



*The **AMERICAN CHAMBER** of Commerce in Mongolia*

Position Paper on AmCham Mongolia's proposals for Cabinet's 2020-2024 action plan



Ulaanbaatar 2020

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Background

As a result of the 2020 parliamentary election, new Cabinet led by Prime Minister U.Khurelsukh is formed in July, 2020, and it officially requested the American Chamber of Commerce in Mongolia (AmCham Mongolia) to submit its proposals for Cabinet's 2020-2024 action plan.

AmCham Mongolia firmly believes that Mongolia's current social and economic issues can be addressed through the growth of a strong and competitive private sector. Moreover, a private sector-led economy will provide sustainable development for the country and for the well-being of current and future generations of Mongolians.

Policy recommendations

Based on input from AmCham Mongolia's members and our Roadmap for Growth 2020, AmCham Mongolia is making the following policy recommendations for Cabinet's 2020-2024 action plan:

1. Address grey/blacklisting by undertaking comprehensive financial and banking reforms to develop a solid platform to avoid similar situations in the future:

- Get Mongolia removed from the FATF greylist and EU blacklist as soon as possible by immediately implementing their recommendations.
- Turn Mongolian banks into well-capitalized, healthy banks and fully enforcing anti-money laundering efforts, which is a precondition for extension of the IMF's extended fund facility program.
- Stop requiring companies listed on stock exchanges to get approval from the Bank of Mongolia for conducting commercial transactions.
- Arrange for overpaid taxes and VAT to be automatically returned to corporate entities within two weeks of application.
- Provide for a long-term excise tax plan in the Excise Tax Law for 2021-2025. Long-term planning will allow for the prediction of excise tax revenue and compensation for decreased customs duties revenue, and avoid price shocks and instability in the market.

2. Undertake bold reforms and the privatization of state-owned enterprises (SOEs) to introduce sound corporate governance that will mitigate corruption and the misuse of public office:

- Continue the privatization of SOEs and assets, including Erdenes Mongol
- Build and improve the capacity of state-owned mining companies.
- Continue and strengthen Mongolia's Extractive Industries Transparency Initiative to promote good governance and transparency in the mining industry.

3. Build an enabling investment climate by fully utilizing systems for public-private dialogue and enforcing the Investment Protection Council mechanism:

- Establish an agency to promote foreign direct investment (FDI) and protect investors' rights, as well as increase mutual benefits
- Ensure that companies with FDI are provided with promised opportunities, and are respected and treated fairly by state and local governments.
- Have stronger government bodies that ensure that policies are effectively adhered to.
- Reduce the prevalence of bribery and extortion among public officials.

4. Consistently pursue the third neighbor foreign policy and expand partnership by initiating the country's free-trade agreements with the U.S. and other countries:

- Enforce implementation of the U.S.-Mongolia Transparency Agreement.
- Promote investment policy diplomacy to balance the country's foreign policy.

5. Create more jobs and employment opportunities:

- Allow key foreign workers and business owners to enter Mongolia in August and September on a well-controlled and restricted basis; e.g. minimum entry of six months, minimum salary levels (e.g. 10x minimum wage), and three weeks of quarantine (with costs to be met by employer).
- Utilize MIAT and the passenger planes of other airlines for dedicated air freight solutions to ease urgent export and import logistics pressures.
- Support private sector competitiveness and sustainability amid the COVID-19 pandemic by arranging for low-interest, long-term loans to be made available to all SMEs – financing of up to 50 percent of the company's corporate income tax paid.
- Establish a government innovation fund to stimulate local business into generating solutions to the health and financial crisis, with a focus on alleviating challenges to daily life (e.g. e-learning, 3D printing).

6. Moving mega and large projects forward:

- Fast-track mega and major development projects that have been delayed by bureaucracy, such as the Oyu Tolgoi underground mine, Tavan Tolgoi power plant, gas pipelines, major railway projects, energy projects (renewable and traditional), improved healthcare, and the new airport.
- Create a mega project unit that coordinates and facilitates the development and implementation of mega projects which are critical for the country's medium and long-term sustainable social and economic growth

7. Implement legislative reforms:

- Remove inconsistencies in laws concerning foreign investment and taxation, such as the Foreign Investment Law, Taxation Law, and other legislation, and make them coherent.
- Promote the sanctity of contracts through a stronger legal and regulatory framework (including a focus on enforcement and accountability), the rule of law, and judicial independence as a means to increase investment and encourage doing business in Mongolia.
- Revise legislation concerning sexual harassment and discrimination in the workplace.

8. Align policies at the state and local government levels:

- Decrease the misalignment of policies, government decisions, and coordination between state and local governments. Decisions valid in Ulaanbaatar are often denied and/or rejected by local government offices, which creates a lot of challenges for businesses.

9. Digital transformation and e-governance:

Science, technology, and innovation (STI) are recognized as major contributors to economic and social development by leading authorities and developed economies. The greatest growth in Asian economies has been experienced by those countries aligning STI with their social and economic priorities over the long term and integrating them into overall policy decision-making. Regrettably, Mongolia has not followed this practice and, as a result, its economic growth has lagged behind leaders in the region.

There have been great initiatives from the public and private sectors in the past, but as the new government takes charge in 2020, we hope there will be more prudent and tangible policies to support information and communications technology (ICT) and the digital economy in Mongolia. We also acknowledge that this is a short period of time to implement major change in one sector, however, we hope that the following suggestions are seriously considered:

- Digitalize public services by adopting the latest ICT solutions and changing business models in response to COVID-19.
- Invest boldly in IT education and literacy. There are some domestic companies in this field, but we still lack internationally trained engineers.
- Infrastructure and ICT law enforcement should be upheld by one authority. There is not a single entity that is fully in charge. Telecommunications companies keep the market to themselves and are turning it into an oligopoly without clear signal sharing or management policies. There are not many internationally accepted frequency management standards or licenses being used.
- Allow banks, NBFIs, and other businesses to use international data centers and cloud platforms as it is cheaper. Currently, by law, businesses are required to use only domestic ones. This is strangling innovation for domestic service providers and their users.
- Allow remote KYC and AML processes. Every technology is available, yet we have an outdated law preventing this. Especially during a pandemic, financial services are critical and many are stranded without access to those services. Moreover, when everything shifts to internationally accepted standards and digital processes, banks in other countries will accept records from Mongolian banks and the risk of grey-listing will be reduced.
- Kick-start and sustain technology sandboxes:

A regulatory sandbox is a framework set up by a regulator that allows fintech startups and other innovators to conduct live experiments in a controlled environment under a regulator's supervision. This framework is vital for the success of the fintech sector and can be the catalyst for innovation in a developing country. Currently, 32 countries worldwide have started regulatory sandbox

implementation, with 11 countries following in their footsteps and officially announcing the start of regulatory sandbox implementations. Some countries and states have even proposed bills to change their current regulations and licensing requirements as a result of successful sandbox test runs. The Financial Regulatory Commission (FRC) of Mongolia produced a draft of guidelines for sandbox implementation in Mongolia, working with fintech organizations and Mongolian Fintech Association members. In order to provide better services and products, fintech organizations need to obtain official approval from FRC and the Bank of Mongolia. Countries such as Dubai have been on the frontlines when it comes to nurturing fintech. They started a regulation lab that is directly supported by the UAE's Ministry of Economy. Their fintech sandbox is one of the best situated to bring about mash-ups among tech companies. Dubai's strategy is to keep their talent pool positioned within the region to boost fintech innovations. They stand firmly by their opinion that no innovation can happen when a country is binding the fintech industry with heavy regulations and licenses. They see that the traditional banking system is not resilient nor fast enough to react to situations like the COVID-19 pandemic, thus, they rely more on their fintech for adaptable and flexible solutions.

- **Open-banking:**

Open banking, or open bank data, is a banking practice that provides third-party financial service providers open access to consumer banking, transactions and other financial data from banks and non-bank financial institutions through the use of application programming interfaces (APIs). Open banking will allow the networking of accounts and data across institutions for use by consumers, financial institutions, and third-party service providers. Open banking is becoming a major source of innovation that is poised to reshape the banking industry. In short, open banking is the future for the partnership between banks and fintechs, and will be vital for the development of fintech in Mongolia. To support the partnership of banks and fintechs, regulatory bodies should understand the benefits and purpose of open banking implementation in the country.

- **ICT and a Digital Economy Regulation-Free Zone**

Many countries with highly developed ICT are now overregulated and there's a lack of space for research and development. Mongolia could offer a zone for mining tech, agritech, edtech, robotics, fintech, and medtech to create and invite world-class tech companies to set up data centers and conduct research with tax incentives and without the constraints of regulations, all while providing our own human resources with training and education for technologies that can be implemented in our own economy.

10. Support sustainable and responsible key sectors:

Mining:

- Develop an industry development action plan in a consultative way with key stakeholders. Such a plan needs to focus on making Mongolia's mining sector globally competitive in key areas, including governance, transparency, technology, value chains, skills development, and regional and local development, etc.

- Provide more sustainability to the mining sector, particularly the gold mining industry.
- Support responsible and globally competitive mining by any means possible and conduct more pro-mining, supportive actions and practices, including increasing efforts to eliminate artisanal mining.
- Develop policies and legislation that fully support the Oyu Tolgoi project and other private sector-driven projects in the minerals sector.
- Take on actions and projects to differentiate between and raise public awareness of responsible and irresponsible mining.

Construction:

- Support domestic construction material producers who have made an investment or sustainability agreement, and those who have already made an investment and are fulfilling their contractual obligations.

Agriculture:

- Improve transparency in public tenders and employ the latest technology and high-quality equipment and products, rather than low-quality and cheaper equipment and products.
- World Bank and other finance options are now available through the Mongolian government to promote agricultural exports. Foreign investors, especially those bringing in appropriate technologies, export market access, etc., should be eligible for such support, either independently or in collaboration with Mongolian partners. Such innovation should be encouraged, and that impact on value-retention at the local level and on long-term project sustainability should be major factors in choosing which projects to support.
- Urgent attention should continue to be given to establishing inter-governmental protocols for the export of agricultural products, especially meat and dairy.

Oil refinery:

Increase foreign investment in this high-risk sector and increase oil reserves by intensifying exploration and production, providing government support at all levels and creating a favorable investment and tax environment through the following:

- Improve the legal environment for oil exploration and production: eliminating duplication and distortion of laws and regulations; making them more detailed, precise and well-regulated; unifying professional terms; and promoting regulations and standards in line with international trends and good practices. For example, define and unify legal terms according to international trends and standards, such as “reserves” and “resources”. Introduce Petroleum Resources Management System (PRMS) into oil sector legislation and practices. Engage more closely with active oil exploration companies to discuss how to improve Mongolia's competitiveness by making changes to existing laws and product sharing contract (PSC) fiscal terms.
- Provide policy support to the oil exploration and production sector by improving the coordination of work between government agencies and its efficiency, and resolve issues promptly. Maintain a reasonable level of government involvement in the oil exploration sector, and make all types of permits and registration processes required for licensing and operations to be, forthwith, sophisticated, clear, and free of bureaucracy.
- Inform local authorities and citizens at the province, soum, and bag level about state policy and positions to be followed in the oil sector by providing information and training to local communities and having a unified, vertical policy. Keep information transparent

regarding local receipt of shares of PSC royalties and any fees. Improve the business environment and local capacity to support and monitor entrepreneurs at local levels to ensure that local businesses can be involved in oil exploitation development.

- Take significant measures to attract investment and protect the interests of investors in the oil sector. Ensure appropriate implementation of investment legislation and intensify the activities of the Investor Protection Council under the Cabinet Secretariat.
- Intensify oil exploration. The country's oil production in 2016 reached 1.1 million tons, since then, it has been steadily declining, and now only 800,000 tons are extracted annually. According to industry data, this amount is likely to fall to 600,000 tons when Mongol Oil Refinery is commissioned. If the refinery has the capacity to process 1.5 million tons of crude oil per year, there is a risk that an additional 1 million tons per year will be required to meet this production goal. Therefore, there is an urgent need to increase oil production and, most importantly, to intensify oil exploration activities. For instance, to announce open tenders for areas that have not been operating for a long time and ensure that they are put into economic circulation immediately.

AmCham Mongolia can partner with Cabinet to implement these policy recommendations through our members and committees specialized in different sectors, including mining, agriculture, ICT, auto, and financial services. We suggest having a monthly bilateral meeting between AmCham Mongolia, the Office of the Prime Minister, and relevant ministries to exchange information and proposals to ensure the economic prosperity of the Mongolian people.

We also propose having a bi-annual stakeholders meeting on Mongolia's social and economic development to discuss key priorities and find alignment between the public and private sector, as well as development partners.



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