-stabilization certificates valid for up to 27 years. Affected taxes may include the corporate-income tax, excise taxes, customs duties, value-added tax, and royalties; however, because current tax law, which controls tax incentives and exemptions, has not been amended to be consistent with the Investment Law, these tax incentives have not been implemented.

Investors cite several primary national-treatment issues with respect to investment rules. First, foreign investors must invest a minimum of $100,000 to establish a venture; in contrast, Mongolian investors face no investment minimums. Second, legal experts and investors have noted that while the Investment Law would seem to allow foreign investors the right to sell, collateralize, or transfer the use rights for a given resource (land, water, minerals, metals, etc.), the Constitution and master Land Law specifically bar transfer, collateralizing, or outright sale of those rights. These steps are available only to those with ownership or land possession rights, which are limited to Mongolian nationals or majority-Mongolian owned entities. Parliament in 2024 revoked a clause in the Law on Investment that laid out a legal mechanism for foreign and domestic investors to obtain land possession and use rights, aspects of which were legally inconsistent with restrictions on foreign land possession rights laid out in the Constitution and Law on Land. Following this amendment, the process for foreign and domestic investors to obtain use rights are now governed by the Law on Land. Foreign investors report these limitations effectively limit inbound investment, discouraging foreign direct investment into any sector involving use rights.

The Ministry of Economy and Development manages the Investment and Trade Agency of Mongolia, a "One-Stop-Shop for Investors," which provides investor services on visas, taxation, social insurance, notarization, and business registration h.

COMPETITION AND ANTITRUST LAWS

Mongolia's Agency for Fair Competition and Consumer Protection reviews domestic transactions for competition-related concerns. For a description of the Agency go to AFCCP . The Agency for Fair Competition and Consumer Protection launched no 2023 competition cases affecting U.S. FDI. U.S. investors generally find the AFCCP applies its norms and procedures transparently, although they remain concerned the agency favors local economic interests over foreign interests. AFCCP decisions may be appealed to the courts.

EXPROPRIATION AND COMPENSATION

State entities at all levels may confiscate or modify land-use rights for purposes of economic development, national security, historical preservation, or environmental protection. Mongolia's Constitution recognizes private real-property rights and derivative rights, and Mongolian law specifically bars the government from expropriating assets without payment of adequate, market-based compensation. Investors express little disagreement with such takings in principle but state that lack of clear lines of authority among the central, provincial, and municipal governments has led to loss of property and use rights in practice. For example, the Minerals Law provides no clear division of local, regional, and national jurisdictions for issuances of land-use permits and special-use rights. Faced with unclear lines of authority and frequent differences in practices and interpretation of rules and regulations by different levels of government, investors may find themselves unable to fully exercise legally conferred rights.

Some expropriation cases involve court expropriations after third-party criminal trials at which investors are compelled to appear as "civil defendants" – but are not allowed to fully participate in the proceedings. In these cases, government officials are convicted of corruption, and the court then orders the civil defendant to surrender a license or property, or pay a tax penalty or fine, for having received an alleged favor from the criminal defendant with no judicial proceedings to determine if property or licenses were obtained illegally.
Businesses claim the tax dispute settlement processes has become a form of indirect expropriation. 2020 amendments to the Tax Law

allow tax officials to require disputants to place the entire disputed tax assessment in escrow as a precondition for disputing the tax assessments, which business claim encourages officials to issue excessive, punitive tax assessments that make contesting the assessment prohibitively expensive and confiscatory. As many businesses cannot put the entire disputed amount into escrow as per the law, they are forced to settle what many have called "extortionate" demands. Investors also report that the Tax Authority often vitiates its own settlements and issues new assessments on the same disputes, using its system to extract additional tax revenue from companies. Businesses also claim that government and state-owned enterprise regulatory and technical decisions related to power purchase agreements and other contractual obligations have become a form of indirect expropriation.

DISPUTE SETTLEMENT

ICSID Convention and New York Convention

Mongolia ratified the Washington Convention and joined the International Centre for Settlement of Investment Disputes (ICSID) in 1991 and the New York Convention in 1994. It has accepted international arbitration in several disputes. Mongolian law allows for domestic enforcement of awards under the ICSID and New York Conventions.

Investor-State Dispute Settlement

Under the 1997 U.S.-Mongolia Bilateral Investment Treaty (US-Mongolia BIT), both countries agree to respect international legal standards for state-facilitated property expropriation and compensation in matters involving nationals of either country, providing U.S. investors in Mongolia with an extra measure of protection against financial loss.

In disputes involving the government, investors claim some government officials and politicians interfere in administrative and judicial dispute resolution processes. Foreign investors describe three general categories of alleged interference. First, in disputes between private parties before judicial tribunals, investors warn that Mongolian private parties may exploit contacts in the government, the judiciary, law enforcement, the media, or the prosecutor's office to coerce foreign private parties to accede to demands. Second, in disputes between investors and the Mongolian government directly, the government may claim a sovereign right to intervene in the business venture, often because the Mongolian government itself operates or seeks to operate a competing state-owned enterprise (SOE); because officials have undisclosed business interests; or from ignorance of the relevant statutes and regulations. Third are disputes with Mongolian tax officials or prosecutors allegedly levying highly inflated, statutorily deficient tax assessments against a foreign entity and demanding immediate payment on threat of civil or criminal prosecution. Although in abeyance for several years, investors continue to worry that travel bans or pre-trial incarceration may be used as a tool of coercion, disincentivizing investment.

Investors report local courts recognize and enforce court decisions—but significant problems exist with enforcement. The thinly staffed General Executive Agency for Court Decisions (GEACD) implements civil and criminal court orders. Its employees, often living in the jurisdictions in which they work, are subject to pressure from friends and professional acquaintances. A complicated chain-of-command and opportunities for conflicts of interest weaken GEACD's resolve to execute court judgments on behalf of foreign and domestic investors.

Mongolia has been plaintiff and defendant in several past and ongoing international arbitration suits over the expropriation of private sector mining rights or the imposition of excessive tax assessments. Whenever the government has lost arbitration claims, it has satisfied every judgment after some negotiation with foreign investors.

As of 2024, only one U.S.-based investor has initiated an arbitration suit against the Government of Mongolia, while another U.S. investor reports that GEACD officials have refused to enforce a properly registered foreign arbitral decision. U.S. investors have reported no extrajudicial actions against their interests.

International Commercial Arbitration and Foreign Courts

Mongolia's Arbitration Law, based on the United Nations Commission on International Trade Law (UNCITRAL), provides clear rules and protections for Mongolia-based arbitration. The law does not, however, designate any organization for use by all disputants. Any organization that satisfies the law's specific requirements may provide arbitral services. However, U.S. and other foreign investors remain adverse to arbitrating in Mongolia, citing concerns about lack of expertise, corruption, and arbitrators' favoritism for the Mongolian counterparties.

The Arbitration Law limits the role of Mongolia's courts in the arbitration process. Parties have the right to appeal only once to Mongolia's Court of Civil Appeals (CCA). This Court may only reject an arbitration judgment for "serious" procedural failings or discrepancies with official public policy initiatives.

Local courts will recognize both foreign and domestic arbitral awards and order the General Executive Agency for Court Decisions to enforce them, although collection may be allegedly slowed or even sabotaged. General Executive Agency for Court Decisions (GEACD) officers, often living in the jurisdictions in which they work, are subject to pressure from friends and professional acquaintances. A complicated chain-of-command and opportunities for conflicts of interest weaken this agency's resolve to execute court judgments on behalf of foreign and domestic investors.

BANKRUPTCY REGULATIONS

Bankruptcy law treats bankruptcy as a civil matter requiring judicial adjudication. Mongolia allows registration of mortgages and other debt instruments backed by real estate, structures, and other immovable collateral (mining and exploration licenses, intellectual property rights, and other use rights); and movable property (cars, equipment, livestock, receivables, and other items of value). Although investors may securitize movable and immovable assets, local law firms hold that the bankruptcy process remains too vague, onerous, and time-consuming for practical use. Reporting that foreclosure and bankruptcy proceedings usually require no less than 18 months, with 36 months not uncommon, legal advisors state that a lengthy appeals process, perceived corruption, and government interference may create years of delay. Moreover, while in court, creditors face suspended interest payments and limited access to the asset.

Industrial Policies

INVESTMENT INCENTIVES

The government generally offers the same tax preferences to foreign and domestic investors; and occasionally waives tariffs for imports of essential fuel and food products or for imports in such targeted sectors as agriculture or energy. Exemptions may apply to Mongolia's 5-percent import duty and 10-percent value-added tax (VAT). The government may offer traditional and green energy sector investments such incentives as feed-in tariffs, discounts on electricity rates, or tax incentives. The government may also extend tax credits on a case-by-case basis to investments in such sectors as minerals processing, agriculture, and infrastructure.

Under the Investment Law, foreign-invested companies, properly registered and paying taxes in Mongolia, qualify as domestic Mongolian entities for investment incentive packages that, among other benefits, offer tax stabilization for up to 27 years. However, because current tax law, which controls the legality of tax incentives and exemptions, has not been amended to be consistent with the Investment Law, these tax incentives have generally not been implemented, even if granted. While in theory the government can issue guarantees or jointly finance foreign direct investment projects, it seldom does so in practice.

FOREIGN TRADE ZONES/FREE PORTS/TRADE FACILITATION

The Mongolian government has had a free-trade zone program since 2004. Two free-trade zones are along the Trans-Mongolian Highway and Railroad: (1) the northern Mongolia-Russia border town of Altanbulag; and (2) the southern Mongolia-China border town of Zamiin-Uud. Both free-trade zones are relatively inactive, requiring development. A third free-trade zone is located at the port-of-entry of Tsagaannuur in the far western province of Bayan-Olgii bordering Russia. Mongolian officials also suggest the new Ulaanbaatar International Airport may host a Special Economic Zone that may have some of the characteristics of existing free-trade zones but may also offer a broader range of yet-to-be-determined incentives.

PERFORMANCE AND DATA LOCALIZATION REQUIREMENTS

Mongolia does not generally require foreign investors to use local goods, services, or equity; or to engage in import substitution. Neither foreign nor domestic businesses need to export a certain percentage of output or use foreign exchange to cover exports. The government applies the same geographical restrictions to foreign and domestic investors, involving border security, environmental concerns, and local-use rights. The government does not impose onerous or discriminatory visa, residence, or work permit requirements on U.S. investors—although foreign and domestic firms must meet certain industry-specific, local-hire requirements.

The Mongolian government strongly encourages but does not legally compel domestic sourcing of inputs, especially for firms engaged in natural-resource extraction. The Minerals Law states that holders of exploration and mining licenses should preferentially supply extracted minerals at market prices to Mongolian processing facilities and should procure goods and services and hire subcontractors from business entities registered in Mongolia, as well as sell these outputs on the recently established Mongolian mining products commodities exchanges. Although facing no legal requirement to source locally, investors occasionally report that central, provincial, or municipal governments will delay permitting and licensing until domestic and foreign enterprises make some effort to source locally. Hiring Mongolians is often a de facto necessity because the government sometimes issues work visas for foreign employees only if employers have attempted to hire domestically. These requirements do not apply to members of boards of directors or senior management.

Despite pressure to source locally, foreign investors generally set their own export and production targets without concern for government-imposed quotas or requirements. Mongolia does not require (but often encourages) technology transfers. The government generally imposes no offset requirements for major procurements. Investors, not the government, generally decide on technology, intellectual property, and finance as they see fit. Except for an unenforced provision of the Minerals Law requiring mining companies to list 10 percent of the shares of the Mongolian-registered mining company on the Mongolian Stock Exchange, foreign-invested businesses are not required to sell shares into the Mongolian market. Equity stakes are generally at the discretion of investors, Mongolian or foreign. In cases where investments may have national economic, political, security, or social impacts, the government has, without a clear statutory basis, restricted the type of financing foreign investors may use, their choice of partners, or to whom they sell shares or equity stakes.

The government generally requires neither data localization nor compels IT providers to turn over source code or provide surveillance access, except for criminal investigations. Businesses may freely transmit customer or other business-related data abroad, with the written consent of the client. However, certain financial data, subject to data localization requirements, cannot be transmitted abroad.

Protection of Property Rights

REAL PROPERTY

The Mongolian Constitution provides that "the State shall recognize any forms of public and private properties." Statute limits real-estate ownership to adult citizens of Mongolia. Civil law allows private Mongolian citizens or government agencies to assume property ownership or use rights if the current owner or holder of use rights does not use that property or those rights. In the case of use rights, revocation and assumption is almost always written into the formal agreements covering the rights. Squatters may, under certain circumstances, claim effective property ownership of unused structures.

Foreign investors may own permanent physical structures and obtain use rights to land and resources, but only Mongolian citizens may own real estate, and only in municipalities. Land ownership does not convey ownership of, or necessarily access to, surface or subsurface resource rights, which remain with the state. Outside municipalities, the state owns the land and resources in perpetuity and may lease those resources to public and private entities.

Ownership of a structure may vest the owner with control over the use rights of the land upon which the structure sits. Parliament in 2024 revoked a clause in the Law on Investment that laid out a legal mechanism for foreign and domestic investors to obtain land possession and use rights, aspects of which were legally inconsistent with restrictions on foreign land possession rights laid out in the Constitution and 2002 Law on Land. Following this amendment, the process for foreign and domestic investors to obtain use rights are now governed by the Law on Land. Foreign investors may not legally be issued possession rights, which allow use rights related to the possession right to be collateralized, transferred, or sold; and so, foreigners can only use the resource per their use right. Some businesses report workarounds to this restriction involving foreign-owned entities registered as Mongolian entities; however, they remain concerned if these solutions would survive strict government or judicial review—anecdotal reports suggest they may not survive. Mongolian law is ambiguous as to the definition of a domestic versus foreign corporate entity for these purposes.

Although Mongolia has a well-established registry for immovable property – structures and real estate – it lacks a central register for use rights; consequently, investors, particularly those investing in rural Mongolia, have no easy way to learn who might have conflicting rights. Complicating matters, Mongolia's civil-law system is still developing a formal process for apportioning multiple use rights on adjacent lands or adjudicating disputes arising from conflicting use rights. As of 2023, the Mongolian government has no accurate figure for land with clear titles.

Creditors may seize and dispose of property offered as collateral, although this process is often subject to lengthy legal delays. Debt instruments backed by real estate, fixed structures, and other immovable collateral may be registered with the Immovable Property Office of the State Registration Office (www.burtgel.gov.mn . Movable property (cars, equipment, livestock, receivables, and other items of value) may also be registered with the State Registration Office as collateral. Investors report that the movable-property registration system, while generally reliable, has occasional technical capacity issues.

INTELLECTUAL PROPERTY RIGHTS

Film, television, and digital content from the United States enjoy strong copyright protection in Mongolia. Mongolia's Internet Service Providers (ISPs) will quickly block access to internet addresses of offending sites once listed by the Intellectual Property Office of Mongolia h. However, use of pirated software by Mongolian government ministries, home-use consumers, and businesses is rampant. Patent protection for pharmaceutical and medical device importers is virtually non-existent, with trademark law generally the only recourse for rightsholders. While enforcement agencies will seize trademark-infringing drugs, simply removing the infringing trademark still allows the importer to bring in the patent-infringing drug. Medical devices encounter similar problems. Trademark infringement also includes stores distributing counterfeit apparel and fake spare parts for heavy equipment. However, the Intellectual Property Office of Mongolia has not focused on these areas because rightsholders seldom file complaints.

IPR violations below MNT 50 million ($14,900) are subject to administrative enforcement; those above MNT 50 million are subject to criminal enforcement. Enforcement agencies do pursue criminal and civil intellectual property (IP) cases, suggesting a willingness by Mongolian courts, prosecutors, administrative investigators, and police to attack the problem. There is no central registry for Custom's seizures of pirated goods. Customs has generally not seized IPR infringing products; however, the IPOM is now stationing enforcement personal at key border points to identify infringing goods to Customs officers and has reported anecdotal increases in seizures.

Mongolia is neither listed on the U.S. Trade Representative's Special 301 Report nor its notorious market report.

For additional information about national laws and points of contact at local IP offices, please see WIPO's country profiles: http://www.wipo.int/directory/en/.

Financial Sector

CAPITAL MARKETS AND PORTFOLIO INVESTMENT

Mongolia has few restrictions on capital flows and has respected IMF Article VIII by not restricting international payments and transfers. Credit is available on local market terms to foreign investors in a variety of forms. However, capital markets are underdeveloped, with little ability to trade futures or derivatives on traditional markets. The state-owned Mongolian Stock Exchange h) is the primary venue for domestic capital and portfolio investments, but an over-the-counter (OTC) market for corporate debt launched in late 2021 and has grown rapidly. Mongolia has initiated commodity exchanges for agricultural and mining products. While investors have been cautiously optimistic about these innovations, they have observed that parliament and the government need to amend a raft of, or introduce entirely new, enabling legislation, as well as clarify how the private sector is to use the new exchanges. The majority of coal production is now traded on the mineral commodity exchange. Fintech companies began promoting investments using digital tokens and other virtual assets, but participants report that the market has collapsed following passage of the 2022 Virtual Asset Law and concurrent global market developments.

MONEY AND BANKING SYSTEM

Mongolia's four largest commercial banks – Khan, Trade and Development Bank (TDB), Xac, and Golomt – are majority owned by combinations of Mongolian and foreign private investors, and international financial institutions and collectively hold 80.95 percent of all banking assets, or about 46 trillion MNT, or about $13.8 billion (as of March 2024). Mongolia's non-performing loans averaged 7.4 percent in December 2023, compared with 9.2 percent in December 2022. The Bank of Mongolia, Mongolia's central bank, regulates banking operations. Foreigners may establish domestic accounts so long as they can prove lawful residence in Mongolia.

Parliament amended Mongolia's Law on Banking in 2021. The amended law states that ownership by a shareholder and their related parties collectively and as certified by the Bank of Mongolia shall not exceed 20 percent. Banks' beneficial owners had until December 31, 2023, to comply with this divestment requirement. However, public and private banking sector interlocutors observe no regulatory action has been taken against banks for failing to meet this requirement as of April 2024, and regulators are seeking extend the time limit to divest. In addition, Mongolia's four systemically important commercial banks – Khan, TDB, Xac, and Golomt – and the state-owned State Bank have listed themselves on the Mongolian Stock Exchange by June 30, 2023. Public listing and associated regulatory requirements may improve bank governance by creating accountability to a broader group of shareholders.

Observers, including the IMF, have observed that the banking sector has broadly stabilized, and banking liquidity has strengthened, banking sector macroprudential supervision and regulatory implementation remain less adequate than international best practice. The authorities have allowed multiple insolvent smaller banks to continue operating despite not having enough assets to cover liabilities. Investors contemplating future IPO participation should carefully factor in the additional systemic risk associated with these regulatory concerns.

The 2023 Law on Specialized Investment Banking creates a new mechanism for foreign financial institutions to establish operations in Mongolia short of formally applying for a retail banking license. However, the law imposes certain profit repatriation limitations and restricts the scope of permitted services, which do not include taking retail deposits. Finally, foreigners who satisfy required residency requirements may open bank accounts.

FOREIGN EXCHANGE AND REMITTANCES

Foreign Exchange

The government employs a liberal foreign exchange regime; its national currency, the tugrik (denoted as MNT), is fully convertible into an array of international currencies. Foreign and domestic businesses report no problems converting or transferring funds aside from occasional, market-driven shortages of foreign currencies, usually U.S. dollars. The government and central bank generally allow market forces to determine currency rates and related fluctuations; however, occasionally the central bank has intervened in the foreign exchange market, particularly when facing depreciation pressure. Central bank foreign exchange market intervention is published transparently.

Mongolia's Currency Law requires domestic transactions to use MNT, unless exempted by the Bank of Mongolia. Regulation prohibits listing of wholesale or retail prices in any way – including as an internal accounting practice – that effectively denominates or otherwise indexes prices to currencies other than MNT. Hedging mechanisms available elsewhere to mitigate exchange risk are generally unavailable given the small size of the market. Letters of credit in a variety of currencies are available for trade facilitation. The government sometimes pays for goods and services with promissory notes that cannot be directly exchanged for other currencies.

Remittance Policies

Businesses report no chronic, government-induced delays remitting investment returns or receiving inbound funds, although challenges with correspondent-banking relationships sometimes slow remittances. Most transfers are completed within a few days to a week; however, occasional currency shortages, most often of U.S. dollars, may cause commercial banks and the central bank to limit transfers temporarily. Remittances sent abroad are subject to a 10-percent withholding tax to cover potential tax liabilities.

SOVEREIGN WEALTH FUNDS

On April 19, 2024, Mongolia's parliament approved the Sovereign Wealth Fund Law and related amendments to the relevant legislation, all of which came into force May 10, 2024. This law, according to Mongolia-based legal experts, has created a system comprised of three diversified funds, which largely but not exclusively merge the benefits of subsoil resources, would make efficient investments and equitably distribute fund proceeds to current and future Mongolian citizens. The Future Heritage Fund collects and invests assets in international financial instruments to increase the value of proceeds from subsoil resources and would be funded from residual minerals royalty payments and investment returns. The second fund, the Savings Fund, would underwrite investments in public health, education, and housing; and would be funded from dividend payments from state-owned entities (SOEs) and entities with state-ownership participation (ESOPs) in the minerals extraction and processing industry and infrastructure sector. The third fund, the Development Fund, supports implementation of development projects and programs included in Mongolia's long—and medium-term development policy plans and is funded from the integrated budget, when this budget has a surplus of 50% of increased revenue from price increases of the main types of minerals and metals (primarily coal, copper, gold, iron) reflected in the integrated budget.

While expressing support for sovereign funds in principle, investors and business contacts have taken exception to how the Sovereign Wealth Fund Law was passed and how it is to be funded. Passage of the law, according to the business community, was completely lacking in transparency. The bill was introduced into parliament, with stakeholders given less than a week to comment and review it. Commentators are also concerned about how the funds, particularly the Savings Fund, are to be funded. To ensure a revenue stream, parliament has imposed ownership limits on private sector ownership of mining assets designated as strategic deposits by parliament; and has ordered private holders, unless other agreements with the government are in force, to turn over a non-compensated share of the resource of no less than 34 percent and reduce their holdings to no more than 34 percent by May 2025. These statutes also order affected companies to pay back-dividends to the government from the start of the project, even if the government had passed on any equity stake at the time of mining operations were initiated. These requirements, which investors believe are expropriatory, potentially affect up to 16 strategic deposits; and, according to legal experts, there is no limitation on parliament designating other projects as strategic deposits at any point in the project life.

State-Owned Enterprises

Mongolia has state-owned enterprises (SOEs) in the banking and finance, energy production and distribution, mining, and transport sectors. The Ministry of Finance manages the State Bank of Mongolia and the Mongolian Stock Exchange, and the SOE Erdenes Mongol holds most of the government's mining assets. The Ministry of Roads and Transport Development manages the Mongolian Railway Authority. The Government Agency for Policy Coordination on State Property http://www.pcsp.gov.mn/en administers over 100 non-mining and non-financial assets but does not provide a complete, official list of its SOEs. State Property Agency representatives have publicly said their SOE count does not include aimag (provincial) and soum (county) level locally-owned enterprises (LOEs), which number in the hundreds. Mongolian SOEs have no investments in the United States.

Investors are concerned SOEs crowd out more efficient private-sector investment. Investors can compete with SOEs, but an opaque regulatory framework limits competition. Businesses have observed that government regulators favor SOEs, such as streamlining processes for environmental permits or ignoring health and safety issues at SOEs. Private sector businesses state that SOEs competing in the domestic market often engage in discriminatory treatment in their purchase and sale of goods or services. Private sector mining companies also report that the government of Mongolia provides preferential access to ports and state-managed shipping infrastructure to Mongolian SOEs minerals exports.

Mongolian SOEs do not adhere to the OECD Corporate Governance Guidelines for SOEs. Although legally required to follow the same international best practices on disclosure, accounting, and reporting used by private companies, SOEs tend to follow these rules only when seeking international investment and financing. Many international best practices are not institutionalized in Mongolian law, and SOEs tend to follow existing Mongolian rules. At the same time, foreign-invested firms follow the international rules, causing inconsistencies in corporate governance, management, disclosure, minority-shareholder rights, and finance.

PRIVATIZATION PROGRAM

The government perennially floats additional partial privatization of such state-held assets as the Mongolian Stock Exchange, the national air carrier MIAT, the Mongol Post Office, and mining assets, through sales of shares or equity but has not identified how, when, or even if it will do so in 2024.

Responsible Business Conduct

The practice of responsible business conduct (RBC) in Mongolia has improved. Most international companies make good-faith efforts to work with local communities. Larger domestic firms tend to follow accepted international responsible business conduct practices and underwrite a range of related activities, while smaller companies, lacking resources, often limit responsible business conduct actions to the locales in which they work. Locally, firms adopting responsible business conduct are perceived favorably by the communities in which they operate. Nationally, responses range from praise from politicians to condemnation by certain civil-society groups alleging responsible business conduct nothing more than a cynical attempt to buy public approval. Public awareness of responsible business conduct is limited, with only a few NGOs involved in responsible business conduct promotion or monitoring; and those concentrated on such large private-sector projects as the Oyu Tolgoi mega-mine, while shying away from state-owned entities.

Given Mongolia's high social media penetration, businesses should be aware that discussions regarding their activities could be ongoing on international and domestic social media sites; and should monitor social media discussions to ensure their activities are portrayed accurately.

The government attempts to enforce legislation on human rights, labor rights, consumer protection, environmental protection, and other laws protecting individuals from adverse business impacts. While the Company Law articulates rules of corporate governance, accounting requirements, and shareholder rights, it has no rules for executive compensation.

Mongolia has no official position on OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Afflicted and High-Risk Areas and no domestic legislation on due diligence for companies sourcing minerals originating from conflict-affected areas. The government has not adopted the OECD Co-operation and Development and UN principles on responsible business conduct: http://www.oecd.org/about/ . Mongolia is a member in good standing of the Extractive Industries Transparency Initiative (EITI).

There have been no alleged/reported human or labor rights concerns relating to RBC of which foreign businesses should be aware. The government has neither instituted nor proposed requirements for businesses to conduct due diligence or reporting regarding human rights or other responsible business conduct issues. However, businesses should be aware that a disorganized system for granting and enforcing use rights for land, timber, water, and mining assets has given rise to the perception among local communities that central, provincial, and municipal governments are improperly granting rights in contravention to local customs and statutes.

Mongolia has a private security industry, and many public and private entities avail themselves of private security services. However, Mongolia has neither signed the Montreux Document on Private Military and Security Companies nor supports the International Code of Conduct or Private Security Service Providers (ICoCA).

ADDITIONAL RESOURCES

Department of State

- Country Reports on Human Rights Practices;
- Trafficking in Persons Report;
- Guidance on Implementing the "UN Guiding Principles" for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities
- U.S. National Contact Point for the OECD Guidelines for Multinational Enterprises; and;

Department of the Treasury

- OFAC Recent Actions

Department of Labor

- Findings on the Worst Forms of Child Labor Report ;
- List of Goods Produced by Child Labor or Forced Labor ;
- Sweat & Toil: Child Labor, Forced Labor, and Human Trafficking Around the World and;
- Comply Chain.

CLIMATE ISSUES

While Mongolia includes climate change as a factor in policy formulation across agencies and ministries, the government has no specific green investment plan but very general environmental policies. The Government of Mongolia's (GoM) 2020–2024 action plan includes issues related to climate change and references establishment of a green financing system. The GoM developed its Nationally Determined Contributions (NDC) in 2020 and the National Adaptation Plan (NAP) in 2024, aligning with its long, medium, and short-term development plans. Regarding policy efforts to achieve net-zero carbon emissions by 2050, the government has offered neither policy recommendations nor specific regulatory or legal measures for carbon reduction. Consequently, the government has no expectations that the private sector will undertake measures to achieve net-zero emissions. Additionally, the government continues to examine ways to incentivize preserving biodiversity, particularly through eco-labelling, tax credits, and carbon market mechanisms. Finally, procurement policies have yet to be greened. While the Law of Procurement includes a policy related to green procurement, business and environmental communities have reported lagging implementation.

Mongolia offers several incentives to promote investment in clean and renewable energy as well as for other decarbonization technologies; however, implementation has struggled. Examples include the exemption of renewable energy equipment, spare parts, and tools from the 10 percent value-added tax (VAT) and the waiving of the 5 percent import duty. Investors report that the Mongolian government has not honored contractual obligations, such as Power Purchase Agreements (PPAs), associated with private foreign and domestic-invested renewable energy generation projects. The Competitive Procurement of Renewable Energy Projects auction system, initiated in 2019, remains untested.

Corruption

Investors acknowledge endemic corruption has led some to curtail additional investments or to exit Mongolia entirely. Widespread public perceptions of high-level government corruption at state-owned mines generated large, sustained public protests in 2022, which led to a series of parliamentary hearings about corruption affecting state-owned finance and mining assets in 2023. SOE executives, private investors, several members of parliament, and senior government officials have been implicated and investigations continue. Several cases have been adjudicated with disgorgement of funds, fines, and prison sentences for some of the accused. However, despite these actions, public and private sector contacts are disappointed with the outcomes, noting that while the hearings exposed billions of dollars of alleged corruption, few were brought to trial and those few received minor fines and prison sentences, in nontransparent trials. There remains a widely held opinion that the government simply used the hearings to embarrass political rivals rather than as part of a sincere commitment to root out corruption.

Given the level of corruption and the government's seeming inability or unwillingness to deal with it, U.S. businesses are advised to be especially diligent in complying with the U.S. Foreign Corrupt Practices Act. Although Mongolian law penalizes corrupt officials, the government does not always implement the law effectively or evenhandedly. Private enterprises report instances where officials and political operatives demand bribes to transfer-use rights, settle disputes, clear customs, ease tax obligations, act on applications, obtain permits, and complete registrations. NGOs and private businesses report judicial corruption is also present.

Factors contributing to corruption include conflicts of interest, lack of transparency, limited access to information, an underfunded civil-service system, low salaries, and limited government control of key institutions.

Mongolia does not require companies to establish internal codes of conduct that, among other things, prohibit bribery of public officials. U.S. and other foreign businesses have reported that they accept the need for and have adopted internal controls, ethics, and compliance programs to detect and prevent bribery of government officials. (For Mongolia anti-corruption efforts: https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/mongolia/.

Mongolia's Anticorruption Law provides criminal penalties for corruption by officials, but the government does not always implement the law effectively. Some officials have engaged in corrupt practices with impunity. The criminal code contains liability provisions for corruption and corruption-related offenses for public servants and government officials. For example, the code dictates that those sentenced for corruption may not work in public service for a specified period. Related laws on offshore investments bar officials and their families from investing abroad. The Independent Authority Against Corruption of Mongolia (IAAC: https://en.iaac.mn/) has primary responsibility for investigating corruption, assisted at times by the National Police Agency's Organized Crime Division.

Mongolia has signed and ratified the UN Anticorruption Convention (UNAC) but not the OECD Anti-Bribery Convention.

RESOURCES TO REPORT CORRUPTION

Independent Agency Against Corruption (IAAC)
District 5, Seoul Street 41
Ulaanbaatar, Mongolia 14250
Telephone: +976-70110251; 976-11-311919
Email: contact@iaac.mn
Web: https://en.iaac.mn/

Transparency International Mongolia
Batbayar Ochirbat, Executive Director of Transparency International Mongolia
Phone: (+976) 7012-0012; Email: info@transprency.mn
Office 803, 8th floor, Dalai Tower, UNESCO Street, Sukhbaatar District – Khoroo 1, Ulaanbaatar 14230
Web: https://www.transparency.org/en/countries/mongolia

Political and Security Environment

Mongolia's political and security environment is peaceful and stable. Crime is low in the capital Ulaanbaatar but fluctuates seasonally. Street-level petty theft and assault occasionally occur, while more complex financial and fraud-based crimes are rising. U.S. investors are generally welcomed by the Mongolian people; however, in small numbers and in specific areas, anti-foreign sentiment fueled by fringe nationalist groups occurs. These sentiments do not focus on U.S. investors exclusively and are subject to current events. Resource sector investors have reported that disputes between those with legal rights to utilize local resources and residents can lead to protests, disorder, and, in rare cases, violence.

Labor Policies and Practices

The National Statistics Office of Mongolia reports official unemployment through 2023 averaged 5.2 percent or 64,000 of Mongolia's 1.23-million-person labor force, the lowest annual rate in the last 10 years. However, this figure only includes those who officially register for unemployment benefits. The National Statistics Office also reports Mongolia employees 49418 disabled workers, of whom 9,179 are employed. Women accounted for 46.6 percent (573,739) of the total labor force, with women's unemployment at 4.1 percent, making women 38 percent (27,225) of the total unemployed. 10,817 foreign workers from 99 countries are officially registered with the Ministry of Labor and Social Welfare, of whom 25 percent work in mining, 17 percent in education, and 16 percent in construction.

Unskilled labor is abundant, but chronic shortages persist in most professional categories requiring advanced degrees or vocational training, including all types of engineers and professional tradespeople in the construction, mining, and services sectors. Foreign-invested companies address shortages by providing in-country training, increasing salaries and benefits to retain employees, or hiring expatriate workers with expertise unavailable in Mongolia.
Mongolia's 2021 Revised Labor Law came into force January 2022. The Law formalizes most practices described below, which had heretofore been customary between employer and employee or implemented through regulatory fiat. It also creates a system for employers using long shifts for their crews, mostly in the resource extraction sectors. The Law stipulates that work and resting shifts must be equal—for example, 14 days on must be balanced by 14 days off—and that overtime must be limited. Employers report these new rules effectively require them to hire more employees to achieve the same staffing levels under old rules and with more administrative burdens. As Mongolia faces chronic shortages of skilled employees, employers have found the Law has led to rising costs as headcounts rise while productivity per worker has decreased, threatening the commercial viability of those businesses with limited capacity to absorb or pass on these additional costs.

The Law retains the requirement that companies employ Mongolian workers in all labor categories where the Ministry of Labor and Social Protection determines a Mongolian can perform the task as well as a foreigner. This provision primarily applies to unskilled labor categories. Investors can locate and hire workers without hiring agencies, if hiring practices follow the Law. If employers want to hire expatriate laborers and cannot obtain a waiver from the Ministry of Labor and Social Protection for that employee, the employer can pay a monthly waiver fee. Depending on a project's importance, the Ministry of Labor and Social Protection can exempt employers from 50 percent of the waiver fees per worker. However, employers report difficulty in obtaining waivers. (For details on 2021 Labor law: https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/mongolia/.

Because Mongolia's winters limit operations in infrastructure development, construction, and mining, employers tend to use a higher degree of temporary contract labor than companies operating year-round. The Law allows employers and employees to use short-term contracts; however, such contracts are limited to work lasting less six months comprising less than 30 percent of an entity's labor force.

The Law allows most workers to form or join independent unions and professional organizations and protects rights to strike; but denies these rights to foreign workers, certain public servants, and workers without formal employment contracts. However, all groups have the right to organize. The law protects the right to participate in trade union activities without retaliation, and the government has protected this right in practice. The Law provides for reinstatement of workers fired for union activity, but this provision is not always enforced. Some employees occasionally face obstacles to forming or joining unions, and some employers have taken steps to weaken existing unions. For example, some employers prohibit participation in union activities during working hours or refuse to conclude collective bargaining agreements in contracts.

The Law allows employers to fire or lay off workers for cause. Depending on the circumstances, however, severance may be required, and workers may seek judicial review of their dismissal. Under the Law, retirement is no longer a legal justification for firing an employee, and mass redundancy layoffs require 90-days' notice. Employers and legal experts report that Mongolia's courts usually support employee claims, especially if the plaintiff or defendant is a foreign business. The severance laws require employers to pay laid off workers one month of the contracted salary, but fired workers receive no severance. Laid off or fired workers are entitled to three months of unemployment insurance from the Social Insurance Agency.

The Law on Collective Bargaining regulates relations among employers, employees, trade unions, and the government. Wages and other conditions of employment are set between employers (whether public or private) and employees, with trade union input in some cases. Laws protecting the rights to collective bargaining and freedom of association are generally enforced. The Mongolian Confederation of Trade Unions represents most workers in the resource extraction and construction-related sectors in collective bargaining activities but not government and agricultural sector employees. The Confederation of Trade Unions also mediates specific grievances through government-sanctioned Tripartite Labor Dispute Settlement Committees. Tripartite Labor Dispute Settlement Committees resolve most disputes between workers and management and consist of representatives Confederation of Trade Unions, employers, and the government. Cases not resolved by these Committees may go to court.

The International Labor Organization (ILO) is concerned about child-labor practices and variations between Mongolian law and international labor standards. Authorities report employers often require minors to work more than weekly permitted hours, paying them less than the minimum wage. The Ministry of Labor and Social Protection enforces all labor regulations, but its new inspection division is understaffed. ILO conventions ratified by Mongolia: Mongolia (ilo.org)

U.S. International Development Finance Corporation (DFC), and Other Investment Insurance or Development Finance Programs

The United States International Development Finance Corporation, formally OPIC, (USDFC) offers loans, grants, equity investment, and political risk insurance to U.S. investors active in most sectors of the Mongolian economy. The Export-Import Bank of the United States (EXIM) offers programs in Mongolia for short-, medium-, and long-term transactions in the public sector and for short- and medium-term transactions in the private sector. Mongolia is also a member of the Multilateral Investment Guarantee Agency (MIGA). South Korea, Canada, the Russian Federation, Japan, the PRC, Poland, Hungary, and Austria have provided investment and trade financing in Mongolia. In addition, the European Bank for Reconstruction and Development (EBRD/Mongolia) and the International Finance Corporation (IFC/Mongolia) also support Mongolia-based investments.

Foreign Direct Investment Statistics

Note: Mongolia does not track beneficial ownership of a given investment. The government only records where the company claims its domicile. The U.S. Embassy in Mongolia knows of numerous cases where foreign entities in Mongolia do not incorporate in their countries of origin but in third countries for tax mitigation purposes. Consequently, although government and IMF data suggest that much of Mongolia's investment originates from entities domiciled in jurisdictions such as the Netherlands, Hong Kong, or Singapore, much of the investment is beneficially owned by entities in other jurisdictions, including but not limited to the United States, Australia, Canada, Russia, China, or even Mongolia.

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2022	$15.29	2022	$17.15	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in host country ($M USD, stock positions)	2022	$701	2023	$680	BEA data available at https://apps.bea.gov/international/factsheet/
Host country's FDI in the United States ($M USD, stock positions)	NA	NA	NA	NA	BEA data available at https://apps.bea.gov/international/factsheet/
Total inbound stock of FDI as % host GDP	2022	$2,504	2022	14%	UNCTAD data available at https://unctad.org/topic/investment/world-investment-report

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data From Top Five Sources/To Top Five Destinations (*U.S. Dollars, Millions*)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	USD Amount	100%	Total Outward	USD Amount	100%
Netherlands	11,394 USD	41%	NA	NA	NA
China, P.R.: Mainland	5,168 USD	19%	NA	NA	NA
Singapore	2,279 USD	8%	NA	NA	NA
China, P.R.: Hong Kong	1,526 USD	5%	NA	NA	NA
Japan	1,438 USD	5%	NA	NA	NA
"0" reflects amounts rounded to +/– USD 500,000.					

Contact for More Information

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