



15 April 2014

(14-2330)

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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

MONGOLIA

This report, prepared for the second Trade Policy Review of Mongolia, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Mongolia on its trade policies and practices.

Any technical questions arising from this report may be addressed to Messrs Masahiro Hayafuji (tel: 022/739 5873), and John Finn (tel: 022/739 5081).

Document WT/TPR/G/297 contains the policy statement submitted by Mongolia.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Mongolia. This report was drafted in English.

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## SUMMARY

1. Since its previous Trade Policy Review in 2005, Mongolia has continued to maintain a generally open trade regime. Its economy has grown substantially, as has per capita GDP while unemployment has fallen, and the Human Development Index ranking has improved. With large mineral reserves and a big market in neighbouring China, the economy is likely to continue to grow. However, the rate of growth has fluctuated, and will probably continue to fluctuate depending on investments in mineral resources and changes to prices and volumes of exports. Since 2005, real GDP growth has varied from -1.3% in 2009 to 17.5% in 2011. Clearly, managing the fluctuations in investment, exports, and Government revenues is one of the main policy challenges facing the country.

2. Despite data problems, it is evident that both exports and imports increased substantially during the review period, with exports reaching US\$4.4 billion and imports US\$6.7 billion in 2012. The importance of minerals to the economy has increased as well; in 2012, over 84% of exports were of minerals, nearly all which went to China.

3. The authorities are aware of the problems that can arise from dependence on a narrow economic base. The Millennium Development Goals-based Comprehensive National Development Strategy of 2008 states that, while mineral deposits are to be exploited, Mongolia is also pursuing a policy of diversification; the Strategy sets out a number of priority areas, including export-orientated, private sector-led, high technology-driven manufacturing and services such as information and communication, bio- and nano-technology, transit transportation, logistics, financial mediation services, and deeper processing of agricultural products. Particular attention is paid in the Strategy, inter alia, to promote SMEs to produce import substitution products while supporting imports of advanced technologies.

4. Foreign investment is important to the economy for both the exploitation of minerals and for development of other sectors. However, foreign direct investment declined from 53% of GDP in 2011 to 20% in 2013. To some extent, this was due to the requirements under, and uncertainty about the 2012 Law on the Regulation of Foreign Investment in Business Entities Operating in Sectors of Strategic Importance. To address these concerns and to improve the investment climate, the 2012 Law and the Foreign Investment Law of 1993 were replaced by the Investment Law of 2013 (which applies to both foreign and domestic investment), which simplified investment and registration requirements, and provided greater legal precision to several terms, including the definition of a foreign-invested entity and a foreign government-owned legal entity.

5. In addition to the new Law on Investment, several other laws were introduced in 2013 which, amongst other things, are intended to improve the investment climate and promote fiscal stabilization including, the Fiscal Stability Law, the Integrated Budget Law, and the Social Welfare Law. These legislative changes, along with the steps taken by the Bank of Mongolia (the central bank) to stabilize the national currency, control inflation, and improve regulation of the commercial banks, should help to improve foreign and domestic investment.

6. A number of steps have also been taken to improve customs procedures, including a revision of the Customs Law and the Law on Customs Duties and Tariffs of 2008 which, amongst other things, allow for post clearance customs control, as well as the introduction of the Customs Automated Information System allowing for the submission of electronic documents and electronic payments.

7. In acceding to the WTO in 1997, Mongolia bound all its tariffs, most of them at 20% although the applied rate is, in most cases, much lower. However, for about 60 tariff lines, the applied tariff of 5% is greater than the bound rate of 0%. There are also import bans on several products, including ethyl alcohol, which were adopted on the grounds of health and national security. Furthermore, a variety of products, including breeding animals, are subject to non-automatic licensing for exports and/or imports. Export taxes are applied to a small range of products, although they were removed from raw cashmere in 2009. As part of the efforts to diversify exports, the Development Bank of Mongolia was established in 2011 and provides export finance, including pre- and post-shipment financing, export factoring, export credit guarantees, and export credit insurance.

8. Mongolia has continued to develop and apply new standards many of which are mandatory technical requirements and, out of a total of over six thousand, less than half are aligned with international standards.

9. Although the economy is essentially market driven and has been privatised, there were about 100 fully or partially state-owned enterprises involved in many different sectors of the economy. According to the authorities none of these have any special rights or privileges. Between 2005 and 2011, about 90 entities were privatized while several, including the national airline (MIAT) and some power plants had their privatization postponed.

10. Mongolia's laws on intellectual property rights have also undergone some changes during the period under review, with the Copyright Law and Patent Law revised in 2006, the Law on Trademarks and Geographical Indications amended in 2010, and the Law on Crop Varieties and Seeds amended in 2011. However, enforcement actions, in terms of the number of inspections and other indicators, have declined since 2010 and it is not clear if this was due to better compliance or reduced enforcement.

11. Although investment and trade in minerals dominate foreign direct investment and exports, agriculture still accounts for one-third of employment and 15% of GDP. The agriculture situation in Mongolia is quite particular with a short growing season and harsh winters and nomadic herding of livestock being the main activity. In response to concerns about import dependence, the Government has introduced several programmes to promote production of some staple products (wheat and potatoes) and, as a result, imports of these have declined. However, it is not clear if these programmes have reduced import dependence as imports of other products, such as rice, have increased. The main exports are cashmere, and hides and skins of sheep and goats.

12. Compared to the size of the Mongolian economy, the potential of the minerals sector is very large and the total investment in minerals over the past few years and the next few equivalent to several times annual GDP. Unfortunately, data for 2013 were not available at the time of writing. Nevertheless, in 2012 compared to 2004, the quantity of coal, and iron ore that was produced and exported increased considerably while the value of exports increased by even more as prices increased. As production of copper in Oyu Tolgoi increases and as the expansion of the Tovan Tolgoi coal deposit leads to greater production, the value and volume of exports will increase further. However, concerns about unused mining licences led to a moratorium on new exploration licences in 2010 and the moratorium is to remain in effect until a new law on minerals has been adopted.

13. Mongolia's low population density and harsh climate mean infrastructure projects like electricity, telecommunications, and transport are both important and expensive. There have been considerable investments in each area although more is needed, particularly for road and rail transport.

14. The banking and finance sector has undergone several upheavals over the past few years. Despite improvements in developing and applying regulations, the State had to take over three banks, in 2008, 2009, and 2013, and their operations have been transferred to the state-owned State Bank of Mongolia. There remain 13 registered commercial banks, which is a lot for the size of the country even if commercial banks account for 95% of total assets in financial companies.

15. Overall, Mongolia has made considerable progress towards improving living standards and investment and trade in minerals have contributed considerably. However, managing the resource based boom along with the legislative, and institutional challenges it presents, and the investment in infrastructure it requires are the biggest challenges facing the Government. At the same time, the geographical and climatic situation of Mongolia makes these tasks more difficult than in some other countries.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Recent Economic Developments

1.1. Since its previous Trade Policy Review in 2005, Mongolia has resisted protectionist pressures and continued to maintain a generally open trade and investment regime. Its economy has grown substantially despite a balance-of-payments crisis in 2008/09, as has GDP per capita (Table 1.1). Mongolia was ranked 108<sup>th</sup> overall on the 2012 UN Human Development Index up from 117<sup>th</sup> in 2003.<sup>1</sup> The economy grew by 12.4% in 2012, helped by expansionary fiscal and monetary policies, and a steady growth in agriculture, and is estimated to have grown by 11.7% in 2013. Nonetheless, inflation in 2012 remained high at around 14%, primarily owing to increases in government spending and currency depreciation, putting pressure on the balance of payments. In response to this high inflation, the central bank increased its policy rate to 13.25% and reserve requirements to 12% in 2012; the direction of monetary policy turned to expansionary in 2013. While exports and imports grew substantially in 2010 and 2011, they slowed down in 2012 and 2013; foreign direct investment also slowed down in 2013.

**Table 1.1 Selected macroeconomic indicators, 2009-13**

	2009	2010	2011	2012	2013 <sup>a</sup>
<b>National accounts</b>					
	(Per cent)				
Real GDP growth	-1.3	6.4	17.5	12.4	11.7
Nominal GDP growth (current prices)	0.5	27.7	31.8	26.4	25.2
Per capita GDP (in US\$)	1,684	2,261	3,097	3,480	4,069
Unemployment rate (%)	11.6	9.9	7.7	8.2	..
<b>Productivity</b>					
	(Percentage change)				
Total labour productivity	..	4.1	18.1	11.5	..
Total factor productivity	..	19.8	8.5	-10.2	..
<b>Prices and interest rates</b>					
	(Per cent)				
Inflation (CPI, percentage annual change (period average))	6.3	10.2	7.7	14.0	12.5
BOM policy rate (end period)	10.00	11.00	12.25	13.25	10.50
<b>Money and credit (end period)</b>					
	(Percentage change)				
Broad money (M2) <sup>b</sup>	26.9	61.6	37.1	18.8	24.0
<b>Exchange rate</b>					
Togrogs per US\$ (period average)	1,438	1,356	1,265	1,359	1,524
Nominal effective exchange rate	-13.9	4.1	2.2	-5.5	-10.2
Real effective exchange rate	-9.6	11.3	6.8	5.4	-3.5
<b>Fiscal policy</b>					
	(Per cent of GDP unless otherwise indicated)				
Current fiscal balance	2.8	9.8	11.0	5.1	9.3
Revenue and grants	30.3	37.1	40.3	35.5	33.8
Expenditure and net lending	35.5	36.6	45.1	42.9	35.5
Overall balance	-5.2	0.5	-4.8	-7.4	-1.4
Total public debt	46.6	45.3	51.7	56.7	54.2
Domestic	3.4	16.3	25.6	27.4	23.9
<b>External sector</b>					
Current account balance (excluding official grants)	-9.0	-14.9	-31.7	-32.8	-31.6
Net merchandise trade	-5.5	-4.7	-19.9	-22.8	-18.1
Exports	41.1	46.9	54.6	42.7	37.1
Imports	46.6	51.6	74.5	65.7	55.2
Services balance	-3.6	-4.5	-13.3	-10.7	-11.0
Capital and financial account	16.1	34.9	32.8	35.4	24.5
Foreign Direct investment	10.8	25.2	53.0	43.0	20.3
Overall balance	12.1	14.1	0.3	13.3	-16.4
Terms of trade (percentage change)	6.9	-4.7	-4.3	0.2	1.0
Merchandise exports (percentage change)	-26.0	54.5	66.2	-9.0	-4.4
Merchandise imports (percentage change)	-34.2	53.5	82.9	2.2	-5.4
Gross official international reserves (US\$ million)	1,328	2,288	2,451	4,126	2,248
(in months of next year's imports of goods and services)	6.9	7.1	3.9	6.5	3.5
Total external debt (US\$ million; end period, % of GDP in brackets)	1,974 (43.2)	1,938 (28.9)	2,074 (26.1)	2,775 (29.4)	3,492 (30.2)

.. Not available.

a Estimates.

b M1 (currency) + quasi money (togrog denominated time deposits and foreign currency deposits).

Source: IMF (2012), *Mongolia Article IV Consultation and Third Post-Program Monitoring*, Country Report No. 12/320, November. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2012/cr12320.pdf>; and information provided by the Mongolian authorities.

<sup>1</sup> UNDP online information. Viewed at: [http://hdr.undp.org/en/media/HDR2013\\_EN\\_Summary.pdf](http://hdr.undp.org/en/media/HDR2013_EN_Summary.pdf). [17.09.2013]

1.2. Mongolia's main export destination is China and its main export products are minerals (section 1.2). As described in the Millennium Development Goals-based Comprehensive National Development Strategy (Parliament Resolution on 12 February 2008), the authorities intend to exploit mineral deposits of strategic importance. At the same time, they wish to diversify Mongolia's export products, so that it will be less dependent on mineral resource exports. Priority areas including export-oriented, private-sector-led, high technology-driven manufacturing and services, such as information and communication, bio- and nano-technology, transit transportation, logistics, financial mediation services, and deeper processing of agricultural products. Particular attention is paid, *inter alia*, to promote import substitution by providing loan with low interest rates to small and medium-sized enterprises, and support imports of advance technologies. In order to achieve these objectives, Mongolia intends, *inter alia*, to promote human capital, introduce advanced technologies by establishing and operating free zones, assist the development of the private sector by reviewing the business environment, and reduce red tape. To achieve these goals, the Government established a working group headed by the Minister of Cabinet to review the purpose and procedures of licensing requirements; the working group has proposed to eliminate a number of licensing requirements and to formulate a new law. The authorities also consider that foreign direct investment (FDI) is important for the country's development and the new Foreign Investment Law will help promote FDI.

1.3. In 2011, the overall fiscal balance worsened by about 5.3 percentage points of GDP (from a surplus to a deficit); the overall fiscal deficit amounted to about 4.8% of GDP in that year and the rose to about 7.4% of GDP in 2012. With a view to strengthening the fiscal policy framework and promoting fiscal consolidation, various laws have been adopted, including the Fiscal Stability Law<sup>2</sup>, the Integrated Budget Law<sup>3</sup>, and the Social Welfare Law.

1.4. The main policy objective of the Bank of Mongolia (BOM) is to ensure the stability of the togrog (tog), the national currency; it has focused on price and exchange rate stability, and ensuring adequate money supply.<sup>4</sup> The BOM aims to contain annual CPI inflation to below 8% at end-2013 and in the range of 5% to 7% during 2014-15.<sup>5</sup> Monetary policy was tightened between 2010 and 2012; its policy rate reached 13.25% and the reserve requirement was raised to 12% in April 2012. However, in 2013, the BOM adopted a more expansionary monetary policy; the policy rate was cut to 10.5% in June 2013. The primary monetary variable is reserve money (banks' reserves plus money outside banks) and the main BOM instruments are open market operations, using Central Bank Bills in primary and secondary markets, as well as the government bills (short term) and bonds (long term), along with reserve requirements.<sup>6</sup> A rediscount financing facility operates, and repo arrangements also exist.

1.5. The BOM is also mandated to support growth, manage external sector risk exposures, deepen financial markets, and support structural reforms. It considers that Mongolia's long-standing structural issues include supply shocks, especially in food and fuel, and infrastructure bottlenecks, which are deemed the core contributors of inflation historically. To address these issues, the BOM's Supply Shock Elimination Programme, including a warehouse financing scheme, is intended, *inter alia*, to stabilize prices of core commodities including retail trade, gasoline, meat, grain, and flour.

<sup>2</sup> The purpose of the Fiscal Stability Law includes establishing fiscal management principles and special fiscal requirements for ensuring fiscal stability, and determining rights, obligations, and responsibilities of government bodies regarding implementation and monitoring of these principles and requirements.

<sup>3</sup> The purpose of the Integrated Budget Law includes establishing principles, systems, composition, and classification of the budget, implementing "special fiscal requirements", defining authorities, roles and responsibilities of bodies that participate in the budget process, and regulating relations in connection with budget preparation, budget approval, spending, accounting, reporting, and auditing.

<sup>4</sup> The BOM formulates and implements monetary policy by regulating money supply through changes in reserve money to achieve its main objective of currency stability. The Government is not empowered to interfere in monetary policy setting; the BOM presents its targets annually to Parliament in the *State Monetary Policy Guidelines*. The BOM formally reports to Parliament in accordance with the Central Bank Law (Article 30).

<sup>5</sup> Resolution of Parliament of Mongolia, 8 November 2012, No. 57, "Monetary policy guidelines for 2013". Viewed at:

[http://www.mongolbank.mn/documents/moneypolicy/monetarypolicy\\_guidelines2013e.pdf](http://www.mongolbank.mn/documents/moneypolicy/monetarypolicy_guidelines2013e.pdf). [15.10.2013]

<sup>6</sup> Reserve money growth is tied closely to BOM gold purchases and government loans to temporarily finance budget deficits. The BOM may provide the Government with temporary credit, to be repaid within the financial year, of up to 10% of fiscal revenues accumulated over the previous three years (Central Bank Law, 1996).

1.6. Mongolia adopts a floating exchange rate system. The authorities state that the Bank of Mongolia may intervene through auctioning in the foreign exchange market only to soothe volatility.<sup>7</sup> The BOM adjusts its midpoint exchange rate daily and its buy-sell margins. The BOM is not the sole trader of gold, although the authorities indicate that it still buys most gold. There are no restrictions on foreign exchange transactions. Mongolia's international reserves amounted to about US\$4.1 billion in 2012. According to the BOM's investment guidelines regarding reserves, the authorities' priority is to invest in assets that are deemed safe and substantially liquid; consideration of yields is secondary. The authorities consider that dollarization of the economy has become less prominent; the share of foreign-currency denominated assets in the total banking system is currently around 30% down from around 50% in 2005.

1.7. The 2010 revision of the Bank of Mongolia Law established the financial stability board, which consists of the Minister of Finance and the Governor of Central Bank and Commissioner of Financial Regulatory Commission, with a view to improving inter-government cooperation.

## **1.2 Trade Performance**

### **1.2.1 Composition of trade**

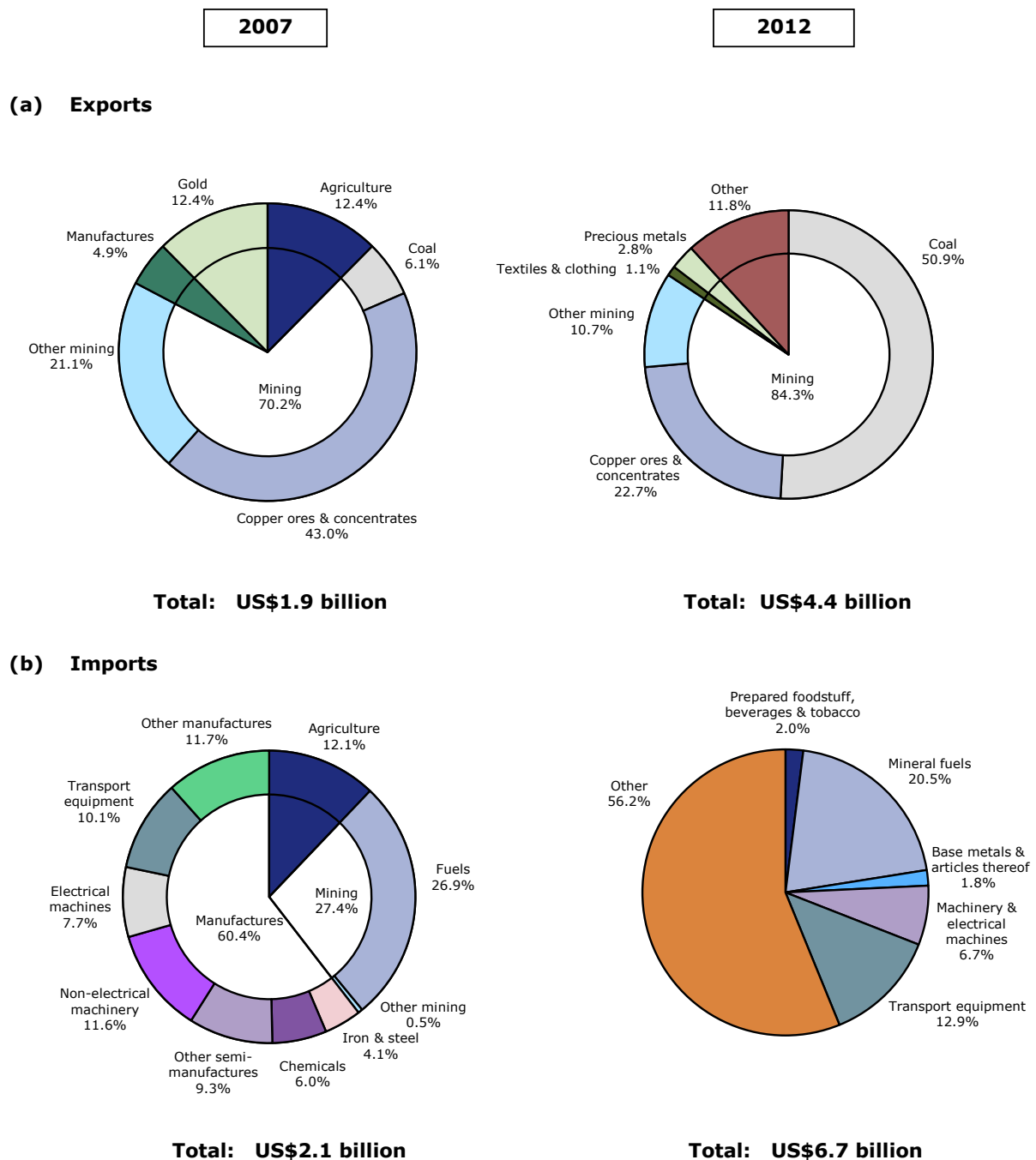
1.8. Mongolia's exports remain heavily concentrated in a few items; some 84% of exports are related to mining, with coal and copper representing about of 51% and 23% of total exports, respectively; the share of coal exports has increased substantially in recent years (Chart 1.1). Mineral fuels and transport equipment remain the main import items.

### **1.2.2 Direction of trade**

1.9. China's share in Mongolia's exports increased to more than 90% in 2012 (Chart 1.2). In Mongolia's imports, the shares of the Russian Federation and China declined, while the shares of the EU, the United States, Japan and the Republic of Korea increased between 2007 and 2012.

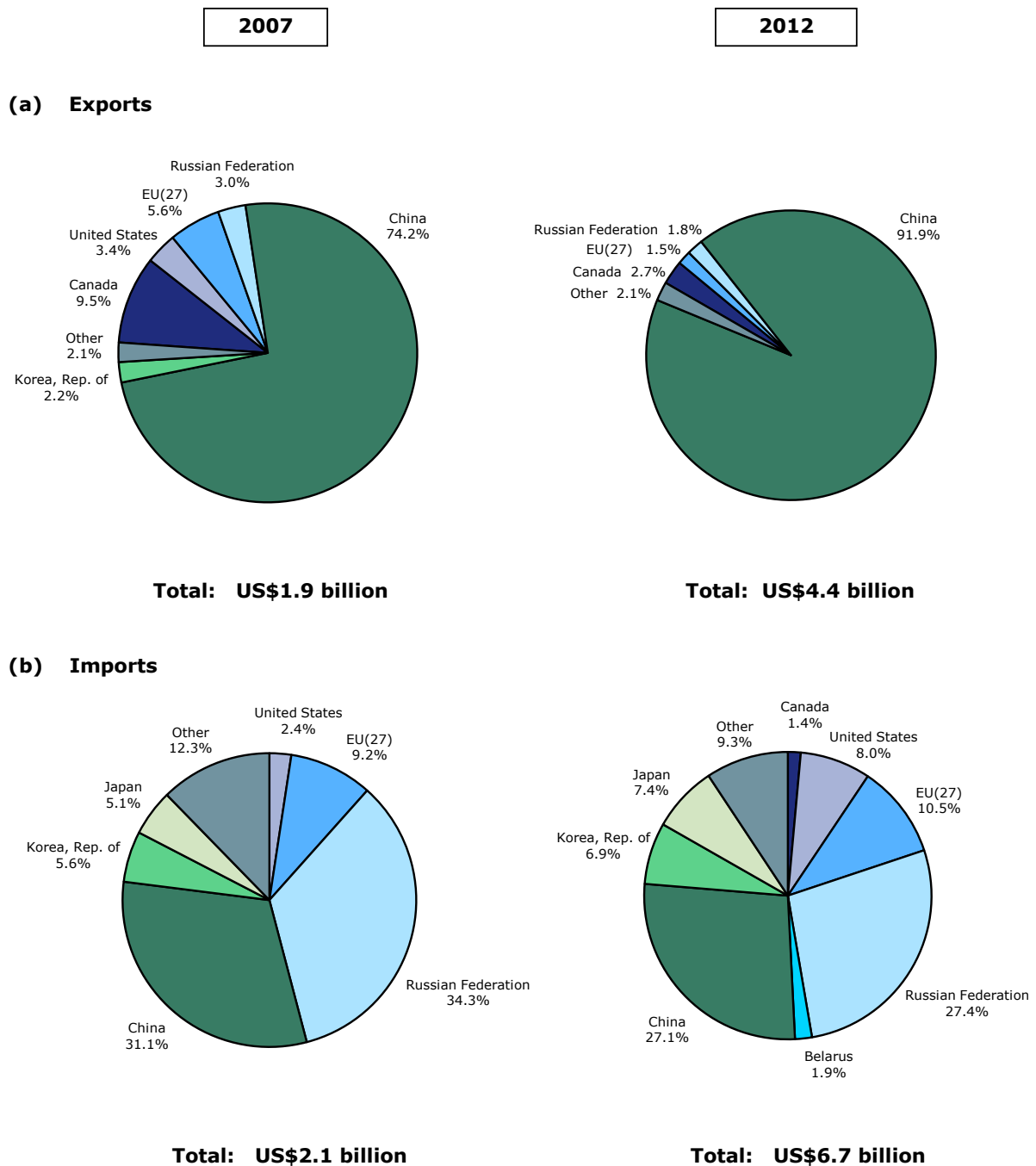
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<sup>7</sup> According to Article 5 of the Law on Currency Settlements, volatility higher than 5% must be "brought to the attention of the Prime Minister". For a detailed record of the BOM's intervention through auctioning, see: <http://www.mongolbank.mn/eng/dblistforexauction.aspx>.

**Chart 1.1 Product composition of merchandise trade, 2007 and 2012**

Note: Data are not easily comparable due to different product classification used in 2007 and 2012.

Source: UNSD, Comtrade database (SITC Rev. 3) (2007); and the authorities of Mongolia (2012).

**Chart 1.2 Direction of merchandise trade, 2007 and 2012**

Source: UNSD, Comtrade database (2007); and the authorities of Mongolia (2012).

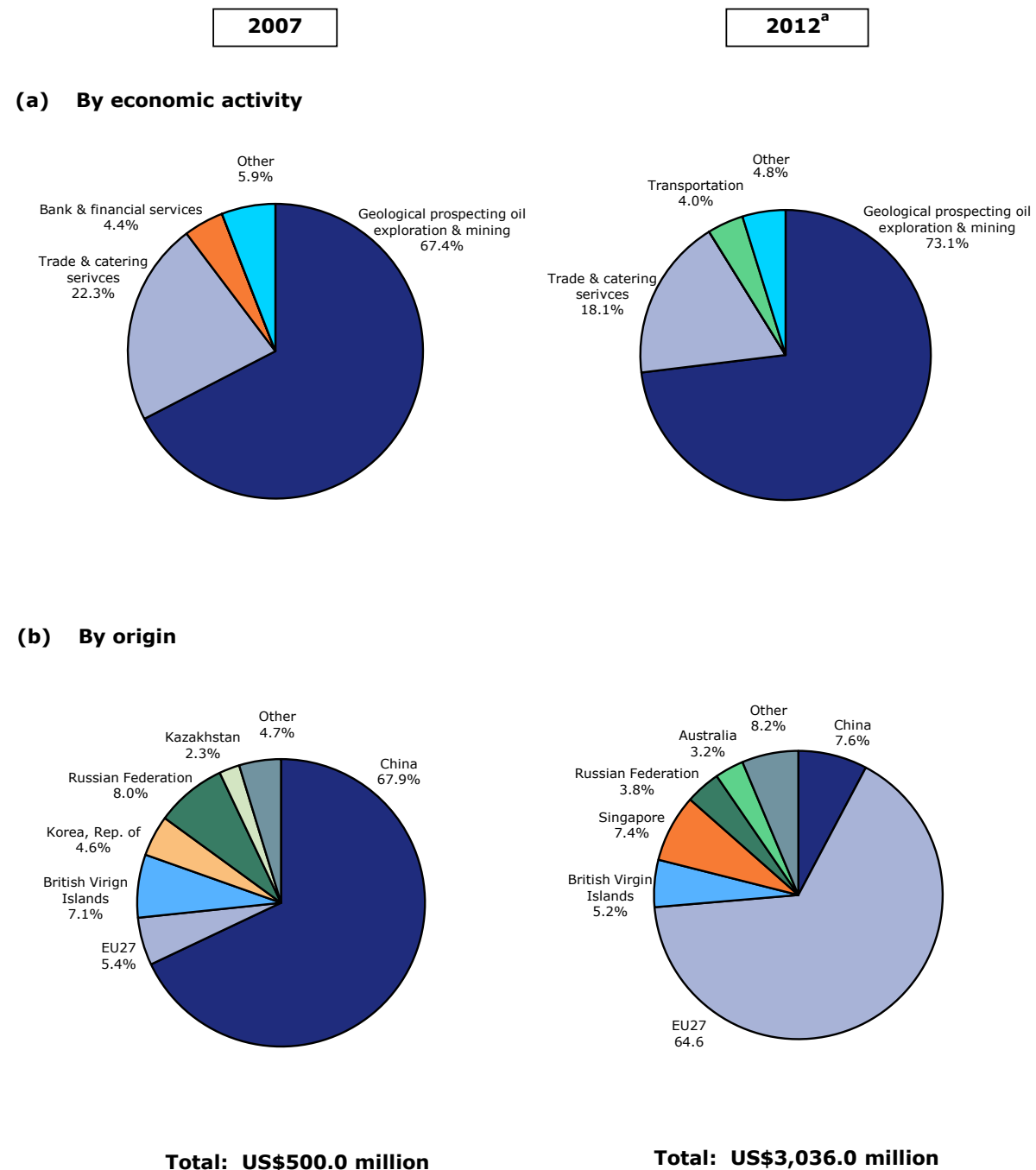
### 1.3 Foreign Direct Investment

1.10. According to the balance of payments statistics, net foreign direct investment (FDI) increased continuously between 2009 and 2011 from US\$496 million (10.8% of GDP) to US\$4,620 million (53.0% of GDP); they decreased slightly to US\$4,408 million (43.0% of GDP) in 2012 and a further decline is expected in 2013 (to about 20% of GDP). Mongolia's FDI stock amounted to US\$13,151 million in 2012, compared with US\$182 million in 2000.<sup>8</sup> FDI data, based on

<sup>8</sup> UNCTAD (2013).

registration, indicate that FDI is mainly in geological prospecting, oil exploration, mining; and trade and catering services (Chart 1.3).<sup>9</sup> FDI was mainly from the EU and China.

**Chart 1.3 Foreign direct investment inflows, 2007 and 2012**



a As at 30 September.

Source: WTO calculations, based on data provided by the authorities.

<sup>9</sup> According to data provided by the authorities.

## 2 TRADE AND INVESTMENT REGIME

### 2.1 General Framework

2.1. Under the 1992 Constitution, which was amended in 1999 and 2001, Mongolia is a parliamentary democracy with legislative authority vested in a unicameral parliament, the State Great Hural. Parliament, with the President's approval, is responsible for appointing the Prime Minister and the ministers that make up the executive arm of government (Table 2.1). Members of Parliament are elected for fixed terms of four years.

2.2. The President of Mongolia is the head of state and head of the armed forces. The President has the right to veto laws and resolutions of the Parliament, which can overturn the veto with a two-thirds majority vote.

**Table 2.1 Government ministries and selected agencies, 2012-16**

Ministry	Agencies under the Ministry
<b>Prime Minister, Deputy Premier and Cabinet Office</b>	
Prime Minister	Central Intelligence Agency Nuclear Energy Agency Information Technology, Post and Telecommunications Authority Communications Technology and Post Authority
Deputy Premier	General Agency for Specialized Inspection National Emergency Management Agency Authority for Fair Competition and Consumer Protection Center of Standardization and Measurement Procurement Policy Department Intellectual Property Office
Cabinet Office of the Government	
<b>General orientation ministries</b>	
Ministry of Environment and Green Development	National Agency of Meteorology and Environmental Monitoring Forestry Authority Water Authority
Ministry of Foreign Affairs	
Ministry of Finance	Customs General Administration General Department of Taxation
Ministry of Justice	National Police General Authority for Border Protection General Authority for State Registration General Archival Authority General Authority for Implementing Court Decisions Immigration Agency
<b>Specific orientation ministries</b>	
Ministry of Construction and Urban Development	Administration of Land Affairs, Construction, Geodesy and Cartography
Ministry of Defence	General Staff of Mongolian Armed Forces
Ministry of Road and Transportation	Civil Aviation Authority Railway Authority Road Agency Transportation Agency
Ministry of Culture, Sports and Tourism	
Ministry of Mining	Mineral Resources Authority Petroleum Authority
Ministry of Industry and Agriculture	State Property Committee Veterinary and Animal Breeding Agency National Agricultural Extension Center National Animal Gene Bank Inter-Provincial Pastureland Management Authority Crop Production Supporting Fund Livestock Conservation Fund State Central Veterinary and Sanitary Laboratory State Veterinary Laboratory for Certification of Veterinary drugs and Vaccines
Ministry of Labour	
Ministry of Population Development and Social Welfare	General Authority for Social Insurance General Office of social Welfare Service National Authority for Children
Ministry of Economic Development	Invest Mongolia Agency Development Bank of Mongolia
Ministry of Energy	
Ministry of Health	

Source: Authorities and Website of State Institutions of Mongolia. Viewed at: [http://www.pmis.gov.mn/pmis\\_eng/index.php](http://www.pmis.gov.mn/pmis_eng/index.php) [January 2014].

2.3. Mongolia is divided administratively into *aimags* (provinces) and the capital city (Ulaanbaatar); *aimags* are subdivided into *soums* (districts at the provincial level), which are further divided into *baghs* (villages, or sub-districts at the provincial level); the capital city is divided into districts and sub-districts (*horoos*).

## 2.2 Legal system

2.4. In 2012, a number of laws were passed to reform the operation of Mongolia's judicial system, including the Law on the Legal Status of Lawyers, the Law on the Legal Status of Judges, and the Law on the Courts, all adopted on 7 March 2012, and the Law on Representatives of Natural Persons in Court, adopted on 22 May 2012.

2.5. The Law on the Courts, implemented from July 2013, reorganized the court system. Previously, there were administrative and general courts at both first instance and appeals levels below the Supreme Court. Since July 2013, the courts of first instance and the courts of appeal have been organized into administrative, civil, and criminal courts. The courts of first instance are at the *soum*, inter-*soum*, and district levels while the appeals courts are at the judicial district level. The Supreme Court has also been reorganized into three chambers to hear criminal, civil, and administrative cases, and the number of members of the Supreme Court judges has increased from 15 to 24.

2.6. Under the Law on the Legal Status of Lawyers, also implemented in 2013, anyone wishing to be called a lawyer and provide legal advice must form a limited liability partnership and be a member of the Bar Association, which requires passing the bar exam. To represent clients in court, a lawyer must also register with the Supreme Court. Foreign lawyers must register with the Ministry of Justice, which requires proof of membership of a law society or bar association before they may practice, and their practice is limited to aspects of foreign law. They may not represent clients in the courts, although they may represent clients in legal arbitration.

## 2.3 Trade Policy Objectives

2.7. The Ministry of Economic Development has primary responsibility for developing trade policy as well as policy on investment, macroeconomic development, concessions (including public-private partnerships), and loans and aid.

2.8. In addition to the Ministry of Economic Development, several other Government ministries and agencies are responsible for different aspects of trade policy including:

- The Minister for Finance chairs the Customs Tariff Council which is responsible for developing customs and tariff policy, the adoption of tariff rates, and the imposition of additional duties. The Customs General Administration, established under the Ministry of Finance, is responsible for enforcing the customs legislation, levying and collecting customs duties and other taxes, and preparing and submitting customs statistical data to the National Statistical Office.
- The Centre for Standardization and Metrology under the Deputy Premier coordinates and manages issues related to standardization, quality certification, testing, surveillance, and metrology. About 80% of the Centre's income is from the provision of certification and other services. The General Agency for Specialized Inspection Agency, also under the Deputy Premier, is responsible for the inspection of imported and exported goods on grounds of food safety, agricultural inspections (such as for seeds and plants), enforcement of laws and regulations related to trade, industry, services, geology and mining, and supervising compliance with standards.
- The Mongolian Intellectual Property Office under the Deputy Premier is in charge of all trade-related aspects of the intellectual property, including copyright, patents, and trademarks.
- The Bank of Mongolia (the Central Bank), which is independent of the Government, is responsible for monetary and exchange rate policies and the supervision of the commercial banks. The Bank is required to maintain, *inter alia*, financial market and

banking system stability. The Financial Regulatory Authority is responsible for regulating non-bank financial institutions, deposit and loan cooperatives, insurance companies, and the stock market.

- Other ministries that participate in the trade policy formulation include: the Ministry of Construction and Urban Development; the Ministry of Roads and Transportation; the Ministry of Mining; the Ministry of Energy; the Ministry of Industry and Agriculture; and the Ministry of Justice (for the drafting of laws and regulations, and for the trade-related aspects of intellectual property).

2.9. In the non-governmental sector, the Mongolian National Chamber of Commerce and Industry (MNCCI) provides a number of trade support services, including issuing certificates of origin; registration of patents and trade-marks; arbitration of foreign trade and investment disputes; independent inspection of exported and imported goods; providing export-market research and intelligence; organizing trade fairs, exhibitions, and business missions; and project development.

2.10. There are also several business associations, which collect and share information, identify and deal with industry problems, discuss the trade policy issues that affect their industries, and represent their sectors in relations with the Government. These include the Mongolian National Mining Association, the Mongolian Exporters Association, the Mongolian Wool and Cashmere Association, and the Mongolian Meat Association.

2.11. Regular consultations between the Government and the private sector are conducted in a Government and Private Sector Consultative Committee. The main objective of the Committee is to improve the business and legal environment for the private sector. The Minister of Finance and the Chief Executive Officer of the Mongolian National Chamber of Commerce and Industry co-chair this Committee.

2.12. The Comprehensive National Development Strategy of Mongolia of 2008 sets out the general objective of a favourable foreign trade environment for economic development based on export-oriented production and services through increasing exports of processed products rather than minerals and raw materials of animal origin.<sup>1</sup>

### 2.3.1 Trade related law

2.13. As in most countries, the trade and trade-related legislative framework is found in many different statutes (Table 2.2). In nearly all cases, international agreements that Mongolia has entered into have precedence over national laws, to the extent that there is no conflict with the Constitution. Under the Civil Code, the terms of international treaties may be used in the courts.

**Table 2.2 Main trade-related laws**

Legislation	Year	Last amended	Description
<b>Customs procedures</b>			
Customs Law of Mongolia	1996	2008	Regulates issues related to the organizational structure and legal basis of Customs, defining the procedures for customs control as well as customs clearance procedures and enforcement of the customs legislation
<b>Tariffs and other duties</b>			
Customs Tariff Law of Mongolia	1996	2008	Regulates matters relating to the creation of the tariff system, principles for the adoption of customs duty rates, valuation, and rules for levying and collecting customs duties
Excise Tax Law of Mongolia	1993	2006	Imposes excise taxes on certain imported and domestic goods and governs relations in respect of payment of such tax to the budget
Law of Mongolia determining the amount of export customs duty to be imposed on certain commodities	1996		Imposes specific export customs duties on a number of commodities
Law of Mongolia on Free Zones	2002		Regulates the establishment of free zones and their form, powers of governing bodies, monitoring mechanisms; determines the legal basis for and the realization of special tax and custom conditions

<sup>1</sup> Resolution of Parliament: *Endorsement of the Millennium Development Goals, Comprehensive National Development strategy of Mongolia*, Section 5.1.6. Viewed at: [http://mofa.gov.mn/coordination/images/stories/resource\\_docs/nds\\_approved\\_eng.pdf](http://mofa.gov.mn/coordination/images/stories/resource_docs/nds_approved_eng.pdf) [November 2013].

Legislation	Year	Last amended	Description
Law on the legal status of "Altanbulag" Free Trade Zone	2000	2002	Determines the legal status of the Altanbulag zone and regulates issues related to its implementation
<b>Investment and concessions</b>			
Law on Investment	2013		Sets out the legal basis for domestic and foreign investment and provides for tax stabilization certificates
Concessions Law	2010		Provides the legal basis for public-private partnerships and their regulation
<b>Intellectual property</b>			
Copyright Law of Mongolia	1993	2006	Regulates matters related to the protection of copyright and use of the works subject to copyright
Patent Law of Mongolia	1993	2006	Regulates matters related to protection of the rights of authors of inventions, industrial designs, and innovations, and of patent owners, and the use of inventions, industrial designs, and innovations
Law of Mongolia on trademarks and geographical indications	2010		Ensures legal guarantees for trade-marks and trade names, protects the rights and legal interests of owners, and regulates issues concerning the ownership, use, and disposal of trademarks and trade names
<b>Competition policy</b>			
Competition Law of Mongolia	2010		Establishes conditions for fair competition on the market by corporate entities; prevents and prohibits activities of monopolization or hostility to competition and defines the legal basis for the institution regulating competition
<b>Government procurement</b>			
Law on Government Procurement	2005		Regulates matters relating to the preparation of bidding documents, advertisement, opening of tenders, evaluation of tenders, and award of contract for public procurement of goods, works and services; composition and organization of Tender Committee, and control over its activities
<b>Company law and Licensing</b>			
Company Law	1999	2012	Regulates the establishment, registration, and reorganization of a company, its management and organizational structure, the rights and obligations of its shareholders, and its control and liquidation
Law on Licensing	2001		Regulates giving, delaying, and invalidating a licence to business activities that might negatively affect public interest, human well-being, environment, and national security, and that might require specific conditions and expertise
<b>Minerals and energy</b>			
Energy Law	2001		Regulates matters relating to energy generation, transmission, distribution, dispatching and supply activities, construction of energy facilities, and energy consumption that involve utilization of energy resources
Renewable Energy Law	2007		Regulates relations on generation of power using renewable energy sources and its delivery
Minerals Law	2006		Regulates exploration, mining, and related activities
Petroleum Law	1991		Regulates the exploration for and the protection, processing, transportation, storage, and marketing of petroleum
Government Resolution of Mongolia on Approving the Model of the Stability Agreement, No. 46	2001		Regulates issues connected with ensuring stable tax conditions during a certain period for business entities with foreign investments engaged in exploration of mineral resources deposits
Nuclear Energy Law	2009		Regulates the exploration for and mining of uranium
<b>Finance</b>			
Banking Law	2010		Regulates the licensing of banks, the revocation of licences, the establishment of general principles of a bank's management, organization, and activities, and enforcement measures
Law on Central Bank	1996		Establishes the legal grounds of the powers of the Central Bank of Mongolia, its management, organization, and activities, and regulates issues concerning the implementation of state monetary policy undertaken by the Central Bank
Law on Currency Settlements	1994		Defines the powers of the government bodies in charge of currency settlement, regulates exchange controls for currency circulation by business entities, organizations, and citizens, and establishes mechanisms to sustain the Mongolian currency exchange rate
Law on Deposits, Loans and Banking Transactions	1995		Regulates matters concerning the depositing of funds with banks by citizens and legal persons, the carrying out of transactions through the agency of banks and operations, and the granting and repayment of bank loans
Law on Non-bank Financial Activities	2002		Establishes legal foundations for non-bank financial activities and regulates issues of management, organization, licensing, and suspension or revocation of licences of entities conducting non-bank financial activities
Law on Combating Money Laundering and Terrorism Financing	2006		Establishes the legal basis for regulations to prevent money laundering and the financing of terrorism
Law on Bills	1995		Regulates relations between citizens and business entities concerning the use of bills of exchange and promissory notes as a means of payment

Legislation	Year	Last amended	Description
Law on Insurance	1997	2004	Defines the legal framework for conducting insurance activities in the territory of Mongolia, regulates relations between insurance companies, citizens, and legal entities, and creates principles for state auditing of insurance activities
Securities Law	1994	2013	Regulates the issue of securities for the purpose of accumulating capital, the buying and selling of securities, depository arrangements, and clearing and settlement services, the regulation of issuers and other persons involved in the securities market and the protection of investors
<b>Telecommunications</b>			
Law on Telecommunications	1995	2001	Regulates relations among state organizations, service providers, business entities, and individuals engaged in telecommunications and the creation, utilization, and protection of the telecommunications network and telecommunications services
Law on Radio Frequency	1999		Regulates relations among state organizations, service providers, business entities, and individuals engaged in using radio frequencies
Postal Law	2003		Regulates relations among state organizations, service providers, business entities, and individuals engaged in postal services and the creation, utilization, and protection of the postal network and postal services
Law on Electronic Signature	2011		Regulates relations among state organizations, service providers, business entities, and individuals engaged in postal services and the creation, utilization of electronic signatures
<b>Tourism</b>			
Tourism Law	2000		Regulates relations between the State, citizens, economic entities, and organizations with regard to tourism promotion, engagement in tourism activities, and provision of tourism services on the territory of Mongolia

Source: The Mongolian authorities.

## 2.4 Trade Agreements and Arrangements

### 2.4.1 WTO

2.14. Mongolia acceded to the WTO on 29 January 1997 as the third Member to join under Article 12 of the Marrakesh Agreement. In the years leading up to and following accession, Mongolia adopted a number of laws to bring its legislation into line with its WTO commitments. As with other international agreements to which Mongolia is a party, the terms of its accession and other WTO agreements may be invoked in the courts. Mongolia is an observer to the Agreement on Government Procurement. It is neither a signatory to the Agreement on Trade in Civil Aircraft nor an observer in the Committee. Since 1 January 2005, Mongolia has made some notifications to the WTO but in many cases notifications are lacking (Table 2.3).

**Table 2.3 WTO notifications, 1 January 2005 to 31 December 2013**

Legal provision	Description	Frequency	WTO document
<b>Agreement on Agriculture</b>			
Article 18.2	Export subsidies (Table ES:1) for 2000-06	Annual	G/AG/N/MNG/8, 12/12/2007
Article 18.2	Domestic support (Table DS:1)	<i>Ad hoc</i>	G/AG/N/MNG/7, 7/12/2007
<b>Agreement on Implementation of Article VI of GATT 1994 (Anti-Dumping)</b>			
Article 16.4	Anti-dumping actions (none taken and none foreseen)	6 months	G/ADP/N/193/MNG, 10/05/2010
Article 16.5	Competent authority (none)	<i>Ad hoc</i>	G/ADP/N/193/MNG, 10/05/2010
<b>Agreement on Subsidies and Countervailing Measures</b>			
Article 25.11	Countervailing duties (none taken and none foreseen)	6 months	G/SCM/N/202/MNG, 9/08/2010
Article 25.12	Competent authority (none)	<i>Ad hoc</i>	G/SCM/N/202/MNG, 9/08/2010
<b>Agreement on Technical Barriers to Trade</b>			
Article 10.6	Food standards	<i>Ad hoc</i>	G/TBT/N/MNG/1, 15/12/2005
	Conformity assessment	<i>Ad hoc</i>	G/TBT/N/MNG/2, 21/12/2007
	Human health	<i>Ad hoc</i>	G/TBT/N/MNG/3, 21/12/2007
	Labelling	<i>Ad hoc</i>	G/TBT/N/MNG/4, 26/01/2009
	Metrology	<i>Ad hoc</i>	G/TBT/N/MNG/5, 7/04/2010
	Consumer protection	<i>Ad hoc</i>	G/TBT/N/MNG/6, 27/03/2013
Article 10.7	Agreement with Ukraine	<i>Ad hoc</i>	G/TBT/10.7/N/54, 9/01/2008

Source: WTO Secretariat.

2.15. In acceding to the WTO, Mongolia bound all its tariffs in *ad valorem* terms, in its Schedule CXXXIV, at rates that vary from duty free to 75%, with an average bound rate of 17.3% and other duties and charges bound at zero. Tariffs for most tariff lines are bound at 20% (section 3.1.4.3 ). Mongolia has no commitments on tariff quotas, domestic support, or export subsidies for agricultural products (section 4.1).

2.16. Mongolia made various GATS commitments during its accession.<sup>2</sup> While it did not participate in the extended negotiations on financial services (Fifth Protocol, adopted 14 November 1997) or telecommunications (Fourth Protocol, adopted 30 April 1996), its accession commitments on services covered some of these subsectors. Mongolia has made no MFN exemptions.

2.17. Mongolia has not been a party or third party to any dispute under the WTO dispute settlement mechanism.

#### 2.4.2 Other regional and bilateral agreements

2.18. Mongolia does not have any regional trade agreements with other countries. It is not a member of the Asia Pacific Economic Cooperation. However, as of end 2013, Mongolia was in the process of acceding to the Asia-Pacific Trade Agreement (APTA)<sup>3</sup> and had several trade-related agreements with other countries. In many cases these pre-date Mongolia's accession to the WTO and accord reciprocal MFN treatment between the two parties. To a large extent these bilateral agreements have been superseded by Mongolia's accession to the WTO, although some were negotiated after its accession (Table 2.4). Mongolia is in the process of negotiating an Economic Partnership Agreement with Japan.<sup>4</sup>

2.19. Australia, Canada, the EU, Japan, New Zealand, Norway, the Russian Federation/Belarus/Kazakhstan, Switzerland, Turkey, and the United States provide preferential access to imports from Mongolia under their Generalized System of Preferences arrangements. Since 2006, Mongolia has been eligible for the GSP+ arrangement in the EU.

**Table 2.4 Bilateral trade-related agreements since accession to the WTO**

Agreement	Date	Description
Agreement between the government of Mongolia and the EEC on Trade in Textiles	31/12/1997	Applies to trade in textile products originating from Mongolia
Trade Agreement between the Government of Mongolia and the Government of Viet Nam	13/12/1999	Accords MFN to trade, transportation, customs and taxation, provides for transit transportation through the territories of the parties, as well as for dispute settlement
Trade Agreement between the Government of Mongolia and the Government of Cuba	9/11/2001	Accords MFN to exchange of goods and services; provides for the promotion of activities; related to fairs, exhibitions, and other trade activities, recognizes that sanitary and phytosanitary requirements do not necessarily create barriers to trade; establishes intergovernmental Commission; sets non-discriminatory principles with regard to trade between the two countries
Agreement between the Government of Mongolia and the Government of the United States concerning the Development of Trade and Investment Relations/TIFA	15/07/2004	Establishes Joint Trade and Investment Council and provides for further development of trade and investment relations between the two countries
Agreement on Transparency in Matters Related to International Trade and Investment between the United States of America and Mongolia	24/09/2013	Provides for transparency and opportunity to comment and respond to questions on measures affecting trade in goods and services as well as provisions to address bribery and corruption.

<sup>2</sup> WTO document GATS/SC/123, 28 August 1997; and WTO document WT/TPR/S/145, 15 February 2005, Table IV.3.

<sup>3</sup> UN ESCAP online information. Viewed at: <http://www.unescap.org/tid/apta.asp> [January 2014].

<sup>4</sup> Ministry of Foreign Affairs of Japan online information. Viewed at: [http://www.mofa.go.jp/press/release/press4e\\_000137.html](http://www.mofa.go.jp/press/release/press4e_000137.html) [January 2014].

Agreement	Date	Description
Agreement on Economic Cooperation between Mongolia and Hungary	2005	

Source: The Mongolian authorities.

## 2.5 Investment Regime

2.20. The Foreign Investment Law of 1993, and the Regulation of Foreign Investment in Business Entities Operating in Sectors of Strategic Importance Law of 2012 were replaced by the Investment Law of 2013 with effect from 1 November 2013. This law applies to both domestic and foreign-invested entities, where a foreign-invested entity is defined as a business entity incorporated in Mongolia in which foreign investors hold at least 25% equity and the foreign investors' capital contribution is at least US\$100,000.<sup>5</sup>

2.21. Under the new law, no approval is required for private investment, and registration has been simplified to a single registration with the Legal Entities Registration Office. Where a foreign-government-owned legal entity holds 33% or more of the shares in the Mongolian company doing the investing, permission is required from the Ministry of Economic Development in order to invest in mining, banking and finance, or media and communications. A foreign-government-owned legal entity is defined as a legal entity with at least 50% of its shares owned directly or indirectly by the government of a foreign country.

2.22. The Invest Mongolia Agency, under the Ministry of Economic Development, is responsible for promoting and regulating investment in Mongolia, including issuing tax stabilization certificates. These certificates fix the maximum corporation tax, VAT, mining duties, and import duties at the level applicable at the time the certificate was granted. Investments over thresholds set out in the Law (Table 2.5) are eligible for stabilization certificates, except for those relating to the production, import or sale of tobacco products or alcoholic beverages. The qualifying thresholds for a certificate depend on the sector, the value of the investment and the region of the country. A qualifying investment must also create employment and introduce new technology, and must have completed an environmental impact assessment if required by law.

**Table 2.5 Law on Investment - Tax stabilization certificates**

Mining extraction, heavy industry, and infrastructure							
Investment Tog billion	Validity of certificate in years					Investment period Years	
	Ulaanbaatar	Central	Khangai	Eastern	Western		
30-100	5	6	6	7	8		2
100-300	8	9	9	10	11		3
300-500	10	11	11	12	13		4
500 plus	15	16	16	17	18		5
Other sectors							
	Investment in MNT billion					Validity Years	Investment period Years
	Ulaanbaatar	Central	Khangai	Eastern	Western		
	10-30	5-15	4-12	3-10	2-8	5	2
	30-100	15-50	12-40	10-30	8-25	8	3
	100-200	50-100	40-80	30-60	25-50	10	4
	200 plus	100 plus	80 plus	60 plus	50 plus	15	5

Source: Law on Investment, Article 16.

2.23. The validity of the licence may be extended by 50% for projects over Tog 500 billion investment that result in the production of import substitutes and export-oriented products, are significant for long-term development, and that require more than three years construction.

2.24. Investments that took place during the five years preceding the entry into force of the Investment Law on 1 November 2013 may also qualify for tax stabilization certificates unless already covered by existing project-specific investment or stability agreements.

<sup>5</sup> The Investment on Law and several other laws related to business and investment are available in English from the Invest Mongolia Agency's website. Viewed at: <http://investmongolia.com/fiftanew/index.php?id=21&lang=Eng> [November 2013].

2.25. Mongolia has concluded 43 bilateral investment treaties (Table 2.6).

**Table 2.6 Bilateral investment treaties**

Partner	Date	Entry into Force
Austria	22/05/2001	01/05/2002
Belarus	28/05/2001	27/01/2002
Belgium-Luxembourg	06/03/1992	15/03/2000
Bulgaria	06/06/2000	..
China	26/08/1991	11/01/1993
Croatia	08/08/2006	..
Cuba	26/03/1999	18/10/2000
Czech Republic	13/02/1998	05/07/1999
Denmark	13/03/1995	11/08/1995
Egypt	27/04/2004	25/01/2005
Finland	15/05/2007	19/06/2008
France	08/11/1991	22/12/1993
Germany	26/06/1991	23/06/1996
Hungary	13/09/1994	29/08/1995
India	03/01/2001	29/04/2002
Indonesia	04/03/1997	30/10/1998
Israel	25/11/2003	02/09/2004
Italy	15/01/1993	11/08/1995
Japan	15/02/2001	24/03/2002
Kazakhstan	12/02/1994	22/03/1995
Korea, DPR	10/11/2003	..
Korea, Republic of	28/03/1991	30/04/1991
Kuwait	15/03/1998	01/05/2000
Kyrgyzstan	04/12/1999	..
Lao, PDR	03/03/1994	29/12/1994
Lithuania	27/06/2003	03/05/2004
Malaysia	27/07/1995	14/01/1996
Netherlands	09/03/1995	20/01/1996
Philippines	01/09/2000	01/11/2001
Poland	08/11/1995	05/02/1996
Qatar	29/11/2007	..
Romania	06/11/1995	15/08/1996
Russian Federation	29/11/1995	06/02/2006
Singapore	24/07/1995	14/12/1995
Sweden	20/10/2003	19/03/2004
Switzerland	29/01/1997	09/09/1999
Tajikistan	20/03/2009	16/09/2009
Turkey	16/03/1998	25/02/2000
Ukraine	05/11/1992	05/11/1992
United Arab Emirates	21/02/2001	..
United Kingdom	04/10/1991	04/10/1991
United States	06/10/1994	01/04/1997
Viet Nam	17/04/2000	13/12/2001

.. Not available.

Source: The Mongolian authorities.

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures and requirements

3.1. Since its previous review, Mongolia has, *inter alia*, revised relevant legislation, introduced the customs automated information system (CAIS), and adopted an online payment system for customs duties. Against the background of these changes, the time required for customs clearance has been reduced to 23 minutes (3 hours 6 minutes before adoption of the CAIS), and administrative offences were reduced by 3%.<sup>1</sup>

3.2. Mongolia is party to the Convention on the Harmonized System, Customs Convention on the International Transport of Goods under Cover of TIR (transports internationaux routiers) Carnets, the Istanbul convention on Temporary Admission, and the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures. The authorities consider that Mongolia has aligned national customs legislation and procedures with the global standard and taken measures to limit tariff restrictions and non-tariff barriers according to its international commitments.

3.3. The main legislation governing importation into Mongolia is the Customs Law and the Law on Customs Tariffs and Duties (Customs Tariff Law). The Customs Law defines the organizational structure and legal basis of Customs, under the Customs Central Body, as well as the procedures of customs clearance and enforcement of the customs legislation. The Customs Tariff Law regulates matters regarding determination of the customs tariff, customs valuation, classification, and rules of origin, as well as levying, collection, and payment of customs duties. The two laws and their implementing regulations were last revised in 2008 to apply a risk-management system, which enabled, *inter alia*, accepting electronic copies of documents, adopting "preliminary customs declaration", allowing one customs declaration set for several shipments or numerous items shipped together. The revision also aimed to facilitate cooperation with customs authorities in Mongolia's trading partners through mutual recognition of documents and joint customs controls.<sup>2</sup>

3.4. Under the Customs Law, the Customs General Administration is authorized to set up regulations related to customs clearance procedures in compliance with the law.<sup>3</sup> Order No.638 (2010) of the Head of the Customs General Administration contains the main implementing regulations regarding customs clearance. According to the authorities, Customs has eliminated around 60 regulations with a view to reducing unnecessary documents and red tape.

3.5. According to Chapter 2 of the Customs Law, any person has a right to convey goods or means of transport across the customs frontier freely in accordance with conditions and rules stated in Mongolian laws and international treaties to which Mongolia is party.

3.6. The principal document for customs clearance is the customs declaration form (CDF). Where necessary, Customs may require an importer to produce other documents for the purpose of customs clearance. These include: a foreign trade contract, transport document, and permits, licences, certificates, and/or other documents required for goods subject to non-tariff restrictions. Documents for customs clearance must be provided in the Mongolian language; Customs may accept a translated copy of these documents. According to Article 27 of the Customs Law, a service fee for customs clearance, as approved by the Customs General Administration, must be paid by a declarant. Customs clearance documents must be submitted to Customs at the customs frontier. If Customs agrees with the submitted customs value, the importer must pay the import duties, VAT, and any excise tax before Customs authorizes importation of the declared goods.

3.7. Prior declaration of customs documents is allowed if a shipment contains a variety of goods, requires rapid processing during particular seasons (e.g. during the harvest season and New Year), or requires special storage facilities. Simplified procedures for customs declaration, requiring fewer

<sup>1</sup> ADB online information "Aid-for-Trade: Case story". Viewed at: <http://www.oecd.org/aidfortrade/48292480.pdf> [16.12.2013].

<sup>2</sup> The authorities state that the revised laws covered more than 350 standards of the Kyoto Convention on the Simplification and Harmonization of Customs Procedures.

<sup>3</sup> Article 24.3, Customs Law.

documents, are also available where goods enter or leave customs bonded zones or customs special zones directly from or for abroad. Accelerated procedures are applicable for certain hazardous goods, blood and blood products, and donors' organs to be used for treatment purposes; customs clearance is on the basis of *ex-post* completion of customs declaration forms. Businesses and individuals permitted for accelerated procedures are allowed to pay customs duties and other taxes prior to the clearance. Examination must be completed within eight working hours for dangerous goods requiring special treatment (e.g. uranium and highly toxic chemical substances) or animals.

3.8. The CAIS, which replaced the national automated system for customs information management (GAMAS), is used for controlling goods crossing the border, Customs declarations, lodging customs-related documents, physical examination, and release of goods. The CAIS has allowed Customs to accept, process, and issue import and export clearances through 100% online submission. An online payment system for customs duties is also available.

3.9. Reflecting the recent increase of foreign trade turnover, the authorities aim to make more use of post-clearance audit rather than border control, based on the risk-management system set out in the 2008 amendment to the Customs Law. They intend to adhere to international conventions to which Mongolia is party, and share the best practices of customs control that have proven to be efficient and effective in many other administrations.<sup>4</sup> To achieve this objective, Customs has, *inter alia*: developed software for the risk-management system; been training risk managers and operational staff; and decreased the number of physical inspection and documentary checks by about 10% since 2007. Unpaid duties are to be recovered as a result of post-clearance audit; the authorities consider that this practice will have a positive impact on Mongolia's economic development and prosperity. The authorities state that, in order to eliminate unnecessary delays in the release of goods, Customs will release goods upon declaration with no proof of value.

3.10. The Customs Law contains provisions on temporary admission into Mongolia's customs territories and on re-exports.<sup>5</sup> Provisions also exist for the operation of customs bonded zones, warehouses, manufacturing areas, exhibition areas, and construction areas, and for duty-free shops.<sup>6</sup>

3.11. With a view to combatting smuggling, Customs uses dogs trained to detect prohibited and restricted goods as well as narcotics. Of the 310 smuggling cases recently detected by dogs, 79.3% related to fur skins and 20.7% to cashmere.

3.12. Customs decisions may be appealed within 30 days of the decision<sup>7</sup>, to a director or head of the Customs concerned. Appeals of decisions by the director or head of Customs may be made to a higher-level of authority of the relevant Customs. Whose decisions may be appealed in court. Data provided by the authorities indicate that the number of customs offence increased to 4,030 in 2008 but fell to 2,429 cases in 2012.

3.13. Mongolia does not use pre-shipment inspection procedures.

### 3.1.2 Customs valuation

3.14. Customs valuation for imported goods is administered in accordance with the Customs Tariff Law; the c.i.f. price of imports is used as the basis for customs valuation. The primary basis for determination is the transaction value. If Customs suspects that the declared value is not correct, and if the importer cannot justify the declared import value, Customs may apply the "deductive method", the "computed method", or the "fall-back method". The authorities indicate that the transaction value applies to more than 70% of the total transaction value of imports. According to the authorities, based on the revised Customs Law, Mongolia has revised the methods of determining the customs value of imported goods.

<sup>4</sup> The authorities intend to keep the balance between customs control and trade facilitation to support national security, legitimate trade, and Customs Law compliance.

<sup>5</sup> Articles 96-110, 135-139, Customs Law.

<sup>6</sup> Chapter Ten, Customs Law.

<sup>7</sup> Article 17.2, Customs Law.

### 3.1.3 Rules of origin

3.15. Mongolia uses non-preferential rules of origin for imported goods for the purpose of, *inter alia*, applying its MFN tariffs on imports.<sup>8</sup>

### 3.1.4 Tariffs

#### 3.1.4.1 Overview

3.16. The Customs Tariff Law of Mongolia is the main legislation regulating matters relating to the customs tariff, the adoption/modification of duty rates, customs valuation, and collection of customs duties.<sup>9</sup> Tariff rates must, in principle, be approved by Parliament. The Customs Tariff Council, which is established on an *ad hoc* basis, makes proposals to the Government on the development of the tariff system, including the adoption/modification of customs duty rates and the imposition of additional duties, such as anti-dumping and countervailing duties. Customs tariffs accounted for about 22.5% of Mongolia's total tax revenue in 2012.

#### 3.1.4.2 Tariff structure

3.17. Mongolia has adopted the 2012 nomenclature of the Harmonized Commodity Description and Coding System (HS) in 2012. The 2013 tariff schedule consist of 5,722 lines at the HS 8-digit level: the first six digits refer to the common coding of the HS; the last two digits are sub-divisions at the national level.

3.18. According to the Customs Tariff Law, Mongolia's customs tariff consists of general rates and most-favoured-nation (MFN) bound and applied rates. Under the Law, MFN applied rates apply to goods from Mongolia's trading partners that offer MFN status to Mongolia (WTO Members, Kazakhstan, and Belarus); goods originating in other countries are dutiable according to the general rates, which are double the MFN applied rates. According to the Customs Tariff Law, customs duty rates may be *ad valorem*, specific and/or a combination of the two.

3.19. According to the authorities, while the relevant clause was eliminated from the revised Customs Tariff Law in 2008, in practice, the Government may, at its discretion, reduce or increase an applied tariff rate by up to 50% of the rate under Mongolia's tariff schedule, upon the recommendation of the Customs Tariff Council.

#### 3.1.4.3 Bound rates

3.20. Mongolia bound all its tariffs upon accession to the WTO, at 20% for most tariff lines.<sup>10</sup> The average bound MFN rate is 17.7% (compared with an average applied MFN rate of 5.0%) (Table 3.1); the highest bound rate is 75%. In theory, this gives Mongolia considerable latitude to raise its tariffs within existing bindings.

**Table 3.1 Mongolia's tariff structure, 2004, 2011, and 2013**

(%, unless otherwise indicated)

	MFN applied			Final bound <sup>a</sup>
	2004	2011	2013	
Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0	100.0
Simple average rate	5.0	5.0	5.0	17.7
WTO agricultural products	5.1	5.1	5.2	18.6
WTO non-agricultural products	5.0	5.0	5.0	17.5
Duty-free tariff lines (% of all tariff lines)	0.9	0.9	0.8	1.5
Simple average rate of dutiable lines only	5.0	5.0	5.0	18.0
Tariff rate quotas (% of all tariff lines)	0.0	0.0	0.0	0.0
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.0	0.0	0.0	0.0
Domestic tariff "peaks" (% of all tariff lines) <sup>b</sup>	0.0	0.2	0.2	0.0
International tariff "peaks" (% of all tariff lines) <sup>c</sup>	0.0	0.0	0.0	78.1
Overall standard deviation of tariff rates	0.5	0.7	0.7	6.3

<sup>8</sup> Article 26, Customs Tariff Law.

<sup>9</sup> The current law, as amended, entered into force on 1 July 2008.

<sup>10</sup> WTO (2005), Trade Policy Review – Mongolia 2005, June.

	MFN applied			Final bound <sup>a</sup>
	2004	2011	2013	
Coefficient of variation of tariff rates	0.1	0.1	0.1	0.4
Nuisance tariffs (% of all tariff lines) <sup>d</sup>	0.0	0.0	0.0	0.0
Total number of tariff lines	5,513	5,430	5,722	5,722
<i>Ad valorem</i> rates	5,461	5,380	5,671	5,634
(5%)	5,447	5,364	5,652	14
Duty-free	49	47	48	88
Prohibited	3	3	3	0

a Final bound rates are based on the 2013 tariff schedule in HS12 nomenclature.

b Domestic tariff peaks are defined as those exceeding three times the overall average applied rate.

c International tariff peaks are defined as those exceeding 15%. Only one tariff line exceeds 15%.

d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: 2004, 2011, and 2013 tariffs are based, respectively, on HS02, HS07 and HS12 nomenclature. Calculations for averages are based on national tariff line level (8-digit), excluding three lines due to prohibition (HS22071000, 22072000 and 22089010).

Source: WTO Secretariat calculations, based on data provided by the authorities of Mongolia.

#### 3.1.4.4 Applied MFN rates

3.21. Mongolia applies an *ad valorem* MFN tariff rate of 5% to most imported goods. The authorities' objectives of applying a uniform tariff rate are to simplify customs processes, provide incentives for the efficient production of goods, refrain from protection for individual domestic industries, and to have low-priced import products available in the domestic market. Mongolia's current (2013) average applied MFN tariff rate is 5.0%, unchanged since 2004.

3.22. The range of applied tariff rates was zero to 25% in 2013. In the same year, duty-free tariff lines accounted for 0.8% of all tariff lines (0.9% in 2004); these covered, *inter alia*, live animals for breeding (horses, cows, pigs, sheep, goats), automatic data processing machines and their parts, electronic integrated circuits, diodes, transistors and other semiconductor devices, and various medical equipment. A tariff rate of 5% applies to 98.8% of all tariff lines. There are two other applied MFN duty rates, 15%, which applies to flour as a seasonal tariff<sup>11</sup> and to some vegetables (non-seasonal tariff), and 25% to beer.

3.23. For 60 tariff lines, the applied MFN rate (5%) exceeds the corresponding bound rate (0%).<sup>12</sup>

3.24. Tariff exemptions apply to some imports to be used by small and medium-sized enterprises (SMEs), as provided for in Government Resolution No.100 (2011).

#### 3.1.4.5 Tariff escalation, tariff ranges, and tariff peaks

3.25. There is effectively no tariff escalation and no evident tariff peaks, because of an almost uniform applied MFN rate of 5%.

#### 3.1.4.6 Tariff-rate quotas

3.26. Mongolia does not use tariff-rate quotas.

#### 3.1.5 Import prohibitions, restrictions, and licensing

3.27. Mongolia does not apply any import quotas.

3.28. According to the Customs Law, prohibition or restriction of imports requires the authorization of Parliament. There has been no change in the list of prohibited goods since 2005 (Table 3.2).

<sup>11</sup> The duty is imposed from 1 August to 1 April, i.e. after the harvesting period of the products concerned. Outside this period, the applied duty rate is 5%.

<sup>12</sup> These are 18 tariff lines under HS29, and 42 tariff lines under HS30.

**Table 3.2 Goods prohibited from exportation/importation**

Goods under 4-digit HS code	Goods under 6-digit HS code	Commodity description	Export/import
12.11	1211.90.00	Plants and parts (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy, or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered	Export and import
13.01	1301.90.00	Lac. Natural viscous gums, resins, gum-resins and greasy- gums (balsams)	Export and import
29.22	2922.19.00 2922.30.00 2922.39.00 2922.49.00 2922.50.00	Amino-compounds with oxygen-function	Export and import
29.24	2924.10.00 2924.29.00	Carboxamide-function compounds amide-function compounds of carbonic acid	Export and import
29.26	2926.90.00	Nitrile function compounds	Export and import
29.33	2933.39.00 2933.40.00 2933.90.00	Heterocyclic compounds with nitrogen hetero-atom(s) only	Export and import
29.34	2934.90.00	Nucleic acids and thereof salts, heterocyclic compounds:	Export and import
29.39	2939.10.00 2939.90.00	Vegetable alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives	Export and import
		All of kind spirits	Import
22.07		Un-denatured ethyl alcohol of an alcoholic strength by volume of 80% or higher: ethyl alcohol and other spirits, denatured, of any strength	Import
		Chemicals, the production of which is prohibited by an International Convention on the Prohibition of Production, Storage and Utilization of Chemical Weapons and their Proliferation	Export and import
		Poisonous chemicals, the use of which is prohibited in Mongolia /16 types of chemicals listed in the annex to the Order by the Minister of Environment No. 75 of 1997	Import
		Poisonous chemicals used in the production of weapons, wastes thereof	Export and import
		Radioactive chemicals, wastes thereof, originating from nuclear weapons	Import
		Parts and compounds of nuclear weapons prepared for nuclear weapon purposes	Import
		Dangerous wastes	Import
		Human blood, blood fractions and organs, not proven to be non-infected with AIDS	Import
		Donor blood and organs for medical preventive purposes that are required to be under strict control	Import
30.01	3001.10 3001.20 3001.90	Glands and other organs for organ-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organ-therapeutic uses; heparin and its salts; other human or prophylactic uses, not elsewhere specified or included	Import
30.02	3002.10 3002.20 3002.90	Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of microorganisms (excluding yeasts) and similar products	Import
		High-yielding animals, their semen	Export and import
01.01		Live horses, asses, mules and hinnies	Export and import
		Horses	Export and import
01.02		Live bovine animals	Export and import
01.04		Live sheep and goats	Export and import
01.06		Other live animals	Export and import
		Camel	Export and import
05.11	0511.10 0511.99	Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption.	Export and import
		Printed magazines, books, movies, videos, pictures, etc. that propagate pornography	Export and import
08.02	0802.90	Cedar nuts	Export

Source: Government Resolution No. 54 of 2001, Government of Mongolia.

3.29. Since 2005, there has been no change in the list of imports that are subject to non-automatic licensing requirements (Table 3.3). According to the authorities, the main purpose of

these requirements is to protect human, animal, and plant health while safeguarding national security.

**Table 3.3 Goods subject to import or export licence**

HS Code, national	Description	Export/import
	<b>I. Breeding animals</b>	Export
01011000	Pure-bred breeding horses	
01019000	Other breeding horses	
01021000	Pure-bred breeding live bovine animals	
01029000	Other breeding live bovine animals	
01031000	Pure-bred breeding live swine	
01041000	Sheep	
01042000	Goats	
01069010	Camels	
	Other live animals, raw materials originating therefrom, samples of animals for research purposes, semen of animals, cultures of micro-organisms	
	Very rare animals (26 types of animals listed in the Animals Law)	
	Rare animals (list to be determined by the Government)	
05079011	Antlers, filled with blood, of deer	
05079021	Horns, of deer	
05079029	Horns, of wild sheep and of wild goats	
05100011	Musk	
05100012	Penis, of deer	
05111000	Bovine semen	
05119910	Animal semen (other than bovine semen)	
05119990	Semen, of other animals other than breeding animals	
26121000	Uranium ores and concentrates	
	<b>II. Poisonous chemicals</b> (96 types of chemicals indicated in joint order No. 83/A/160 of 1998 by the Ministers of Environment, Health and Social Welfare)	Export and import
	<b>III. Human blood and organs for therapeutic and prophylactic purposes that require necessary control</b>	Export and import
30011000	Glands and other organs, dried, whether or not powdered	
30012000	Extracts of glands or other organs or of their secretion	
30021000	Antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes	
30023000	Vaccines for veterinary medicine	
30029000	Other: human blood, cultures of micro-organisms	
	<b>IV. Explosives</b>	Export and import
36010000	Propellant powders	
36020000	Prepared explosives, other than propellant powders	
36030000	Safety fuses, detonating fuses, percussion or detonating caps, igniters, electric detonators	
3604	Fireworks, signalling flares, rain rockets, fog signals and other pyrotechnic articles	
	<b>V. Guns, equipment and tools for military use and their spare parts</b>	Export and import
93.01	Military weapons, other than revolvers, pistols and arms of heading 93.07	
93.02	Revolvers and pistols, other than those of heading 93.03 or 93.04	
93.03	Other firearms and similar devices which operate by the firing of an explosive charge (for example, sporting shotguns and rifles, muzzle-loading firearms, Very pistols and other devices designed to project only signal flares, pistols and revolvers for firing blank ammunition, captive-bolt humane killers, line-throwing guns)	
93.04	Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of heading 93.07	
93.05	Parts and accessories of articles of heading 93.01 to 93.04	

HS Code, national	Description	Export/import
93.06	Bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof; cartridges and other ammunition and projectiles and parts thereof, including shot and cartridge wads	
	<b>VI. Works of art, collectors' pieces and antiques</b>	
97.05	Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological, ethnographic or numismatic interest	Export

Source: Government Resolution No. 219 of 2002, Government of Mongolia.

3.30. Ministries in charge of issuing import and export licences for restricted goods include the Ministries of Environment, Education, Culture and Science, Industry and Trade (MIT), Food and Agriculture, and Health. They are required to provide information on licensing to MIT every quarter, and to provide the official name, position, and signature of the licence holder to the Customs General Administration. A licence-issuing ministry must respond to a licence request within 21 working days. If necessary, the period may be extended for a further 14 days in order to conduct a detailed analysis of the request. Licences are valid for one year and may be extended for a year, when necessary to fulfil contract.

### 3.1.6 Anti-Dumping, countervailing, and safeguard measures

3.31. Mongolia has not established an authority to initiate and conduct anti-dumping investigations. It has not taken any anti-dumping actions.<sup>13</sup>

3.32. Mongolia has not imposed countervailing measures.

3.33. There are no provisions in Mongolia's current legislation covering safeguard measures. It has not applied any safeguard measures since 2005.

### 3.1.7 Standards and other technical requirements

3.34. Since its previous Review in 2005, Mongolia has filed notifications to the WTO concerning, *inter alia*: technical regulation on imported alcohol products<sup>14</sup>, the Law on Standardization and Conformity Assessment<sup>15</sup>, a government decree on measures for enhancing standardization and conformity assessment<sup>16</sup>, labelling requirement on certain imported pre-packaged goods<sup>17</sup>, labelling requirement on imported measuring instruments<sup>18</sup>, cooperation agreement between the Mongolian National Centre For Standardization and Metrology and the Committee of Ukraine for Standardization, Metrology and Certification<sup>19</sup>, and technical regulation on leather manufacturing and trade.<sup>20</sup>

3.35. The main standardization and metrology laws in Mongolia are the Law on Standardization and Conformity Assessment (2003) and the Law on Traceability of Measurement Uniformity, as amended in 2003.

3.36. The Mongolian Agency for Standardization and Metrology (MASM) is the government-regulatory agency responsible for coordinating and managing metrology, standardization, and testing; it is also responsible for developing national standards and providing conformity marks to domestic and foreign products. The MASM acts as a WTO enquiry point and coordinates the implementation of the WTO Agreement on Technical Barriers to Trade; it is also a member of the International Organization for Standardization (ISO), the FAO/WHO Codex Alimentarius Commission (Codex), and the IEC Affiliate Country Programme.

<sup>13</sup> WTO document G/ADP/N/193/MNG, 10 May 2010.

<sup>14</sup> WTO document G/TBT/N/MNG/1, 15 December 2005.

<sup>15</sup> WTO document G/TBT/N/MNG/2, 21 December 2007.

<sup>16</sup> WTO document G/TBT/N/MNG/3, 21 December 2007.

<sup>17</sup> WTO document G/TBT/N/MNG/4, 26 January 2009.

<sup>18</sup> WTO document G/TBT/N/MNG/5, 7 April 2010.

<sup>19</sup> WTO document G/TBT/10.7/N/54, 9 January 2008.

<sup>20</sup> WTO document G/TBT/N/MNG/6, 27 March 2013.

3.37. Mongolian standards are developed by the decision of the National Council of Standardization, whose members include representatives of industries, consumers, government bodies, and testing establishments. One of the main objectives of Mongolia's standardization policy is to increase the number of national standards that are identical to international standards. Currently, 42% of Mongolia's 6,067 standards are identical to international standards. About 40% of the Mongolian standards are quoted as mandatory technical regulations. There are also 662 food standards, of which 41.2% are identical to international standards, and 350 agricultural standards, of which 14.6% are identical to international standards.

3.38. The MASM has granted national conformity marks to 168 products (domestic and foreign); conformity marks issued by selected foreign certification bodies are accepted as equivalent to Mongolia's national conformity marks.

3.39. Mongolia has government-level cooperation agreements on standardization and certification with China the cooperation agreement on the quality certification and mutual recognition of import and export commodities between the Government of Mongolia and the Government of the People's Republic of China, signed in 1994; and with Russia the cooperation agreement on the quality of import and export commodities between the Trade Ministry of Mongolia and the Federal Agency of standardization, metrology and quality certification of the Russian Federation, signed in 1996. In 2011, the MASM concluded a partnership agreement with the European Committee for Standardization (CEN).

### **3.1.8 Sanitary and phytosanitary requirements**

3.40. The main laws on Mongolia's SPS requirements include the Law on Quarantine and Inspection for Transferring of Animals, Plants, Raw Materials and Products of their Origin through the State Border. Mongolia has not submitted any SPS notifications to the WTO.

### **3.1.9 Other measures**

3.41. According to the authorities, there are no legal provisions covering countertrade or import/export cartels; and the Government and state-owned enterprises do not engage in them. The authorities are not aware of the existence of any import/export cartels in the private sector.

## **3.2 Measures Directly Affecting Exports**

### **3.2.1 Export procedures and requirements**

3.42. Economic entities with the State Registry Office and registered for tax for the purposes of customs clearance for exports must be registered. Customs clearance procedures and documentation requirements for exports are regulated by the Customs Law. The principal document for customs clearance is the Customs Declaration Form (CDF) (section 3.1.1); Customs may require the exporter to produce additional documents, such as an invoice, a packing list, and a certificate of origin. The customs value of exported goods is their value at the Mongolian border.

3.43. As in the case of imports, the customs automated information system (CAIS) offers electronic clearance and allows exchange of information domestically and with Mongolia's trading partners through the national single window. The authorities state that the automated system has eliminated unnecessary obstacles to exporters, minimized face-to-face contact with customs officers, and introduced internet-based export declaration for greater facilitation of trade.

3.44. Against the background of an increase in exports of mineral stock, in 2007 the Customs Central Laboratory started to analyse minerals, iron ores, and concentrates to determine an accurate customs value of the mining exports, and to assess relevant taxes.<sup>21</sup> According to the authorities, this practice plays an important role in increasing state revenue collection. The laboratory aims to conduct analysis and testing when professional skills for the verification of

<sup>21</sup> The Customs Central Laboratory is accredited by the National Agency for Standardization and Metrology as an entrusted laboratory for testing: narcotics and psychotropic substances; chemical substances; alcohol beverages; tobacco and tobacco products; petroleum products, gasoline, and diesel oils; wool, cashmere, and animal fibres; minerals; and textiles and yarn.

goods classification and the identification of narcotics and psychotropic substances are needed for the customs control of documents, goods or means of transport, or for disputes in accordance with customs legislation. The authorities consider that the laboratory's expanded activities decreased release time and delay of goods at border crossing points.

3.45. The Mongolian National Chamber of Commerce and Industry (MNCCI) issues certificates of origin for exporters. Rules associated with the issuance of certificates of origin are stipulated in the Regulation for Determining the Origin of Exporting Products Originated from Mongolia and Issuing and Verifying the Certificate of Origin, adopted on 1 March 2006. To request a certificate of origin, an exporter must submit to the MNCCI copies of the contract, invoice, and packing list together with an application form; the MNCCI normally issues certificates of origin within 1-2 business hours, provided the required documents have been submitted. The MNCCI may conduct an inspection of the goods to be exported at the factory if it is deemed necessary.

### 3.2.2 Export taxes, charges, and levies

3.46. Mongolia applies export taxes on several goods (Table 3.4). The main legislation governing export taxes is the Law of Mongolia Determining the Amount of Export Customs Duty to be Imposed on Certain Commodities (1996). Mongolia eliminated export duty on raw cashmere in 2009.

**Table 3.4 Export taxes for certain commodities, as of January 2014**

No.	Product/Commodity	HS Code	Tax
1	Unprocessed camel wool (female)	5102.19.41, 5102.19.42	Tog 200/kg.
2	Unprocessed camel wool (male)	5102.19.43, 5102.19.44	Tog 100/kg.
3	Woods in logs, in billets and wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	4401, 4403	Tog 150,000/m <sup>3</sup>
4	Timber/balk	4403, 4406	Tog 150,000/m <sup>3</sup>
5	Wood sawn or chipped lengthwise, sliced or peeled and wood continuously shaped along any of its edges, ends or faces	4407, 4409	Tog 150,000/m <sup>3</sup>

Source: Information provided by the Mongolian authorities.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.47. Exports of drugs and narcotics (and raw materials and equipment that can produce them) and certain dangerous and poisonous chemicals are prohibited (Table 3.2). Since Mongolia's previous review in 2005, cedar nuts have been added to the list of goods subject to export prohibition in accordance with the Law on Environment and Plants, and certain works of art, collectors' pieces, and antiques have been added to the list of goods subject to export licence.<sup>22</sup>

3.48. Mongolia does not apply any UN-related economic sanctions.

3.49. Some items, including breeding animals, guns, explosives, and certain drugs are subject to export licensing requirements (Table 3.3). Mongolia has no voluntary export restraint agreements with other countries. Mongolia uses no price regulations with respect to its exports.

### 3.2.4 Export support and promotion

#### 3.2.4.1 Tax concessions and subsidies for exporters

3.50. Mongolia does not provide direct subsidies for any exported goods, including agricultural products. Exports are exempt from excise duties and VAT.

<sup>22</sup> Export licence holders may export art works and antiques for the purpose of exhibition abroad if they are returned to Mongolia within two years of the exhibition.

3.51. In 2007, Mongolia eliminated income tax holidays for business entities with foreign investment that exported more than 50% of production (in the first three years) and 50% tax relief (in the following three years). Under the 2013 Investment Law, foreign and domestic investors are accorded equal treatment.

#### **3.2.4.2 Free zones**

3.52. The concept of free zones was adopted in the Law of Mongolia on Free Zones, approved by Parliament in June 2002. As a part of the Millennium Development Goals-based Comprehensive National Development Strategy, adopted by the Parliament in February 2008, the Government aims to establish and operate free economic zones and other zones to promote introduction and localization of advanced technologies. Relevant laws include the Law on Free Zones, the Law on the Legal Status of Altanbulag Free Trade Zone, the Law on the Legal Status of Zamyn-Uud Free Economic Zone, the Law on the Legal Status of Tsagaannuur Free Trade Zone.

3.53. To date, the Government has designated four free zones (two free economic zones (Zamyn-Uud, Choir) and two free trade zones (Altanbulag, Tsagaannuur)).<sup>23</sup> Choir economic zone has not started operations.

3.54. The main objectives of establishing such zones are to intensify the production of export goods, to encourage foreign investment, to create employment, and to promote development of regions near the border with neighbouring countries. The free zones are to be formally part of Mongolia's customs territory, but separated from it by special check-points, and business and investment in the zones are to be subject to separate customs duty and tax treatment from other parts of Mongolia; the authorities are currently discussing how to implement these. In the zones, firms are to be accorded simplified entrance/exit procedures; and special preferential conditions, including tax and other concessions, are to be applied in free-trade zones.

#### **3.2.4.3 Export financing, promotion, and marketing assistance**

3.55. As the mining sector constitutes more than 90% of Mongolia's exports, the authorities consider it essential to diversify exports by developing export-oriented industries, so that the economy becomes less sensitive to fluctuations in world commodity prices. Thus, based on the Millennium Development Goals-based Comprehensive National Development Strategy, the Government intends, *inter alia*, to establish a better institutional climate to provide financing for exporters, and enable exporters to enter new markets through market research and marketing consultations, so that exports of knowledge-intensive products and services may be increased.

3.56. The Development Bank of Mongolia was established in 2011 in accordance with the Law of the Development Bank of Mongolia, and started providing, *inter alia*, export finance, including pre- and post-shipment financing, export factoring, export credit guarantees, and export credit insurance.

3.57. Institutions involved in market research and marketing consultations are mainly the Mongolian National Chamber of Commerce and Industry (MNCCI) and to a certain extent the Invest Mongolia Agency. The MNCCI has cooperation agreements with foreign chambers of commerce and its own network of representatives abroad to allow it to provide export-market information to its members.

### **3.3 Measures Affecting Production and Trade**

#### **3.3.1 Taxes and incentives**

3.58. Taxes are introduced, amended, and abolished by laws adopted by the Parliament. The General Taxation Law stipulates the general principles of the tax system and tax administration system, the rights and obligations of taxpayers, the powers and duties of tax officials, and the penalties and sanctions for violating the law.

<sup>23</sup> In accordance with Article 3 of the Law of Mongolia on Free Zone, free zones include: free trade zones, free industrial zones, free agricultural zones, free tourism zones, and free economic zones.

3.59. Currently, taxes in Mongolia consist of state taxes and local taxes. State taxes include corporate income tax, customs duty, value-added tax, excise tax, tax on auto fuel and diesel fuel, payment for use of mineral resources, tax on price increase of some commodities, and payment for special licence for mineral exploration and use. Local taxes include personal income tax, real estate tax, stamp duty tax, payment for the use of natural resources, tax on auto vehicles and some other vehicles, licence fee for the use of natural resources (except mineral resources), land payment, and gun tax.

3.60. The National Tax Administration system of Mongolia (MNTA) is responsible for tax administration. Its main functions include organizing and supervising the implementation of tax legislation, providing taxpayers with information and advice, conducting training and public awareness, and collecting tax revenue for the state and local government budgets. The General Department of National Taxation administers more than 20 kinds of taxes, while Customs administers customs duties.

### **3.3.1.1 Corporate income tax**

3.61. The corporate income tax rate is 10% (if annual taxable income is no more than Tog 3 billion), or Tog 300 million plus 25% of income (if annual taxable income exceeds Tog 3 billion). When a representative office of a foreign economic entity transfers its profit abroad, the transferred amount is taxed at the rate of 20%.

### **3.3.1.2 Value-added tax (VAT)**

3.62. The current VAT rate is 10% (15% until 1 January 2007). The VAT applies to both goods and services, as specified in Article 12 of the Value-added Tax Law 2006. The current VAT rate was introduced to encourage tax payment, support business entities, and increase revenues from more companies. Goods sold, jobs performed and services rendered in Mongolia, and goods imported for sale, use, or consumption in Mongolia are subject to VAT. VAT accounted for about 31% of the total tax revenue in 2012.

3.63. VAT is zero-rated for exports and for services of passenger and freight transport between Mongolia and neighbouring countries. VAT exemptions apply to, *inter alia*: newspapers; gaseous fuel; equipment, materials, and fuel imported for the purpose of oil exploration and extraction; and certain services, including financial services, education, health, and tourism.

3.64. The General Department of National Taxation and the Customs General Administration are responsible for the administration of VAT. Any citizen or legal person engaged in the importation of goods, sale or manufacture of goods, performance of work, or rendering of services in Mongolia, with a taxable turnover of at least Tog 10 million during the preceding year, must register for VAT purposes. The tax base is price determined by Customs in conformity with the Custom Tariff Law, plus customs duty, excise tax, and other taxes. The taxable amount is defined based on the current market value of goods sold, jobs performed, and services rendered; where the price is uncertain, the taxable amount is defined by the tax and customs administrations. Where the taxable amount is expressed in foreign currency, it is converted into togrogs using the Bank of Mongolia official exchange rate.

### **3.3.1.3 Excise tax**

3.65. In accordance with the Excise Tax Law 2006, excise taxes are levied on certain technical devices, items related to gambling, and individuals and legal entities that conduct certain activities (Table 3.5). They apply to goods produced in Mongolia and to imports; different rates may apply to domestic goods and imports. The taxes are calculated by quantity of the dutiable goods. Exports are exempt from excise taxes. Exemptions from excise tax apply to Mongolian milk alcohol distilled in households using simple means for personal consumption, snuff tobacco, duty-free alcohol and tobacco for passenger's personal use as authorized by the Customs authority, and hybrid automobiles are exempt from excise taxes. Excise tax accounted for about 7% of total tax revenue in 2012.

**Table 3.5 Excise taxes in Mongolia**

Goods subject to excise tax	Domestic goods		Imported goods
	<i>Ad valorem</i> rates	Specific rates (US\$)	Specific rates (US\$)
Spirits for food sold to distillery producers	-	1.0 per litre	-
Spirits for food sold to others	-	10.0 per litre	
All types of alcoholic beverages			
up to 25°	-	2.0 per litre	5.0 per litre
25°-40°	-	4.0 per litre	10.0 per litre
40° and above	-	9.0 per litre	12.0 per litre
Mongolian milk alcohol distilled using a production method	-	0.2 per litre	-
Wine (up to 35°)	-	0.5 per litre	1.5 per litre
Beer	-	0.2 per litre	0.2 per litre
Cigarettes and other similar tobacco	-	2.4 per 100 pieces	2.4 per 100 pieces
Pipe tobacco and other similar bulk tobacco	-	1.8 per kg	1.8 per kg
Gasoline			
Octane up to 90	-	0.0-11.0 per tonne	-
Octane over 90	-	0.0-12.0 per tonne	-
Gasoline			Imported at: Tsagaannuur, Yarant, Borshoo, Artssuuri, Tes, Burgastai, and Gashuun Sukhait
Octane up to 90	-	-	0-215.0 per tonne
Octane over 90	-	-	0.0-217.0 per tonne
Gasoline			Imported at: Khankh and Ulikhan Maikhan
Octane up to 90			0.0-223.0 per tonne
Octane over 90			0.0-229.0 per tonne
Gasoline			Imported at: Sukhbaatar, Zamyn-Ud, Ereentsav, and Altanbulag
Octane up to 90			0.0-252.0 per tonne
Octane over 90			0.0-259.0 per tonne
Diesel fuel	-	0-15.0 per tonne	-
Imported at: Tsagaannuur, Yarant, Borshoo, Artssuuri, Tes, Burgastai, and Gashuun Sukhait			0.0-221.0 per tonne
Imported at: Khankh and Ulikhan Maikhan			0.0-226.0 per tonne
Imported at: Sukhbaatar, Zamyn-Ud, Ereentsav, and Altanbulag			0.0-265.0 per tonne
Passenger vehicles (volume of engine cylinder (cm <sup>3</sup> ): 1,500 and below)			
0-3 years	-	-	500
4-6 years	-	-	1,000
7-9 years	-	-	2,000
10 years and over	-	-	6,000
1,501-2,500			
0-3 years	-	-	1,500
6 years	-	-	2,000
7-9 years	-	-	3,000
10 years and over	-	-	7,000

Goods subject to excise tax	Domestic goods		Imported goods
	<i>Ad valorem</i> rates	Specific rates (US\$)	Specific rates (US\$)
2,501-3,500			
0-3 years	-	-	2,000
6 years	-	-	2,500
7-9 years	-	-	4,000
10 years and over	-	-	8,000
3,501-4,500			
0-3 years	-	-	4,500
6 years	-	-	5,000
7-9 years	-	-	6,500
10 years and over	-	-	10,500
4,501 and over			
0-3 years	-	-	7,000
6 years	-	-	7,500
7-9 years	-	-	9,000
10 years and over	-	-	13,000
Gaming table or roulette	-	80,000 per physical unit per month	80,000 per physical unit per month
Slot machine	-	3,000 per physical unit per month	3,000 per physical unit per month
Cashier or totalizer that provides results of gambling	-	80,000 per physical unit per month	80,000 per physical unit per month
Bookmaker centre for estimating the bets	-	80,000 per physical unit per month	80,000 per physical unit per month
Activities of individuals and legal entities that conduct quizzes and gambling activities using an electronic network, internet, or cellular telephone network	-	25,000 per month	-

Source: Excise Tax Law of Mongolia.

### 3.3.2 Competition policy and price controls

3.66. The main legislation concerning Mongolia's competition policy includes the Law on Prohibiting Unfair Competition 1993 (Competition Law); the latest amended took place in 2010. The amendment provided, *inter alia*, further powers to the Authority for Fair Competition and Consumer Protection (AFCCP), which is responsible for enforcement of the legislation as well as for the prohibition, restriction, and curbing of activities harmful for competition; the inspection of and issue of conclusions on activities of entities conducting business activities; and determining dominant business entities. According to the law, the AFCCP is an independent agency headed by the Deputy Prime Minister; it has 42 staff.<sup>24</sup> The amendment also increased the amount of penalties.

3.67. Market dominance is defined as a situation where a single business entity or a group of business entities acting together has more than one third of market share of product.<sup>25</sup> A business entity in a dominant position is prohibited from engaging in "monopolizing activities", which include halting or restricting production or sale of goods in order to create an artificial shortage or to raise prices; using its dominant position to impose additional conditions for resale; selling goods and products at lower-than-cost prices in order to prevent other business entities from entering that market or to drive them out of the market (on the other hand, if a dominant entity sells a

<sup>24</sup> The AFCCP is also responsible for implementing the Consumer Protection Law, the Advertisement Law, some provisions of the Law on Procurement of Goods, Works, and Services with State and Local Funds, and some provisions of the Law on Presidential Election.

<sup>25</sup> Article 5.2, Competition Law.

particular good at the "lowest minimum social cost", it is not deemed to be abusing its dominant position); insisting on buyers not buying goods from their competitors as a condition for sale of its goods; demanding that competitors restructure or liquidate their companies through division and separation; insisting on including in a contract conditions that are not relevant to the subject of the contract or disadvantageous to the contracting party (such behaviour is called a monopoly).<sup>26</sup>

3.68. Dominant business entities must submit an application to the AFCCP if they intend to restructure through mergers and acquisitions involving purchase of 20% of common shares or 15% of preferred shares of a competing company in the related market.<sup>27</sup> The AFCCP must review the application and issue a conclusion within 30-60 days. If the AFCCP considers that competition may be restricted, it may refuse the application.<sup>28</sup>

3.69. Establishment of contracts and agreements aimed at restricting of competition is prohibited (Article 11), for example price fixing, market allocation by territory, restricting the sale to or purchase of goods by third parties. Bid-rigging when participating in government procurement is also prohibited.

3.70. Under the Law, penalties are up to 10% of turnover in case of cartels, or up to 6% of previous year's turnover in case of dominant companies' abuse of their dominant position. Business entities voluntarily disclosing the breach of the Competition Law may be exempted from administrative penalties. To date, the maximum amount of penalty actually imposed was Tog 17 billion (on 8 companies for making cartels).

### 3.3.3 State trading, state-owned enterprises, and privatization

3.71. Mongolia does not maintain any state-trading enterprises.<sup>29</sup>

3.72. The Government has continued its programme to reduce its involvement in various sectors of the economy; it plans to reduce the number of state-owned enterprises (SOEs) by one third.<sup>30</sup> The authorities state that the private sector's share in GDP is around 80% in 2013.

3.73. As of November 2013, there were 98 (fully or partially) SOEs, covering mining, energy, transport, agriculture, construction, medicine, science, and telecommunications (Table A3.1). In 2012, income from SOEs accounted for Tog 2,871 billion, with net profits of Tog 300.5 billion. Between 2005 and 2011, 90 entities were privatized, generating income of Tog 65.7 billion for the State.<sup>31</sup> Companies privatized during the period under review include Gobi cashmere manufacture, Erdenezam LLC, Auto Impex, and Mongolamical wool manufacture. The privatization of MIAT, Erdernet Powerplant, Power Plant 3, and Power Plant 4 has been postponed and is still under consideration.

3.74. The authorities state that no SOEs have exclusive rights in production, sales or exports/imports of particular products.

3.75. Mongolia's laws and regulations on state-owned enterprises and privatization include the 1996 Central and Local Government Property Law, Privatization Guidelines (Parliament Resolution No. 48 for 2005-08, and Parliament Resolution No. 11 for 2010-12). These serve as an official statement of the Government's privatization policies and define enterprise- and sector-specific objectives and priorities. Privatization guidelines for 2013-16 are currently being discussed in the Cabinet.

<sup>26</sup> Article 7.1, Competition Law.

<sup>27</sup> Article 8.1, Competition Law.

<sup>28</sup> If the authorities consider that the benefit to the economy exceeds the damage to competition, the AFCCP may not refuse the application.

<sup>29</sup> WTO document G/STR/N/7/MNG, 9 July 2001.

<sup>30</sup> *South China Morning Post* online information. Viewed at: <http://www.scmp.com/business/economy/article/1368258/mongolia-president-tsakhia-elbegdorj-wants-cut-state-firms-one>. [16.12.2013]

<sup>31</sup> Between 2005 and 2008, 61 entities were privatized, generating income of Tog 61.7 billion; between 2009 and 2011, 29 entities, generating Tog 5 billion. Between 1996-13, 1,094 entities were privatized, generating income of Tog 173.1 billion.

3.76. The State Property Committee, established in 1996 under the Ministry of Industry and Agriculture, is responsible for the management of state property, supervision of state-owned enterprises, and privatization.

### 3.3.4 Government procurement

3.77. Mongolia is not a signatory to the WTO Agreement on Government Procurement; it is an observer in the GPA Committee.

3.78. The Public Procurement Law, as amended in 2011 and entered into force in 2012, regulates matters concerning the preparation of bidding documents, advertisement, opening of tenders, evaluation of tenders, award of contracts for public procurement of goods, works and services, composition and organization of the Tender Committee, and control over its activities. The law stipulates four kinds of procurement method (open tendering, price quotations, direct contracting, and limited tendering). The main procurement method applicable to all procurement is the open tendering (Table 3.6).

**Table 3.6 Government procurement, based on contracts, 2008-12**

(Tog billion)

	2008	2009	2010	2011	2012
Open tendering	655,913	255,974	1,266,487	963,395	1,460,961
Price quotation	44,106	17,650	32,484	49,695	35,697
Direct purchases	36,673	23,556	46,930	56,162	49,460
Limited tendering	22,850	7,827	4,635	17,215	37,745

Source: Information provided by the Mongolian authorities.

3.79. The law regulates the procurement practices of the central government and of local governments. Procuring entities are defined as legal persons with state participation of more than 50% that are engaged in procurement of goods, works, and services.

3.80. The Public Procurement Department of the Ministry of Finance is responsible for all policy matters related to public procurement. The Government Procurement Agency, established in 2012 in accordance with the amended law, is a central purchasing agency headed by the Deputy Prime Minister; it is responsible for purchases of selected projects for the central and regional governments.<sup>32</sup> Projects for which the Government Procurement Agency conducts purchases are selected annually by the Cabinet<sup>33</sup>; other procurement is conducted by the respective central government ministry or agency, regional government, or local government.

3.81. Government procurement is used as an instrument of economic policy in Mongolia. It is forbidden to exclude foreign bidders from tenders for contracts exceeding Tog 100 million for goods and services, or Tog 1 billion for works. Domestic suppliers receive a 10% margin of preference for goods and 7.5% for works. The law specifies threshold values for the selection of procurement procedures, open and selected tendering, and comparison of quotations.

### 3.3.5 Intellectual property rights

3.82. Mongolia is a party to the World Intellectual Property Organization (WIPO) Copyright Treaty, and the WIPO Performers and Phonograms Treaty. It is also a party to The Convention for Establishing the WIPO; Paris Convention for the Protection of Industrial Property; Madrid Agreement Concerning the International Registration of Marks; Patent Cooperation Treaty; Hague Agreement Concerning the International Deposit of Industrial Designs; Berne Convention for the Protection of Literary and Artistic Works; Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; Strasbourg Agreement Concerning the International Patent Classification; Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; Locarno Agreement Establishing an International Classification for Industrial Designs; and Nairobi Treaty on the Protection of the Olympic Symbol.

<sup>32</sup> Each ministry handled its own procurement in accordance with the Public Procurement Law as amended in 2005.

<sup>33</sup> The list of such projects is published within five days of the adoption of the national budget.

Mongolia signed the Singapore Treaty on the Law of Trademarks in 2010 and the Beijing Treaty on Audiovisual Performances in 2012.

3.83. The Intellectual Property Office, under the responsibility of the Deputy Prime Minister, is responsible for administration of intellectual property rights and enforcement of intellectual property legislation. The Office is also in charge of settling disputes and grievances. If the disputing parties disagree with the decision of the Intellectual Property Office, they may refer the matter to the courts.

#### 3.3.5.1 Copyright and related rights

3.84. Mongolia revised its Copyright Law in 2006, seeking to further implement the requirements of the TRIPS Agreement, WIPO Copyright Treaty, and WIPO Performances and Phonograms Treaty. The revised law includes new definitions, such as "phonogram", "reproduction of work", "right management information", "derivative work", and "work of applied art". The law, *inter alia*, provides regulation on copyright in a work created in the course of official duties, as well as commissioned work. It also extends the term of copyright protection for photographic work and related rights of broadcasting organizations (from 25 to 50 years).

3.85. The Copyright Law regulates matters related to the protection of copyright and issues arising in connection with the use of works that are subject to copyright.<sup>34</sup> It stipulates that copyrighted work is protected from its creation.<sup>35</sup> An author may register his work or contract of transfer of rights; registration is not required for the protection of copyrights. The law also defines and elaborates further on related rights of performers, broadcasting organizations, and producers of phonograms (including duration and coverage of protection). Copyrights are protected during the author's life plus 50 years.<sup>36</sup>

#### 3.3.5.2 Patents

3.86. Under the current Patent Law, which was revised in 2006, patent protection is provided for 20 years following the filing of the application.<sup>37</sup> The revised law introduced new provisions related to Patent Cooperation Treaty applications, employees' inventions and compulsory licensing, and clarified filing and examination procedures. The law further elaborated on the rights of creators of inventions and patent owners.

3.87. Patents are granted for methods and products, including inventions relating to micro-organisms, pharmaceuticals, chemicals, fertilizers, pesticides, herbicides, biotechnological processes, and biological and genetic materials. Patent applications are filed with the Intellectual Property Office. An application for patent must contain a request, a description of the invention, patent claims, and an abstract. The Intellectual Property Office must verify the presence of the required documents within 20 days of receipt of an application, and if all the requirements are met it accords the date of receipt of the application as the filing date. The Office examines whether the invention meets the criteria specified in the Patent Law. It must decide within nine months from the filing date whether a patent is to be granted.<sup>38</sup> Successful applications are published; a patent is granted if no notice of opposition is received by the Intellectual Property Office within three months of the date of publication.

3.88. The Intellectual Property Office is responsible for the supervision and inspection of implementation of the intellectual property legislation, and appoints state inspectors in charge of administrative enforcement of patent rights.<sup>39</sup> The Dispute Resolution Board of the Intellectual Property Office, established under the revised law, reviews disputes, except for those claiming

<sup>34</sup> These, as stipulated in Article 7, include scientific and literary works; musical works; works of fine art; works of decorative, applied, and theatrical arts; works of architecture; choreographic works; works of contortionists and pantomime; plays and musical works; photographic works; audio-visual works; and derivative works, plans.

<sup>35</sup> Article 9.

<sup>36</sup> Article 13.

<sup>37</sup> Under Article 15 of the Patent Law, industrial designs are protected for ten years and utility models seven years.

<sup>38</sup> The Intellectual Property Office may extend this for a further period of up to 12 months.

<sup>39</sup> Article 26.1.13 of the Patent Law.

payment for the exploitation of protected creations or compensation for losses caused by illicit exploitation thereof.<sup>40</sup>

### 3.3.5.3 Trade-marks and geographical indications

3.89. The Law on Trademarks and Geographical Indications, which was last amended in 2010, protects trade-marks, service marks, collective marks, certification marks, and geographical indications. The amendment, *inter alia*, introduced new provisions related to protection of well-known marks, further clarified procedures of filing in line with the Singapore Treaty, and elaborated on the rights of trade-mark owners and users of geographical indications. A new provision was also introduced related to the powers of state inspectors in charge of administrative enforcement of trade-mark rights.<sup>41</sup>

3.90. The Intellectual Property Office examines applications and registers relevant marks and geographical indications. Trade-marks are registered for ten years following the filing of the application; registration may be renewed. Domestic and foreign natural persons and legal entities may apply for registration of marks. Trade mark applications are filed with the Office by a natural or legal person wishing to register the trade mark; application documents must be submitted in the Mongolian language. If the application meets the requirements provided for in the law, the date of receipt of the application is accorded as the filing date of the application. The Office examines whether the sign could be considered as a trade mark and whether it is eligible for registration; it decides whether to register the trade mark within 12 months from the filing date of the application; this may be extended for up to six months. When a trade mark is accepted, the Intellectual Property Office records it in the State Trademark Register and issues a certificate. Registered trade-marks and related bibliographic data are published in the *Official Bulletin*.

3.91. According to the Law on Trademarks and Geographical Indications, geographical indications are defined as a geographical name of country or region where the product is produced, identifying the quality, reputation, and other specifics of the product. If a geographical name of country or region has become a generic name in Mongolia to denote certain goods, the name may not be protected as a geographical indication. Applications for the registration of a geographical indication are filed with the Intellectual Property Office by associations and unions of manufacturers that manufacture goods in the indicated locality where the characteristics of the goods are associated. The Office records accepted geographical indications in the State Register of Geographical Indications and issues a certificate. Registered geographical indications and related bibliographic data are published in the *Official Bulletin*.

### 3.3.5.4 Plant varieties

3.92. The Law on Crops Varieties and Seeds, as amended in 2011, regulates matters related to the preservation of crop gene pool, variety testing and certification, controlling the quality of varieties and seeds, and maintaining and disposing of national crop reserves.

3.93. The law provides that an author's certificate may be issued to a breeder of a new crop variety developed by biological process. The person who was issued an author's certificate is deemed the owner of that variety, and has the right to develop technological documentation, personally participate in the cultivation, execute breeder's control, receive payment for the use of variety, and assign his/her right to ownership. The coverage of the law is limited to crops.

### 3.3.5.5 Layout designs of integrated circuits

3.94. Mongolia has no legal provisions on the protection of layout designs of integrated circuit.

### 3.3.5.6 Trade secrets

3.95. Article 12.1.5 of the Competition Law prohibits business entities from selling, publishing and distributing to others, scientific, technological, industrial or commercial information and secrets without the permission of a patent owner or author.

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<sup>40</sup> Article 28 of the Patent Law.

<sup>41</sup> Article 30 of the Law on Trademarks and Geographical Indications.

### 3.3.5.7 Parallel imports

3.96. Mongolia allows parallel imports.

### 3.3.5.8 Enforcement

3.97. Violation of intellectual property rights (IPRs) may be subject to administrative penalties. Compensation for damages caused by infringement of the rights of an IPR owner may be awarded in accordance with the Civil Law. The State Intellectual Property Inspection operates under the Intellectual Property Office. Its Enforcement Division is responsible for enforcing IPR-related laws. The Rules on State Intellectual Inspection provides the rules and details of inspection to enforce various laws for the protection of IPRs.

3.98. Under the Criminal Law, infringement of intellectual property rights may result in a fine equivalent to 51-250 times the monthly minimum wage or imprisonment up to 5 years. If infringement is not deemed a criminal offence, administrative penalties may be imposed in accordance with the Copyright Law, the Patent Law, or the Trademark and Geographical Indications Law; right holders may initiate a request for investigation; Customs also has the right to seize infringing goods, with or without the request of the right holder.

3.99. Since 2005, the State Intellectual Property Inspection has inspected 3,442 cases and determined 2,967 IPR infringements (Table 3.7).

**Table 3.7 Enforcement statistics related to intellectual property**

Items	2008	2009	2010	2011	2012
<b>Number of inspections conducted</b>	230	281	439	332	132
Planned	33	67	68	172	58
Follow-up of complaints	174	73	208	146	69
Follow-up of public media information	23	141	163	14	5
Entities inspected	168	182	254	217	70
Citizens inspected	12	9	63	51	207
Number of infringements	182	241	386	327	94
<b>Remedies</b>					
Confiscated goods (Tog million)	24.5	120.0	40.7	22.9	41.0
Fines (Tog million)	15.2	43.4	25.2	21.2	4.9
Transferred to police action	5	2	2	..	..
<b>Produced</b>					
Expert opinion	12	19	9	2	2
Notification	48	29	76	165	23
Acts	97	79	218	80	11

.. Not available.

Source: Information provided by the Mongolian authorities.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture

#### 4.1.1 Features

4.1. Agriculture is important to Mongolia's economy as it accounts for about one third of employment and nearly 15% of GDP. Despite rapid economic growth, mostly driven by mining, agriculture's contribution to GDP and employment actually increased in 2012 compared to 2011, although less than in earlier years (Table 4.1).

**Table 4.1 Agriculture to employment and GDP, 2004-12**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Employment</b>									
Total	951	968	1,010	1,024	1,042	1,006	1,034	1,038	1,056
Agriculture, forestry, fishing, and hunting	382	386	391	386	378	349	347	343	370
<b>GDP (Tog bn, current)</b>									
Total	2,152	2,780	3,715	4,957	6,556	6,591	8,415	11,088	13,944
Agriculture, forestry, and fishing	478	608	723	913	1,260	1,177	1,202	1,365	2,067
<b>GDP (Tog bn, constant 2005)</b>									
Total	2,592	2,780	3,017	3,640	3,964	3,914	4,163	4,892	5,493
Agriculture, forestry, and fishing	549	608	654	734	768	796	664	661	801
<b>Agriculture</b>									
Gross output (Tog bn, current)	668	852	982	1,298	1,692	1,737	1,752	1,988	2,458
Livestock	565	738	834	1,125	1,377	1,308	1,291	1,476	1,906
Crops	104	113	147	173	315	430	462	511	552
Gross output (Tog bn, constant 2005)	691	852	929	1,067	1,143	1,208	1,015	1,035	1,242
Livestock	578	738	786	920	962	1,002	799	770	958
Crops	114	113	143	147	181	207	216	265	284

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

4.2. Most of the land in Mongolia is potentially suitable to agriculture, but the harsh climate, particularly the cold winters, short growing seasons, and low rainfall, make production difficult, and yields remain low compared to other countries. Furthermore, while livestock rearing continues to dominate agricultural production, the increase in the number of animals over the past few years (particularly goats and sheep) has led to problems with overgrazing, especially around villages. In addition, particularly severe winter weather (*dzuds*) in some years can cause livestock losses, such as the 2009/10 winter, which contributed to a decline in stocks of cattle (16%), goats (29%), and sheep (25%) (Table 4.2).

**Table 4.2 Production of selected products, 2004-12**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Potatoes</b>									
Area harvested ('000 ha)	9	10	11	12	12	14	14	15	17
Production ('000 tonnes)	80	83	109	115	135	151	168	202	246
<b>Cereals</b>									
Area harvested ('000 ha)	173	159	126	122	154	252	259	300	306
Production ('000 tonnes)	138	76	139	115	213	392	355	446	479
<b>Cattle</b>									
Stock ('000 animals)	1,842	1,964	2,168	2,426	2,503	2,599	2,176	2,397	2,585
Cattle meat ('000 tonnes)	54	45	44	47	56	59	45	55	60

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Cow milk ('000 tonnes)	406	426	450	466	457	494	338	459	511
<b>Goats</b>									
Stock ('000 animals)	12,238	13,267	15,452	18,348	19,969	19,652	13,883	15,935	17,559
Cashmere ('000 tonnes)	3	4	4	5	6	6	6	4	5
<b>Sheep</b>									
Stock ('000 animals)	11,686	12,885	14,815	16,990	18,362	19,275	14,480	15,669	18,141
Wool ('000 tonnes)	13	14	15	18	21	22	24	18	19
Sheep and goat meat ('000 tonnes)	96	93	88	103	120	169	128	123	124

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

4.3. Agriculture in Mongolia is divided among four subsectors: (i) extensive livestock for camels, horses, cattle, sheep, and goats; (ii) large-area crop production for cereals and fodder; (iii) intensive cultivation of potatoes and vegetables; and (iv) intensive livestock rearing.<sup>1</sup> However, in terms of products, the agriculture sector is very concentrated, with livestock accounting for most production and wheat for nearly all cereals (Table 4.1 and Table 4.2).

4.4. Most farm land in Mongolia is the property of the State and is for nomadic grazing using publicly owned water wells. Only citizens of Mongolia may use pasture lands or purchase arable land, while use rights for pastures are allocated to specific user groups. About 112 million ha of pasture and 0.7 million ha of arable land remain under state management.<sup>2</sup>

4.5. Different forms of land tenure are allowed under the Land Law, which was last amended in 2008:

- ownership is limited to Mongolian citizens, includes the right to manage and sell land, and applies to land for residential and commercial purposes;
- possession rights may be granted for 15 to 60 years with the option to renew the rights for up to 40 additional years. Possession rights may be inherited, leased, or transferred. Under the Land Law, possession rights may apply to seasonal campsites and pasture but have only been issued to campsites; and
- land-use rights allow the holder to use land for a specific purpose for up to five years with the possibility of extension. While non-Mongolian individuals or enterprises may obtain land-use rights they may not use them for agricultural purposes.<sup>3</sup>

4.6. Private ownership is only permitted for cultivated land (9,537 km<sup>2</sup>) and not for pastureland (1,163,496 km<sup>2</sup>) or land for making hay (19,074 km<sup>2</sup>). A programme for privatization of land, which started in 2003, included the transfer of land ownership from the state to Mongolian citizens, but this affected households and land for habitation rather than farming land.<sup>4</sup>

4.7. On the other hand, most farms and agricultural processing enterprises had already been privatized at the time of the last Trade Policy Review of Mongolia.<sup>5</sup> According to the authorities, the state no longer owns or operates any commercial farms.

<sup>1</sup> FAO online information. Viewed at: <http://www.fao.org/docrep/005/y2722e/y2722e0y.htm> [January 2014].

<sup>2</sup> Dells (2008), p. 7.

<sup>3</sup> USAID (2010), p. 8.

<sup>4</sup> Chinzorig Batbileg (2008).

<sup>5</sup> WTO document WT/TPR/S/145, Chapter IV, paragraph 11.

#### 4.1.2 Trade

4.8. Mongolia has a trade deficit for agricultural products and both imports and exports have increased considerably over the past few years. Since 2004, the structure of imports has changed somewhat, as imports of some commodities (such as wheat, flour, and potatoes) have tended to decline while imports of processed agricultural products (such as sugar, candy, and beverages) have increased steadily (Table 4.3).

**Table 4.3 Imports of selected agricultural products, 2004-12**

		2004	2005	2006	2007	2008	2009	2010	2011	2012
Cigarettes	million pieces	765	629	761	1,512	1,867	1,549	1,321	1,824	2,138
	US\$ million	9.3	8.6	11.9	24.8	35.1	29.6	30.2	47.6	59.3
Alcoholic beverages	million litres	14.6	9.4	12.0	19.9	23.0	11.9	21.0	25.2	32.1
	US\$ million	11.0	7.4	9.6	18.3	21.8	11.3	19.0	25.4	33.4
Flavoured flour products	'000 tonnes	5.8	6.1	6.7	9.2	11.2	9.2	11.9	14.8	15.0
	US\$ million	5.5	7.1	8.4	12.6	21.2	16.1	20.4	58.1	30.8
Granulated sugar	'000 tonnes	33.7	26.9	26.3	36.7	42.9	26.3	38.0	37.4	44.9
	US\$ million	8.7	7.0	8.8	13.3	16.8	10.7	18.8	23.0	23.0
Soft drinks	million litres	4.9	4.2	5.5	6.6	9.9	7.2	12.5	20.2	22.7
	US\$ million	2.0	1.8	2.9	3.8	7.2	0.6	10.0	16.4	20.1
Rice	'000 tonnes	26.7	13.8	19.1	28.4	27.9	19.0	25.9	12.0	31.6
	US\$ million	5.4	3.7	5.2	8.1	11.1	6.4	14.7	5.6	17.2
Flour	'000 tonnes	79.3	103.9	105.6	112.3	132.9	105.7	65.2	67.7	50.1
	US\$ million	17.0	20.0	21.3	29.0	54.7	30.4	15.6	24.1	16.6
Vegetable oil	'000 tonnes	0.6	0.2	0.1	3.6	1.3	6.7	8.7	5.1	6.0
	US\$ million	0.5	0.2	0.1	3.8	2.1	7.2	10.7	8.4	8.4
Margarine	'000 tonnes	3.6	4.6	5.1	5.2	4.7	3.2	5.1	5.0	5.7
	US\$ million	2.6	3.6	4.0	5.5	7.7	3.9	6.5	7.1	7.8
Wheat	'000 tonnes	..	..	102.2	92.8	171.3	114.7	66.2	7.4	4.1
	US\$ million	..	..	20.1	21.4	60.4	30.8	12.0	1.7	1.0
Potatoes	'000 tonnes	38.4	41.0	35.6	30.2	35.4	23.2	8.5	5.8	3.2
	US\$ million	3.2	3.1	3.6	3.6	5.1	3.2	1.8	1.9	0.9

.. Not available.

Source: National Statistical Office, *Monthly Bulletins of Statistics* various issues.

4.9. Exports of agricultural products from Mongolia are mostly cashmere, combed goat hair and leather (Table 4.4).

**Table 4.4 Exports of selected agricultural products, 2004-12**

		2004	2005	2006	2007	2008	2009	2010	2011	2012
Greasy cashmere	000 tonnes	0.0	0.4	1.7	1.5	1.9	3.6	3.1	2.8	3.6
	US\$ million	0.7	13.4	63.1	63.4	77.2	91.7	104.9	131.9	145.4
Combed goat down	000 tonnes	0.8	0.9	1.4	1.8	1.6	1.6	1.0	0.5	0.5
	US\$ million	44.1	52.8	81.7	114.3	98.7	68.4	68.8	57.4	47.8
Sheep or lamb skin leather	million dm <sup>2</sup>	..	92.2	147.5	180.1	183.3	128.7	150.9	331.5	182.5
	US\$ million	..	16.4	24.5	25.0	26.9	13.1	13.6	28.2	16.1
Intestines	000 tonnes	0.3	0.3	0.3	0.3	0.4	0.4	0.6	0.7	0.4
	US\$ million	6.5	6.9	4.5	4.4	5.3	5.6	8.1	11.9	10.6
Goat or kid skin leather	million dm <sup>2</sup>	..	16.3	54.2	36.2	29.4	82.9	106.0	120.9	61.1
	US\$ million	..	2.8	8.0	5.4	4.6	7.8	7.8	9.9	6.5
Sheep wool	000 tonnes	8.3	6.8	6.4	9.1	9.3	4.7	7.9	8.4	4.5
	US\$ million	6.3	5.6	4.5	8.4	9.3	4.9	7.6	8.3	5.4
Horse meat	000 tonnes	3.4	5.0	8.8	7.1	6.1	8.6	10.9	3.9	1.5
	US\$ million	2.8	4.8	10.3	9.8	11.0	14.5	19.0	8.8	4.8
Frozen beef	000 tonnes	5.0	2.8	2.7	3.9	4.2	8.8	3.8	5.8	1.0
	US\$ million	5.0	3.2	4.4	6.3	8.5	17.8	8.1	13.9	3.3

.. Not available.

Source: National Statistical Office, *Monthly Bulletins of Statistics*, various issues.

4.10. Mongolia does not have any tariff quota commitments in the WTO, nor has it reserved the right to use the agricultural special safeguard.

4.11. The average bound tariff on agricultural products is 18.6% while the average applied MFN tariff in 2013 was 5.2%; the average non-agricultural bound tariff is 17.5% and applied MFN tariff is 5.0%. This indicates that, in applied terms, tariffs on agriculture and non-agricultural goods are about the same. Within agriculture there is not much variation in applied tariff rates from one product group to another except for beer (HS 22.03), which is taxed at 25%. Imports of

undenatured ethyl alcohol (HS 2207.10.00 and 2208.90.10) and denatured ethyl alcohol (2207.20.00) are banned.<sup>6</sup>

4.12. Mongolia does not apply taxes on exports of agricultural goods, except for a tax on exports of unwashed camel wool of Tog 200/kg (female) and Tog 100/kg (male). In 2007, Mongolia obtained an extension until 2012 of its accession commitment to withdraw the tax on exports of cashmere<sup>7</sup>, but eliminated them in June 2009.<sup>8</sup>

4.13. According to its most recent notification to the WTO Committee on Agriculture, Mongolia did not use export subsidies for the calendar years 1998-2006.<sup>9</sup>

#### 4.1.3 Domestic policy

4.14. The Ministry of Industry and Agriculture is the primary public agency responsible for formulating and implementing agricultural policy. Major policy initiatives are subject to the approval of the Government and laws must be passed by the Parliament. Other ministries are responsible for areas related to agriculture and food production, such as the Ministry of Finance for taxes, the Ministry of Environment and Green Development, the Ministry of Education and Science, the Ministry of Health. The main legislation affecting agriculture is set out in the Food Law, Food Safety Law, Land Law, Water Law, Law on Protection of Animal Genetics and Health, Law on Border Inspection and Quarantine for animal and Plant Products, Law on Cropping, and the Law on Hygiene and Sanitation.

4.15. Several entities responsible for specific agriculture-related services operate under the Ministry of Industry and Agriculture, including:

- the National Agricultural Extension Center (NAEC), which operates and manages extension services through its headquarters in Ulaanbaatar and its offices around the country;
- the Veterinary and Animal Breeding Agency, which is responsible for animal health and disease control, including responses to disease outbreaks where it works with the National Emergency Management Agency and the General Agency for State Inspection<sup>10</sup>;
- the Agricultural Commodities Exchange, which started trading in 2013;
- the National Centre for Livestock Gene Bank, which provides artificial insemination services; and
- the Biocombinat, which is a state-owned veterinary medicine factory.

4.16. A considerable number of international and regional agencies as well as bilateral development organizations are involved in developing and financing agriculture-related projects in Mongolia.

4.17. Domestic policy has focused on increasing production as a way to improve food security and rural development and is set out in the Agriculture Sector Development Strategy (2006-15), the National Programme for Food Security (2009-16), the Third Crop Campaign (2008-2010), and the Livestock Programme (2010-2021), each of which has been preceded by other development plans, frameworks, and strategies. Other Government programmes, such as the National Development Strategy and the Green Development Programme also include agriculture.

<sup>6</sup> Mongolian Customs online information. Viewed at: <http://ecustoms.mn/tax.php?wmid=115&wmsid=151> [August 2013].

<sup>7</sup> WTO document WT/L/695 of 1 August 2007.

<sup>8</sup> WTO document G/C/W/652 of 27 September 2011.

<sup>9</sup> WTO documents G/AG/N/MNG/1 of 10 August 1998, G/AG/N/MNG/3 of 29 April 1999, G/AG/N/MNG/6 of 9 June 2000, and G/AG/N/MNG/8 of 12 December 2007.

<sup>10</sup> Purevkhue (2009).

#### 4.1.3.1 National Programme for Food Security

4.18. The overall goal of the National Programme for Food Security is: "to ensure sustainable supply of nutritious, secure and accessible food, which enables healthy livelihood and high labour productivity of the population, involving participation of the citizens, government, public and private sectors." Most of the 13 main objectives of the programme relate to higher standards and quality, better nutrition, and education, but they also include the stable supply of food through domestic production to substitute for imports.<sup>11</sup> This objective is to be achieved by increasing production through better use of fertilizers, more irrigation, bringing more land under crops, improving education and training for producers, and better extension services. The total budget for the programme is US\$1,298.3 million for 2008-16 of which the Government share is US\$460.6 million, US\$269.9 million is expected to come from donors, and the rest from the private sector (Table 4.5). The biggest items in the budget are:

- the creation of an investment fund to provide grants, loan guarantees and leasing to agricultural producers, food processors and light industry;
- the irrigated crop production programme; and
- the renovation of crop equipment programme which would subsidise the cost of farm machinery.

**Table 4.5 Budget summary of the National Programme for Food Security**

(US\$ million)

	2008-12	2013-16	Government	Donors and NGOs	Private	Total
Training for food processing and agricultural producers	7.86	5.24	5.1	5.0	3.0	13.1
Food safety laboratories	8.4	5.6	7.0	7.0	..	14.0
Research	5.1	3.4	3.5	3.5	1.5	8.5
Investment fund	300.0	200.0	150.0	150.0	200.0	500.0
Meat production	9.8	6.6	6.8	6.5	3.1	16.4
Milk production	24.1	16.0	15.3	14.5	10.3	40.1
Poultry production	1.2	0.8	0.3	0.2	1.4	2.0
Fish production	0.7	0.5	0.2	0.2	0.7	1.2
Crop diversification	9.0	6.0	2.8	1.9	10.3	15.0
Irrigated crop production	112.5	75.0	90.9	15.1	81.5	187.5
Renovation of crop equipment	107.3	71.5	89.4	11.6	77.8	178.8
Fertilizer	2.3	1.5	1.5	1.8	3.1	3.8
Plant production	2.6	1.7	1.0	0.5	2.8	4.3
Vegetables and potatoes	7.2	4.8	2.5	4.0	5.5	12.0
Food safety	1.8	1.2	0.5	1.0	1.5	3.0
Integration of agricultural and processing factories	114.0	76.0	9.9	27.6	152.5	190.0
Food safety standards and laboratories	1.2	0.8	1.0	0.7	0.3	2.0
Food-reserve	11.9	7.9	17.1	1.7	0.5	19.8
Prevention of food borne diseases	0.9	0.6	0.8	0.7	..	1.5
Establish Mongolian brand name	1.1	0.7	0.5	0.3	1.0	1.8
Improve nutrition education	7.6	5.0	7.0	5.3	0.3	12.6
Strengthen nutrition research	3.9	2.6	2.4	2.8	1.3	6.5
Prevent micronutrient deficiency	2.9	1.9	2.7	2.0	0.1	4.8
Production of food fortified with minerals and vitamins	2.9	2.0	2.3	1.8	0.8	4.9
Consumer health education	0.7	0.5	0.7	0.5	0.1	1.2
Food access improvement	0.4	0.2	0.4	0.2	..	0.6
Drinking water supplies	26.3	17.6	39.0	3.5	4.0	43.9
<b>Total</b>	<b>773.7</b>	<b>515.6</b>	<b>460.6</b>	<b>269.9</b>	<b>..</b>	<b>1,289.3</b>

.. Not available.

Source: Government of Mongolia (2009), *National Programme for Food Security (2009-16)*, pp. 17-43.

Viewed at:

[http://gafspfund.org/sites/gafspfund.org/files/Documents/Mongolia\\_5\\_of\\_9%20National%20Food%20Security%20Programme.pdf](http://gafspfund.org/sites/gafspfund.org/files/Documents/Mongolia_5_of_9%20National%20Food%20Security%20Programme.pdf).

<sup>11</sup> Government of Mongolia (2009), p.8.

#### 4.1.3.2 Third Crop Campaign

4.19. The Third Crop Campaign seeks to increase production of crops in order to reduce import dependence while ensuring food safety through bringing abandoned land back into production and improving yields.<sup>12</sup> This is to be achieved through increased use of machinery, renovation of existing irrigation systems and building of new ones, and greater use of inputs and training programmes. The programme relies on direct support from the Government through direct government purchases of 100,000 tonnes of wheat into the state reserve and subsidies of:

- 30% of the market price for wheat;
- up to 50% of the cost of agricultural machinery; and
- up to 50% of the cost of pesticides.

4.20. The Government provided Tog 22.5 billion for machinery and technology in 2008 with requirements for a further Tog 60.5 billion in 2009 and Tog 65.3 billion in 2010.<sup>13</sup>

#### 4.1.3.3 Livestock Programme

4.21. The Livestock Programme (2010-21) drew on a World Bank report on the livestock sector in Mongolia.<sup>14</sup> It sets out five priority areas with a number of objectives under each. The priority areas are:

- (i) improve the legal framework and support services (veterinary and training);
- (ii) improve production practices, including breeding services;
- (iii) disease prevention and control measures;
- (iv) improve pasture management, fodder, and water supply systems as well as risk management; and
- (v) improve the processing of livestock products, including meat, skins, and wool.<sup>15</sup>

4.22. It was also reported that the budget for the total programme was Tog 1.4 billion of which 35% would be from Mongolia and the rest from the World Bank and other donor organizations.<sup>16</sup>

#### 4.1.3.4 Index-based Livestock Insurance Programme

4.23. Mongolia's climate, along with the number of livestock raised on open pastures, mean that the frequent severe winters (*dzud*) cause high levels of livestock mortality in particularly bad years. The damage to the rural economy from these losses can be severe: the value of livestock lost in the 2010 *dzud* was estimated at US\$477 million and affected over half of herder households. To reduce the impact on households, the Government, with support from the World Bank, introduced the Index-based Livestock Insurance Programme as a pilot programme in 2005. Since 2005, it has been gradually extended throughout the country. In 2012 it was reported that 10,000 herder households and 5 local insurance firms were participating.<sup>17</sup> Under the programme, a herder is compensated whenever losses in the local area exceed 6% of the value of livestock. Payments are based on the average loss in the area rather than on any specific herder's losses. For losses of up to 30% the compensation is paid by the insurance company (the Basic Insurance

<sup>12</sup> The previous two crop campaigns were in 1957 and 1976.

<sup>13</sup> Galsanbuyan (2009).

<sup>14</sup> World Bank (2009).

<sup>15</sup> Government of Mongolia (2010).

<sup>16</sup> WWF (2010).

<sup>17</sup> Goodland (2012).

Product), for losses greater than 30%, the balance is paid by the Government (the Disaster Response Product).<sup>18</sup>

#### 4.1.4 Policy Impact

4.24. Overall, agricultural programmes and policies have succeeded in their objectives of making Mongolia self-sufficient in some crops, as imports of potatoes and wheat have fallen while domestic production has increased. However, imports of agricultural goods generally, and of processed products (including rice and goods made from wheat), as well as the deficit in trade in agricultural goods, have increased. The increase in imports is driven primarily by economic growth, while production is based on livestock and exports are based on cashmere, which depends on economic performance in the export markets and livestock numbers in Mongolia.

## 4.2 Mining and Energy

### 4.2.1 Minerals

#### 4.2.1.1 Features

4.25. Mongolia's rapid economic growth over the past few years is based on the investment in, and the production and export of minerals. Mongolia is a major producer of several minerals including coal, copper, and fluorspar. With extensive reserves, it has the potential to increase production considerably; production of copper and gold from Oyu Tolgoi alone could account for one third of GDP by 2020<sup>19</sup> while total investment in the mining sector over the past and the next few years could be several times current GDP.

4.26. Mining represented over 18% of GDP in 2012 up from 17% in 2004 (Table 4.6) and the sector is expected to continue to grow strongly as exploitation of already-discovered deposits gets under way. In 2012, exports of minerals represented about 89% of total goods exports. Taxes, royalties, and other payments related to minerals represent almost half of government revenue. In terms of their contribution to GDP in 2012, metal ores contributed the most, although coal production has been increasing more quickly. Production at Oyu Tolgoi copper gold mine started in late 2013 and will increase production of metal ores while production at Tavan Tolgoi coal deposit will also increase.

**Table 4.6 Mining and minerals contribution to employment and GDP, 2004-12**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Employment</b>									
Total	951	968	1,010	1,024	1,042	1,006	1,034	1,038	1,056
Mining and quarrying	34	40	42	44	47	35	34	45	47
<b>GDP (Tog billion current)</b>									
Total	2,152	2,780	3,715	4,957	6,556	6,591	8,415	11,088	13,944
Mining and quarrying	366	608	1,113	1,341	1,324	1,286	1,913	2,329	2,600
<b>GDP (Tog billion constant 2005)</b>									
Total	2,592	2,780	3,017	3,640	3,964	3,914	4,163	4,892	5,493
Mining and quarrying	550	608	646	684	673	711	737	791	862
<b>Mining and quarrying</b>									
Gross output (Tog billion current)	765	978	1,628	1,939	1,961	2,158	3,097	4,168	4,535
Coal and lignite	64	73	105	148	211	483	927	1,842	1,881
Crude petroleum	4	11	19	32	45	147	206	329	480
Metal ores	674	866	1,460	1,711	1,656	1,439	1,881	1,896	2,050
Other mining and quarrying	24	28	44	49	70	89	83	101	124
<b>Mining and quarrying</b>									
Gross output (Tog billion constant 2005)	927	978	1,033	1,034	1,036	1,059	1,166	1,277	1,380
Coal and lignite	67	63	74	83	91	123	235	288	266
Crude petroleum	12	11	20	46	64	102	119	139	199
Metal ores	820	866	909	877	852	808	781	823	884
Other mining and quarrying	29	28	30	29	29	26	31	27	31

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

<sup>18</sup> Mahul, Betlete, and Goodland (2009).

<sup>19</sup> U.S. Geological Service (2012), p. 18.1.

4.27. In volume terms, production of coal, iron ore, and petroleum have increased rapidly over the past decade while gold has declined (Table 4.7). In the future, copper production should increase quickly as commercial production at Oyu Tolgoi started in 2013. Various reports indicate that the decline in gold production may be less than official statistics indicate; illegal mining, which avoids royalties and environmental laws, has increased although the State has been making efforts to improve regulation of the sub sector.<sup>20</sup>

**Table 4.7 Mineral production, 2004-12**

		2004	2005	2006	2007	2008	2009	2010	2011	2012
Coal	'000 tonnes	6,795	7,784	7,886	8,815	9,807	13,164	25,246	30,940	28,561
Copper with concentrate	'000 tonnes	517	516	538	543	525	533	522	514	518
Fluorspar concentrate	'000 tonnes	148	134	138	132	143	115	141	116	157
Gold (mine output, Au content)	kg	19,237	24,122	22,561	17,473	15,184	9,803	6,037	5,703	5,995
Iron ore	'000 tonnes	34	168	180	265	1,387	1,379	3,203	5,678	7,561
Molybdenum with concentrate	'000 tonnes	2,346	2,469	3,022	4,002	3,795	5,264	4,348	3,977	3,934
Zinc concentrate	'000 tonnes	-	23	110	155	144	142	113	105	119
Petroleum (crude)	'000 bbl	216	201	367	833	1,174	1,870	2,181	2,549	3,636

Source: National Statistical Office of Mongolia, *Monthly Bulletin of Statistics* (2005 to 2012).

4.28. Nearly all production of minerals and oil is exported, except for coal where a significant amount is consumed domestically for heating and electricity generation. Therefore, the trends in the volume of exports are similar to the trends for quantities produced. However, the total value of exports also depends on prices and, in the case of copper, export volumes have been fairly steady over the past few years while export values have fluctuated considerably (Table 4.8). Most minerals are exported to China except for fluorspar, and gold; fluorspar goes to the Russian Federation and Ukraine and gold, in most years, to Canada.

**Table 4.8 Exports of minerals from Mongolia, 2004-12**

Product description		2004	2005	2006	2007	2008	2009	2010	2011	2012
Coal	US\$ million	..	27	46	116	185	306	882	2,273	1,902
	'000 tonnes	..	2,218	2,380	3,269	4,169	7,113	16,726	21,296	20,916
Copper concentrate	US\$ million	284	326	635	812	836	502	771	969	839
	'000 tonnes	563	587	600	608	583	587	569	576	575
Refined copper	US\$ million	7	8	16	22	19	12	20	21	2
	tonnes	2,654	3,001	2,365	3,167	2,604	2,321	2,800	2,361	2,120
Fluorspar ores and concentrates	US\$ million	21	25	35	45	59	48	69	95	103
	'000 tonnes	289	311	355	360	349	314	406	407	429
Gold, unwrought or semi manu	US\$ million	242	331	270	235	600	308	178	110	122
	tonnes	19	24	15	12	22	11	5	3	3
Iron ores	US\$ million	..	..	11	16	92	89	254	442	533
	'000 tonnes	..	..	313	240	1,013	1,596	3,564	5,802	6,416
Molybdenum ores and concentrates	US\$ million	20	47	48	75	82	50	52	47	38
	'000 tonnes	2	2	3	3	4	7	5	4	4
Zinc ores and concentrate	US\$ million	..	..	91	176	155	122	143	143	131
	'000 tonnes	..	..	106	133	138	151	120	121	141
Crude petroleum	US\$ million	6	9	20	53	102	116	155	253	336
	'000 bbl	180	188	338	812	1,059	1,939	2,071	2,554	3,568

.. Not available.

Source: National Statistical Office of Mongolia, *Monthly Bulletin of Statistics* (2005 to 2012).

4.29. Petroleum production and exports have increased over the past few years (Table 4.7 and Table 4.9) with China importing practically all production. However, there is no oil refinery in Mongolia and refined oil products are imported from Russia. In value terms, Mongolia has a trade deficit for oil products (Table 4.9).

<sup>20</sup> *Mining Examiner*, "Mongolia turns thousands of illegal gold miners into formal workers", 29 November 2013. Viewed at: <http://www.911metallurgist.com/blog/mongolia-turns-thousands-of-illegal-gold-miners-into-formal-workers> [February 2014].

**Table 4.9 Trade in petroleum products, 2004-12**

Product description		2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Exports</b>										
Crude petroleum	US\$ million	6	9	20	53	102	116	155	253	336
	'000 tonnes	25	26	46	111	144	264	282	348	487
<b>Imports</b>										
Petrol	US\$ million	97	123	175	239	362	223	229	350	474
	'000 tonnes	270	255	280	346	366	323	285	325	389
Diesel	US\$ million	98	157	204	271	468	274	398	720	820
	'000 tonnes	258	271	310	388	428	416	499	647	717
Jet fuel	US\$ million	9	11	29	29	34	11	14	28	44
	'000 tonnes	23	19	41	39	32	15	16	25	36
Mazut	US\$ million	2	1	2	3	4	2	2	4	3
	'000 tonnes	11	5	6	8	7	5	5	7	4

Source: National Statistical Office of Mongolia, *Monthly Bulletin of Statistics* (2005 to 2012).

4.30. Although several large known deposits of minerals in Mongolia are actually producing or are being developed, there has never been a detailed geological survey of the country. As of end-2013, about 30% of the country had been mapped at 1:50,000 with plans to increase coverage to 40% of the country by 2016. Maps by private companies are the property of the company and are not publicly available, although copies are given to the Ministry of Mining.

#### 4.2.1.2 Policy

##### 4.2.1.2.1 Petroleum

4.31. As of December 2013, the Petroleum Law of 1991, with some amendments, was still in force, although a draft bill had been submitted to the Parliament in June 2013.<sup>21</sup> Under the current law, which applies to all hydrocarbons, all petroleum deposits belong to the State. The State may provide mine tenure permits to contractors while the local authorities provide land tenure permits for exploration and exploitation of petroleum deposits. In addition to the Petroleum Law of 1991, the Law on Petroleum Products of 2005 created the legal basis for regulation of the supply of petroleum products and refining operations and, in 2008, the Parliament allowed the Government to regulate petroleum prices through adjustments to taxes. Other legislation affecting petroleum exploration and exploitation includes the Constitution, Land Law, Subsoil Law, Environmental Protection Law, and National Security Law.

4.32. The Ministry of Mining is responsible for Government policy in the sector and the preparation of draft laws and regulations, while the Petroleum Authority of Mongolia (PAM), which is a department within the Ministry, is the implementing agency.

4.33. The PAM negotiates production-sharing contracts with oil companies for exploration, development, and production. Exploration permits may be issued for up to five years, extendable twice for two years each time, while oil field development permits may be granted for up to 20 years, extendable twice for periods of five years each time. The terms for exploration or production and the rights and responsibilities of the Government and the contractor are set out in production-sharing contracts between the Petroleum Authority and the contractor, including royalties, tax deductible costs, the amount of production to be shared with the Authority, signature bonuses, and production bonuses.

4.34. In general, a production sharing contract:

- (i) requires the oil company to bear all costs and risks for exploration and exploitation;
- (ii) should production start, allows the oil company up to 40% of the oil to be used to cover expenses for exploration and production;
- (iii) normally sets the Government's share at about 40% of the remaining 60% (which is usually taken as a financial payment); and

<sup>21</sup> InfoMongolia.com online information *Renewed draft bill on Petroleum Law of Mongolia was submitted*, 28 June 2013. Viewed at: <http://www.infomongolia.com/ct/ci/6197> [February 2014]

- (iv) leaves the remainder for the contractor. Royalties are payable on all production (except the Government's share). In addition, taxes and other charges are payable.<sup>22</sup>

4.35. It has been reported that Mongolia has about 2.4 billion barrels of proven reserves; total potential remains unknown but could be in the region of 4 to 6 billion barrels.<sup>23</sup> Although reserves are considerable, exploration and extraction costs are high due to the small size of the basins, the nature of the oil deposits and the harsh winters, which complicate production.<sup>24</sup>

4.36. Mongolia has 28 exploration blocks covering 560,000 km<sup>2</sup>. As of July 2013, it had concluded 21 production-sharing contracts with 16 companies for 21 exploration blocks. In 2012, the Government's share from current production was 871,000 bbl (about 24% of total production) worth about Tug 108 billion.

#### 4.2.1.2.2 Other minerals

4.37. With the exception of petroleum, the main legislation on ownership, exploration, and extraction of minerals is the Minerals Law of Mongolia of 2006, which states that related legislation consists of the Constitution, Land Law, Subsoil Law, Environmental Protection Law, and National Security Law. In addition, exploration for and mining of uranium is controlled through the Nuclear Energy Law of 2009.

4.38. A draft new Mineral Law was submitted to the Parliament in December 2012 but it has yet to be passed. Under the current Mineral Law, mineral resources are the property of the State, which may grant exploration and extraction rights. Licences may only be granted to legal persons, and tax payers in Mongolia, formed and operating under the laws of Mongolia; this requirement must be met for the full duration of the licence.

4.39. The law divides deposits of minerals into three categories:

- (i) deposits of strategic importance, defined as a deposit "that may have a potential impact on national security, economic and social development of the country at the national and regional levels or that is producing or has a potential of producing more than five (5) percent of total Gross Domestic Product in a given year";
- (ii) deposits of common minerals, refers to abundant sediments and rock concentrations that could be used for construction material; and
- (iii) deposits of conventional minerals, which applies to all deposits not covered under deposits of strategic importance or common minerals.

4.40. The State has the right to participate in the exploitation of strategic deposits by up to 50% where it has funded the exploration work, or 34% where it has not. As of end-June 2013, 15 mineral deposits had been classified as strategic deposits (Table 4.10). Similarly, under the Nuclear Energy Law, the State may take ownership of 51% of the shares of a project if a related deposit was discovered through State funded exploration work, or 34% where it was not. These conditions may be applied when existing exploration and mining licences are re-registered.

<sup>22</sup> The Mongolian authorities; and Hart Nurse Ltd (UK) and Ulaanbaatar Audit corporation LLC (Mongolia) (2012), p. 10.

<sup>23</sup> Wolf Petroleum online information. Viewed at: <http://www.wolfpetroleum.net/mongolia/oil-in-mongolia> [February 2104].

<sup>24</sup> Oxford Business Group (2012), Energy. Viewed at: <http://www.oxfordbusinessgroup.com/news/striking-black-gold-going-underground-maximise-oil-potential>.

**Table 4.10 Strategic mineral deposits**

Name	Minerals	Resources	
Oyu Tolgoi	Copper, gold, molybdenum	Copper: 37 million tonnes Gold: 1,300 tonnes	34% owned by the State and 66% by Turquoise Hill (a subsidiary of Rio Tinto). Production expected to begin in 2013.
Tavan Tolgoi	Coal	1,400 million tonnes	The State-owned Erdenes Tavan Tolgoi owns one block with plans for an initial public offering for 10% of the shares
Nariin Sukhait	Coal	500 million tonnes	Operated by Mongolyn Alt, Qinhua-MAK-Nariin Sukhait LLC and South Gobi Energy Resources.
Tsagaan Suvarga	Copper, molybdenum	Copper: 324,000 tonnes	Exploration has been done by the State, additional geological exploration is required.
Shivee ovoo	Lignite	555 million tonnes	90% owned by the State. Plans to develop by the Ministry of Mining, Erdenes MGL and the State Grid Corporation of China.
Asgat	Silver	Silver: 2,247 tonnes Copper: 76,746 tonnes	Licence held by Mongolian-Russian JVC Mongolrostsvetmet.
Tumurtein ovoo	Zinc, lead	Zinc: 885,300 tonnes	Licence held by a Mongolian-Chinese JVC by stability agreement.
Dornod	Uranium	28,868 tonnes	51% owned by the State.
Gurvan Bulag	Uranium	16,073 tonnes	To be developed by a Mongolian company in agreement with the Mongolian Nuclear Energy Agency.
Mardai	Uranium	1,104 tonnes	Emeelt Mines, a subsidiary of Western Prospector holds the exploration licence.
Baganuur	Lignite	240 million tonnes	In operation by Baganuur Joint Stock Mining Company controlled by the Government (75% share).
Tumurtei Boroo	Iron Gold	229.5 million tonnes (ore) Gold: 38 tonnes Silver: 5 tonnes	State owned. In operation by a subsidiary of Cenerra Gold of Canada.
Erdenet	Copper, molybdenum	Copper: 4.8 million tonnes Molybdenum: 131,034 tonnes	In operation. Erdenet Mining Corporation a Mongolian (51%)-Russian (49%) joint venture.
Burenkhaan	Phosphorite	162.56 million tonnes (ore)	

Source: Ernst & Young (2012), *Mongolia Mining and Tax Guide 2012/13*, p. 9; and the Mongolian authorities.

4.41. Under the Law, except for reserved areas and special-purpose territories, any legal person may conduct reconnaissance for minerals in any part of the country, after notifying the State, the Mining Resource Authority, and the local authorities of the area concerned. However, an exploration licence is a requirement for a mining licence. Applications for exploration licences must be made to the Mining Resource Authority and must not overlap reserve areas, special-purpose territories, existing licensed areas, or areas subject to a pending licence application. Licences must be for areas between 25 and 400,000 ha but there is no limit on the number of licences any legal entity may have. If the Authority rejects the application it must inform the applicant within 30 days, if it does not reject the application it passes it to the local authorities who have 30 days to approve or reject it. If accepted, the applicant must pay the licence fee within ten days for the first year, whereupon the Authority issues a three year exploration licence, which may be renewed.

4.42. A similar process applies to applications for mining licences. Mining licences are valid for 30 years and may be extended twice for periods of up to 20 years each.

4.43. In 2010, the Parliament imposed a moratorium on new exploration licences, which was extended until the adoption of a new law on minerals. According to the authorities, the moratorium was needed to address problems under the existing system, where licences had been issued but not used.

4.44. The Law on Regulation of Foreign Investment in Business Entities which Operate in Sectors of Strategic Importance (Foreign Investment Regulation Law) of 2012 was replaced by the Investment Law of 2013, with effect from 1 November 2013. The new Law simplified the registration and approval systems for new investments, including the requirement that foreign

government-owned entities obtain approval from the Mongolian Parliament or Government for investments in the mining and other sectors (section 2.5).

4.45. Under the Law on Environmental Resource Utilisation Fee, the Law on Environmental Impact Assessment, and some other legislation on environmental protection as amended in 2012, the water utilization fee is based on the economic value of the water used.

4.46. In addition to general taxes, the Government collects royalties on sales under the Mining Law. Royalties are charged as a percentage of the sales price which, for exported products, is the international market price. The standard royalty rate is 2.5% for coal and 5% for other minerals. A surtax royalty effective 1 January 2011, replaced a windfall-profits tax on copper and gold. The surtax royalty applies to 23 minerals with rates varying from zero to a maximum of 5% in all cases, except copper where the maximum is 30%. The actual rate depends on the price and the degree of processing, with the objective of encouraging mineral processing in Mongolia. Licence fees, payments for exploration costs, and royalties are important contributors to government revenue (Table 4.11).

**Table 4.11 Revenue from licence fees, repayments for exploration costs, and royalties, 2010-13**

(Tog billion)

	2010	2011	2012	2013
Licence fees	31,662.7	37,743.2	39,227.7	35,815.8
Repayments for exploration costs	3,170.7	2,000.1	2,066.3	2,367.3
Royalties	169.0	382.6	442.2	463.4

Source: The Mongolian authorities.

4.47. Mining has attracted a lot of foreign investment, and several foreign companies have significant operations either in production or planned, in some cases as joint ventures with Mongolian enterprises. In addition, some mines are operated by companies that are wholly or partly owned by the State (Table 4.12).

**Table 4.12 Mining operations**

Mineral	Main operating company	Location	Annual capacity
Coal	Qinhua MAK Naryn Sukhait LLC (Mongolia-China joint venture)	Naryn Sukhait Mine, Omnogovi Aymag	200,000 tonnes
Cement	Khutul Cement and Lime Factory	Darhan, Dahrhan-Uul Aymag	500,000 tonnes
Coal	Baganuur Joint Stock Co. (Govt 75%, public 25%)	Baganuur Mine, Tov Aymag	3,000,000 tonnes
Coal	Govt 95%, public 5%	Shivee Ovoo Mine, Dundgovi, Aymag	2,000,000 tonnes
Coal	SouthGobi Energy Resources Ltd (Ivanhoe Mines Ltd 80%)	Ovoot Tolgoi Mine, Omnogovi Aymag	4,500,000 tonnes
Coal	Mongolyn Alt (MAK) Group	Eldev Mine, Dornogovi Aymag	500,000 tonnes
Coal	Mongolyn Alt (MAK) Group	Naryn Sukhait Mine, Omnogovi Aymag	3,000,000 tonnes
Coal	Qinhua MAK Naryn Sukhait LLC (Mongolia-China joint venture)	Naryn Sukhait Mine	1,500,000 tonnes
Copper concentrates	Samsung Corp 51%, Erdenet Mining Corp (Mongolia-Russia joint venture) 49%	Erdent Ovoo Mine, Orkhon Aymag	20,000,000 tonnes
Copper cathodes	Erdenet Mining Corp 51%, Strand Holdings Ltd 49%	Erdmin solvent extraction-electrowinning plant	3,000 tonnes
Copper-gold	Turquoise Hill (Rio Tinto)	Oyu Tolgoi	150,000 tonnes Cu 700,000 oz Au
Fluorspar	Mongolrostsvetment LLC	Bor-Undur Mine and processing plant, Hentiy Aymag	450,000 tonnes
Fluorspar	Mongolrostsvetment LLC	Urgen Mine, Dornogovi Aymag	120,000 tonnes
Gold	Centerra Gold Inc	Boroo operation	3,000 kg
Limestone	Mongolyn Alt (MAK) Group	Khukh Tsav quarry	108 million tonnes
Molybdenum	Erdenet Mining Corp	Erdenet, Bulgan Aymag	3,000 tonnes
Steel	Darkham metallurgy plant	Darhan, Darhan-Uul Aymag	100,000 tonnes

Mineral	Main operating company	Location	Annual capacity
Tungsten		Hovd Gol area, Bayan-Olgii Aymag	150 tonnes
Zinc concentrates	Tsait Minerals Co Ltd (China-Mongolia joint venture)	Sukhe Bator, Suhbaatar Aymag	70,000 tonnes

Source: U.S. Geological Service (2012), *2011 Minerals Yearbook [Advance Release]*, December, p. 18.1. Viewed at: <http://minerals.usgs.gov/minerals/pubs/country/2011/myb3-2011-mg.pdf> [February 2014]; the Mongolian authorities; and other sources.

## 4.2.2 Electricity

### 4.2.2.1 Features

4.48. Installed capacity for generating electricity in Mongolia was about 1,062 MW in 2011, although only about 80% of this is available due to aging power plants. The transmission and distribution network has also been unreliable and is one reason for the high level of transmission losses and internal use by electricity stations, which exceed household use<sup>25</sup> (Table 4.13).

**Table 4.13 Production and consumption of electricity in Mongolia, 2004-12**

(kWh unless otherwise stated)

	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Statistical yearbooks</b>									
Resources – total	3,474	3,586	3,713	3,896	4,198	4,195	4,576	4,812	5,182
Gross generation	3,303	3,419	3,544	3,701	4,001	4,039	4,313	4,536	4,816
Import	171	168	168	195	198	157	263	276	366
Distribution total	3,474	3,586	3,713	3,896	4,198	4,195	4,576	4,812	5,182
Consumption	2,357	2,534	2,620	2,829	3,093	3,034	3,376	3,453	3,773
Industry and construction	1,459	1,569	1,627	1,746	1,918	1,883	2,094	2,141	2,339
Transport and communication	99	106	109	117	129	126	140	144	157
Agriculture	26	28	24	26	33	32	36	36	40
Households	568	609	629	695	742	728	810	829	907
Other	207	222	230	246	272	265	296	303	3301
Losses transmission/distribution	480	420	442	442	436	494	505	644	675
Station internal use	629	621	630	615	653	649	672	691	712
Export	8	12	21	10	16	18	22	24	21
Electricity production per capita	1,312	1,342	1,374	1,415	1,504	1,491	1,564	1,693	1,762
<b>Statistical bulletins</b>									
Generation	2,692	2,817	2,933	3,078	3,360	3,396	3,654	3,902	4,096
Thermal energy (thousand Gcal)	6,966	7,342	7,349	7,282	7,444	7,852	8,072	8,420	8,672

Source: National Statistic Office of Mongolia, *Statistical Yearbook* and *Statistical Bulletin* (various issues).

4.49. Over 90% of electricity is generated from seven coal-powered combined heat and power plants, with diesel generators, hydro, and wind/solar providing the rest.<sup>26</sup> In 2012, 4,096 million kWh were generated along with 8.7 million Gcal of heat, which, given Mongolia's harsh winters, is important for heating households and businesses. Mongolia is a net importer of electricity, although imports are low relative to total generation, at 366 million kWh in 2012. Generation and consumption of electricity have increased steadily over the past few years with mining accounting for an increasing proportion of demand; this trend is expected to continue as new mines start producing. In 2010, about two thirds of electricity was consumed by industry and construction (including mining).

4.50. The energy sector has been the target of considerable investment and assistance from abroad. It was reported that, between 1990 and 2008, the sector received US\$347.9 million in loans and US\$227.4 million in grants from other countries, international banks, and financial institutions.<sup>27</sup>

<sup>25</sup> Institute of Energy Economics, Japan (2012).

<sup>26</sup> Tovuuudorj (2013).

<sup>27</sup> Zorigt (2009).

4.51. Mongolia has into four electric power systems:

- Central Energy System (CES), which accounts for about 80% of production and consumption. The CES has five coal-burning combined heat and power plants and an interconnection to the Russian Federation;
- Western Energy System (WES), which operates on electricity imported from the Russian Federation;
- Eastern Energy System (EES) has one coal powered combined heat and power plant; and
- Altai-Uliastai Energy System in the mid-west of Mongolia, which connects some districts not connected to the WES or CES;

4.52. In addition, the city of Dalanzadgad in the south has a coal powered combined heat and power plant and there are about 600 small diesel generators of between 60 and 1,000 kw supplying local municipalities.

#### 4.2.2.2 Policy

4.53. The Ministry of Energy is responsible for developing and implementing policies and laws on electricity. The Energy Regulatory Commission is responsible for regulating the sector; the National Dispatching Center is responsible for matching supply and demand as well as monitoring licence holders; the Energy Development Center is responsible for implementing energy policy, supporting policy and decision-making in the Ministry with professional studies, as well as implementing certain activities such as feasibility studies and technical control of projects financed through the State budget; and the National Renewable Energy Center promotes renewable energy technologies.

4.54. The principle legislation governing the energy sector is set out in several laws, including:

- the Energy Law of 2001, last amended in 2012, which sets out the legal basis for unbundling the sector and the establishment, under Government Decree No. 164, of 18 state-owned companies for generation, transmission, and distribution. It also provides the legal basis for the Energy Regulatory Authority (now the Energy Regulatory Commission (ERC)) and the licensing of energy companies;
- the Renewable Energy Law of 2007, which sets out the licensing requirements for producers of electricity from renewable sources (including hydro). It also sets out a range of possible tariffs that the Energy Regulatory Commission may apply to buyers of electricity from generators connected to the grid and the regulatory boards of *aimags* and Ulaanbaatar for stand-alone power sources (Table 4.14); and
- the Concessions Law of 2010, which provides the legal basis for public-private partnerships and their regulation.

**Table 4.14 Renewable energy price and tariff**

(US\$ per kWh)

Source	Tariff
Generators connected to the grid	
Wind	0.080 to 0.950
Hydro	0.045 to 0.060
Solar	0.150 to 0.180
Stand-alone generators	
Wind	0.100 to 0.150
Hydro	
Plant capacity < 500 kW	0.080 to 0.100
Plant capacity 501 to 2,000 kW	0.050 to 0.060
Plant capacity 2,001 to 5,000 kW	0.045 to 0.050
Solar	0.200 to 0.300

Source: Law of Mongolia on Renewable Energy, Article 11.

4.55. In addition to the laws affecting electricity generation, transmission, and distribution, Government policy is set out in a number of programmes including the Program on Integrated Power Energy System to integrate the regional networks into a national grid; and the National Renewable Energy Program. Furthermore, as electricity is central to development, it is included in development programmes such as the National Development Strategy and the Government Action Plan 2012-16. Given the nomadic life of many herder households, provision of electricity to them has been particularly difficult. Under the 100,000 Solar Ger programme, the Government, with assistance from the World Bank and others, provided solar kits at subsidized prices to nomadic herder households.<sup>28</sup>

4.56. Current policy is to address a capacity shortage of 100-150 MW, expected to emerge in 2013-16, by building a new coal-fired combined heat and power plant, increasing capacity in existing thermal plants, commissioning a new wind-park, and increasing imports. Similarly, heating capacity is to be increased by building a new heat plant in Ulaanbaatar and improving infrastructure to deliver more heat from existing plants.<sup>29</sup>

4.57. The Energy Regulatory Commission, responsible for regulating the energy sector, has the authority to set prices for heat and electricity; set the methodologies to calculate prices for fuel used to generate electricity; and make provisions for the functioning of an electricity market. It is also responsible for issuing licences for the import and/or export of electricity, licences for transmission lines of more than 5 MW, and, with the permission of the State Central Administrative Authority, licences for the generation, distribution, and supply of electricity. It monitors and evaluates the activities of licence holders. Regulatory decisions by the ERC may be appealed in the Administrative Court if an energy enterprise disagrees with the ERC decision.

4.58. Following the restructuring of the electricity sector under the Energy Law of 2001, Mongolia has operated a single buyer system in the Central Energy System. The Central Regional Electricity Network purchases imported electricity and electricity generated by the five power plants in the region; it then sells the electricity to distribution companies (three private and seven state joint-stock companies). The Energy Regulatory Commission sets wholesale and retail prices for electricity in the Central Regional Electricity Network. In addition to the single buyer market, a spot market has operated since 2006 and an auction market since 2007. The National Dispatching Center operates both the spot and auction markets.<sup>30</sup>

4.59. The current consumer tariff structure is complicated: for domestic consumers, rates depend on the city/region, the time of day, and the amount used per month; and for enterprises, since 2011, higher charges have applied to mining activities than to other enterprises (Table 4.15). The ERC regularly reviews tariffs at each stage in the network; prices doubled between 2002 and 2011 to Tog 88/kWh for industrial users in the Central Energy System<sup>31</sup> and increased again in August 2013 (Table 4.15).

**Table 4.15 Electricity tariffs for mining and industry, August 2013**

(Tog/kwh)

	Central Energy System	Eastern Energy System	Dalanzadgad	Western Energy System	Altai-Uliastai energy system
<b>Mining industries</b>					
Simple meter	130.0	130.0	100.0	100.0	100.0
Time-use meter					
06-17h00	130.0	130.0	..	..	..
17-22h00	234.0	234.0	..	..	..
22-06h00	60.0	60.0	..	..	..
<b>Industrial users, enterprises, and organizations</b>					
Simple meter	105.6	105.6	100.0	100.0	100.0
Time-use meter					
06-17h00	105.6	105.6	..	..	..
17-22h00	178.6	178.6	..	..	..
22-06h00	60.0	60.0	..	..	..

<sup>28</sup> World Bank online information. Viewed at:

<http://www.worldbank.org/en/results/2013/04/08/portable-solar-power-for-nomadic-herders> [February 2014].

<sup>29</sup> Ministry of Energy (2013).

<sup>30</sup> Energy Regulators Regional Association online information. Viewed at: <http://www.erranet.org/AboutUs/Members/Profiles/Mongolia> [September 2013].

<sup>31</sup> Tserenpurev and Osgonbaatar (2012).

	Central Energy System	Eastern Energy System	Dalanzadgad	Western Energy System	Altai-Uliastai energy system
Transport					
24 hr	60.0	..	..	..	..
Public lighting					
06-19h00	105.6	105.6	..	..	..
19-06h00	60.0	60.0	..	..	..

.. Not available.

Note: A specific methodology is also used to calculate tariffs for unmetered use of electricity and special rates apply to vulnerable households.

Source: Energy Regulatory Commission online information. Viewed at: <http://www.erc.mn> [December 2013].

4.60. The ERC has issued a considerable number of licences for electricity generation over the past few years with associated generation tariffs, and has approved power purchase agreements with the transmission companies. Recently, generation licences have been issued to several private sector enterprises, including: New Mining Energy for a 60 MW generating licence; and to Erdenes MGL for a 600 MW licence at Tavan Tolgoi, a 450 MW licence at Oyu Tolgoi, a 600 MW licence at Booroljuut, a 600 MW licence at Chandgana, and a 600 MW licence at Erdenetsogt.

4.61. Under the Law on Energy, access to transmission and distribution networks must be non-discriminatory but it does not require identical treatment for all parties for technical terms and conditions or for tariffs charged; it has been reported that in practice there is discrimination.<sup>32</sup>

4.62. It has been stated that: "The revenues generated by existing power stations are less than the overall costs required to generate energy which is why power stations are heavily indebted. As a result, the Mongolian energy sector is not particularly attractive in terms of new investment. At present, the Mongolian Government has neither a framework in place, nor strategies or incentive mechanisms to encourage energy efficiency and energy savings. In most cases, the actors in the energy sector, industrial users and end users are not fully aware of how they can save energy and be more efficient."<sup>33</sup>

4.63. In response the authorities noted that the main priorities for the Government are to create the institutional framework for private sector participation, to improve the efficiency of the energy sector, to facilitate the development of renewable energy, to improve economic and financial performance of state-owned energy companies, and to promote competition in the sector. A strong legal, institutional, and regulatory framework would reduce investors' risk and encourage long-term commitment to investment through concessions, independent power producers, and power purchasing agreements. Furthermore, the Energy Master Plan, last updated in 2004, is being reviewed with assistance from the Asian Development Bank. This has included a study of the financial viability for the heat and power sectors by energy region, which showed that, with the exception of the Ulaanbaatar district heating company, all companies had shown poor levels of profitability in recent years, although liquidity and solvency were generally high. Increasing private sector investment would, therefore, require a reform of energy tariffs, which were increased several times over the past few years, most recently in August 2013.

## 4.3 Services

### 4.3.1 Banking, insurance, finance

#### 4.3.1.1 Features

4.64. In acceding to the WTO, Mongolia made full commitments on financial services in both market access and national treatment for cross-border supply, consumption abroad, and commercial presence, while supply through the presence of natural persons was unbound.

4.65. The financial and insurance services sector in Mongolia is relatively small, contributing Tog 503 billion or 3.6% to GDP in 2012 and employing 17,400 people or 1.6% of total

<sup>32</sup> European Bank for Reconstruction and Development (2010), p. 226.

<sup>33</sup> GIZ online information. Viewed at: <http://www.giz.de/en/worldwide/17721.html> [February 2014].

employment. Although the sector has grown strongly over the past few years, in both real and nominal terms, it suffered from the impact of the financial crises in 2008 when its contribution to employment and GDP contracted in real terms before recovering quickly in 2010 (Table 4.16).

**Table 4.16 Financial sector to employment and GDP, 2004-12**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Employment</b>									
Total	951	968	1,010	1,024	1,042	1,006	1,034	1,038	1,056
Finance and insurance	16	16	17	17	20	12	15	17	17
<b>GDP (Tog bn current)</b>									
Total	2,152	2,780	3,715	4,957	6,556	6,591	8,415	11,088	13,944
Finance and insurance	..	..	..	155	236	213	240	381	503
<b>GDP (Tog bn constant 2005)</b>									
Total	2,592	2,780	3,017	3,640	3,964	3,914	4,163	4,892	5,493
Finance and insurance	..	..	..	130	170	143	144	199	250

.. Not available.

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

4.66. The banking sector in Mongolia has undergone several disruptions since it was privatized in the early 1990s, with crises in 1994, 1996, and 1998 caused by several factors, including: a legacy of directed lending; high Government borrowing; poor accounting; low banking standards; and a lack of regulation.<sup>34</sup> With support from the Asian Development Bank and the IMF, considerable progress was made in the 2000, to improve domestic regulation and the security of the financial sector.<sup>35</sup> However, domestic banks were, and remain, exposed to Mongolia's narrow economic base. The 2008 global financial crises led to falls in the prices of coal and copper, with a corresponding fall in GDP and an increase in non-performing loans and withdrawals of deposits from some banks. As a result, two banks were taken over by the Bank of Mongolia (Anod in 2008 and Zoos in 2009) and the State Bank of Mongolia took over their operations. The crises also led to an IMF-supported stand-by arrangement being put in place in April 2009; this was successfully completed in October 2010.<sup>36</sup>

4.67. While commodity prices recovered quickly and Mongolia's economy performed strongly in the 2009-12 period, the fragility of some banks was again exposed in 2013 when another bank, Savings Bank, had to be taken over by the State and was merged with the State Bank.

#### 4.3.1.2 Policy

4.68. The Ministry of Finance is responsible for implementing policy for the financial sector; the Bank of Mongolia is the regulator for the banking sector (Box 4.1), and the Financial Regulatory Commission is the regulator for other financial institutions (non-bank financial institutions, savings and credit cooperatives, securities companies, insurance companies, and the operations of the capital markets sector, which comprise the Mongolia Stock Exchange (MSE) and the Securities Clearing House and Central Depository (SCHCD)). (Boxes 4.2 to 4.5).

##### 4.3.1.2.1 Banks

4.69. Legislation governing the commercial banks is set out in several laws and regulations including:

- Law on Central Bank, which sets out the role of the Bank of Mongolia with its main objective as the stability of the currency, issuing banknotes, and managing official international reserves, and its role as the fiscal intermediary of the Government. It also establishes the Bank of Mongolia as the regulator of the banking sector and as lender of last resort to banks, and assigns to it the right to set compulsory reserve levels for banks, implementing a unified interest rate policy, and imposing credit limits on banks;

<sup>34</sup> WTO document WT/TPR/S/145, 15 February 2005, Chapter IV, paragraphs 52-53.

<sup>35</sup> Asian Development Bank (2008a).

<sup>36</sup> IMF (2011).

- Law of Banking, which sets out the procedures for obtaining a banking licence, the activities banks are permitted to engage in, reporting requirements, etc., as well as setting out a number of restricted activities. It also extends the role of the Bank of Mongolia as regulator by allowing it to set criteria to apply to commercial banks, such as liquidity and other prudential requirements;
- Law on Deposits, Loans and Banking Transactions, which sets out the basic rights and duties of banks and their clients including minimum information and transparency requirements;
- Law on Combating Money Laundering and Terrorism Financing of 2006; and
- Law on Currency Settlements, which requires that the Bank of Mongolia set exchange rates for the togrog against the main currencies used in international trade. However, the Parliament is legally responsible for currency policy, while the commercial banks may establish their own exchange rates based on market demand.

4.70. In addition to the laws on banking, the Bank of Mongolia has issued regulations providing details on the implementation of the laws, including regulations on corporate governance for banks, banking licences, prudential ratios for banks, and conditions for imposing conservatorship on banks (when the Bank of Mongolia effectively takes over a bank for failing to meet prudential requirements).

4.71. The commercial banks dominate the financial sector in Mongolia, representing about 95% of total assets. As of mid 2013, there were 13 registered commercial banks, one of which is state-owned and 4 of which are majority foreign-owned. Although Mongolia has a lot of banks relative to the size of its population, the market is essentially dominated by 4 banks (Table 4.17).

**Table 4.17 Main banks in Mongolia, end 2012**

(Tog million)

Name	Foreign investment	Number of branches	Assets	Deposits/ current accounts	Loans	Total equity
Golomt Bank	Yes (15%)	92	2,527,327	2,056,530	1,427,922	187,207
Trade and Development Bank	Yes (..)	45	2,700,479	1,438,845	1,533,272	239,876
Khan Bank	Yes (64%)	512	2,796,470	2,148,932	1,731,042	231,778
Savings Bank <sup>a</sup>	..	..	..	..	558,720	..
State Bank of Mongolia <sup>a</sup>	State owned	33	316,697	280,554	180,033	31,196
Chinggis Khan Bank	Yes (100%)	2	110,808	62,523	71,385	29,109
Capitron Bank	No	24	120,882	101,821	63,644	11,691
Xac Bank	Yes (..)	107	1,077,703	516,023	630,919	97,832
Ulaanbaatar City Bank	..	24	532,314	206,532	286,517	36,625
Capital Bank	Yes (..)	63	325,597	165,341	198,086	23,925
National Investment Bank	Yes (..)	4	42,012	28,133	24,904	7,605
Credit Bank	Yes (..)	..	12,283	548	1,898	9,692
Transport Development Bank	..	..	..	..	..	..
Erel Bank	..	..	44,399	29,203	31,374	12,303

.. Not available.

a The State Bank of Mongolia's total assets and liabilities increased by nearly 400% in the third quarter of 2013 when it took over the activities of Savings Bank.

Source: Financial reports of banks.

4.72. The banking sector in Mongolia is small relative to other countries, but has grown rapidly despite the recent crises; total deposits and loans have increased significantly (Table 4.18). However, although the Bank of Mongolia has made and applied regulations, the banking sector still carries a considerable volume of non-performing loans, and doubts have been raised about the banks' reported capital asset ratios, which may be overstated. From the start of 2012 to the end of 2013, the Bank of Mongolia increased the liquidity ratio from 18% to 25% and the capital adequacy ratios for the five most important banks from 12% to 14%.

**Table 4.18 Banking structure, 2008-13**

		2008 31 Jan.	2008 31 Dec.	2009 31 Dec.	2010 31 Dec.	2011 31 Dec.	2012 31 Dec.	2013 31 July
Total assets	Tog billion	3,295	3,650	4,422	6,246	9,372	11,992	16,097
Total deposits	Tog billion	1,502	1,339	1,856	2,730	3,858	4,886	5,212
Deposit interest rate	%	..	13.6	12.9	10.7	10.5	11.7	11.80
Total loans	Tog billion	2,133	2,636	2,655	3,228	5,598	6,941	6,063
Loan interest rate	%	17.3	20.4	20.8	17.9	15.5	18.2	17.3
Non-performing loans	Tog billion	68	189	462	371	327	306	451
Bank of Mongolia policy rate	%	8.4	9.75	10.00	11.00	12.3	13.3	10.5
Consumer price index	% for year	19.9	22.1	4.2	13.0	8.9	14.0	8.3

.. Not available.

Source: Bank of Mongolia, *Annual Report* (various years). Viewed at: <http://www.mongolbank.mn/eng/aboutus.aspx>.

4.73. Mongolian banks are exposed to a number of external factors both indirectly, because of the narrow economic base, which relies on production and exports of minerals to a single market, and directly, because over one third of loans and deposits are denominated in U.S. dollars, leading to suggestions that a prohibition on foreign-currency lending should be phased-in for unhedged borrowers.<sup>37</sup>

4.74. Bank lending increased considerably over the five years to 2012 and become more concentrated in the construction and real estate sectors, which accounted for 13% of total lending at end-2005 and 27% at end 2012 (Table 4.19).

**Table 4.19 Bank lending by economic sector, 2005-12**

Sector		2005	2006	2007	2008	2009	2010	2011	2012
Total lending	(Tog billion)	859	1,222	2,055	2,635	2,655	3,228	5,598	6,941
Agriculture	%	6.7	8.2	7.6	2.6	5.8	4.4	3.0	2.7
Construction	%	8.9	9.1	15.6	14.5	14.4	10.8	11.8	13.0
Manufacturing	%	16.2	12.8	13.0	14.5	15.5	14.1	11.3	11.5
Mining	%	9.0	7.5	6.3	6.4	13.2	12.0	12.0	11.5
Real estate activities	%	2.4	3.0	2.5	5.4	7.1	13.6	14.1	14.0
Wholesale and retail trade	%	33.2	31.5	29.2	22.7	18.0	18.6	17.0	16.4
Other	%	23.5	27.9	25.7	33.8	26.0	26.5	29.8	30.9

Source: IMF (2011), Mongolia: *Financial System Stability Assessment*, Country Report No. 11/107. Viewed at: <https://www.imf.org/external/pubs/ft/scr/2011/cr11107.pdf>; and Bank of Mongolia *Quarterly Loan Report of Banks* (various issues). Viewed at: [http://www.mongolbank.mn/eng/liststatistic.aspx?did=2\\_2](http://www.mongolbank.mn/eng/liststatistic.aspx?did=2_2).

4.75. In addition to reducing dollarization and improving banks' reserves, recommendations for reform for banking regulations include:

- replacing the blanket deposit guarantee scheme, which expired in November 2012; this was achieved with the Law on Insurance of Bank Deposits of 2013, in effect in January 2013;
- strengthening the anti-money laundering and financing of terrorism framework by full implementation of the action plan agreed with the Financial Action Task Force for the Financial Intelligence Unit in the Bank of Mongolia. The FIU was established under the Law on Combating Money Laundering and Terrorism Financing of 2006.<sup>38</sup>

<sup>37</sup> IMF (2012), paragraphs 41-42.

<sup>38</sup> IMF (2012).

**Box 4.1 Regulatory framework for banking services, 2013****Supervisory authority:** Bank of Mongolia**Preferential and bilateral policies:** None**Licensing:** General prudential, fiduciary, and reporting requirements applied equally to domestic and foreign-owned banks.**Prudential regulations:**

Capital adequacy ratio:	Capital to risk-weighted assets	>12%
	Tier-1 capital to risk-weighted assets	>9%
Liquidity ratio:	Liquid assets to total liabilities	>25%
Credit concentration risk ratio:	Loans and guarantees to single borrower	<20%
Forex risk ratio:	Total currency	<40%
	Single currency	<15%

**Determination of interest rates and fees:** Banks may determine interest rates and fees freely**Specific provisions against money laundering:** the law on Combating Money Laundering and Terrorism Financing of 2006 sets out regulations, while the Financial Action Task Force monitors banks and other financial institutions.**Bank deposit insurance scheme:** Law on Insurance of Bank Deposits, adopted in January 2013, established the Deposit Insurance Fund run by the Deposit Insurance Corporation. The scheme is to be funded primarily by banks through quarterly premiums of 1% of share capital up to a maximum of 0.125% of deposits, with provisions for reduced premiums when the fund equals 10% of all deposits or additional premiums if there are insufficient funds to meet compensation. The Law provides for compensation up to Tog 20 million per person or legal entity.

Source: The Mongolian authorities.

**4.3.1.2.2 Other financial institutions**

4.76. Apart from the commercial banks, the financial services sector consists of insurance, savings and loans cooperatives, the securities market, and non-bank financial activities (Table 4.20). The Financial Regulatory Commission (FRC), established under the Law on FRC Legal Position of 2005, is responsible for regulating and supervising all financial institutions except the commercial banks. Several other laws also regulate activities of the non-banking financial institutions:

- Law on Insurance of April 2004, and Law on Insurance Intermediaries of April 2004<sup>39</sup>;
- Law on Savings and Credit Cooperatives of October 2011, deals with non-profit legal entities providing licensed savings and loan services;
- Law on Securities Market of May 2013, revised earlier law on Securities Market of December 2002, and covers exchange traded or over-the-counter trades of securities and derivative instruments, their issuance, trade, transfer of ownership rights, payments, and clearing and deposition. This law applies to the Stock Exchange and the Securities Clearing House and Central Depository; and
- Law on Non-Bank Financial Activities of December 2002, covers a variety of financial services provided by non-bank financial institutions including lending; factoring; financial leases; financial guarantees; issuing of payment instruments; electronic payments and remittance services; foreign currency exchange; trust services; investment in short-term financial instruments; and the provision of investment and financial consultancy and information services.

**Table 4.20 Indicators for non-commercial bank financial subsector, 2005-12**

		2005	2006	2007	2008	2009	2010	2011	2012
<b>Non-bank financial institutions</b>									
Operating income	Tog million	7,371	8,785	13,090	18,247	26,338	29,004	45,211	67,651
Operating expenses	Tog million	2,594	2,792	5,089	5,968	11,121	8,767	14,467	23,281

<sup>39</sup> Unofficial English translations of these laws are available from the FRC. Viewed at: <http://www.frc.gov.mn/engnew/> [October 2013].

		2005	2006	2007	2008	2009	2010	2011	2012
Provisions	Tog million	853	515	747	1,299	1,800	2,247	2,115	2,323
Number of NBFI	No.	148	163	137	132	177	182	195	212
<b>Insurance</b>									
Premiums	Tog million	7,435	10,231	13,823	21,267	23,259	31,769	47,487	78,208
Reimbursements	Tog million	2,407	3,465	3,375	4,900	5,511	8,827	10,172	19,575
Number of institutions	No.	20	20	15	15	17	17	17	18
<b>Savings and credit cooperatives</b>									
Interest income	Tog million	25,141	17,109	8,311	11,093	10,764	11,171	12,373	15,426
Interest expenses	Tog million	9,413	10,027	5,655	6,516	6,169	6,361	7,385	8,323
Total savings	Tog million	..	11,387	25,960	27,672	29,898	34,779	7,385	8,323
Total credit	Tog million	..	13,601	19,291	32,878	32,215	34,861	43,843	47,086
Number of institutions	No.	532	537	168	209	212	179	162	148
<b>Stock market</b>									
Registered companies	No.	392	387	383	376	358	336	332	239
Market capitalization	Tog billion	55	131	716	515	620	1,374	2,169	1,800
Stock trades	Tog million	654	2,547	12,604	60,349	23,182	62,873	109,111	144,747
Government bond trading	Tog million	6,768	4,462	39,599	1,495	..	30,000	236,731	0.5
Company bond trading	Tog million	2,664	961	851	502	..	..	4,395	310

.. Not available.

Source: Bank of Mongolia, *Annual Report* (various years). Viewed at: <http://www.mongolbank.mn/eng/aboutus.aspx>.

4.77. In addition to the various laws covering financial services institutions, other than commercial banks, the FRC has also issued a number of regulations, guidelines, and codes in each of the sub-sectors it regulates (Box 4.2 to 4.5). Under the Banking Law, the FRC is required to work with the Bank of Mongolia and the Financial Intelligence Unit on anti-money-laundering and combating the financing of terrorism. However, although the laws and other rules may have established a fairly comprehensive legal framework, and coordination of activities with other regulators is required, there are some doubts about their implementation and the extent of cooperation.<sup>40</sup>

#### 4.3.1.2.2.1 Insurance

4.78. There are 16 general insurance companies and 1 life insurance company operating in Mongolia. Under the Law on Insurance, insurance is either long term or ordinary, each of which may be divided into compulsory or voluntary. The only compulsory insurance is for vehicle drivers, introduced in October 2011, with effect from 1 January 2012. This compulsory driver insurance partly explains the recent increase in premiums and reimbursements in insurance (Table 4.20).

4.79. There are no state-owned insurance companies operating in Mongolia, since Mongol Daatgal (non-life insurance) and Tushig Daatgal (agricultural insurance) were privatized in 2003; however, the State has stakes in some smaller insurance companies. Although Mongol Daatgal remains the biggest insurance company, its market share (premium revenue) declined from about three quarters in 2003 to one quarter in 2011, as other companies grew more quickly. Mongol Daatgal is owned by Angara Insurance of Russia and Chinggis Khan Bank.

### Box 4.2 Regulatory framework for insurance services, 2013

**Supervisory authority:** Financial Regulatory Commission

**Preferential and bilateral policies:** None

**Licensing:** A licence from the FRC is required to operate as an insurer in Mongolia. The insurer may not engage in other economic activities. There is no time-limit on the duration of a licence provided all legal requirements are met.

Approval from the FRC is required for any person to hold 10% or more of the shares in an insurance company and such a person must also obtain prior approval before disposing of these shares.

There are no additional requirements on foreign insurers and intermediaries beyond obtaining written approval from the FRC.

Cross-holdings are prohibited between insurance brokers/agents and insurance companies, and between brokers/agents and the directors of insurance companies.

<sup>40</sup> Asian Development Bank (2008a); and IMF (2011).

**Prudential regulations:**

Capital requirements: General insurance	Tog 5 billion
Long term insurance	Tog 7 billion
Reinsurance	Tog 15 billion

Solvency requirements: General insurance	100%
Long-term insurance	125%

Annual actuarial review required.

Actuarially determined reserves for incurred but not reported risks.

**Reinsurance:** Each insurance company may organize its own reinsurance, such as Mongol Daatgal's agreement with HannoverRe for losses over Tog 300 million up to Tog 6,000 million.<sup>41</sup>

Source: The Mongolian authorities.

4.80. Over the past few years, insurance premiums and non-bank financial institutions' turnover have increased significantly, although they remain small compared to the commercial banks. Furthermore, savings and credit cooperatives have not fully recovered from a severe contraction in 2008, when the number of cooperatives and their turnover fell sharply (Table 4.20). There were several reasons for the crises among the savings and credit cooperatives, but poor management and regulation meant many of them were very fragile if not already insolvent when the general financial crises hit Mongolia.<sup>42</sup> The Law on Savings and Credit Cooperatives of 2011 was intended to close some loopholes in the previous law, which were blamed for having led to irregularities and the subsequent demise of many cooperatives with total losses of Tog 79 billion.

#### Box 4.3 Regulatory framework for non-bank financial institutions, 2013

**Activities:** Lending, factoring, financial leases, financial guarantees, issuing payment instruments, electronic payments and remittance services, foreign exchange, trust services, investment in short term financial instruments, investment and financial consultancy or information services. Non-bank financial institutions are prohibited from accepting deposits or opening deposit accounts for clients.

**Supervisory authority:** Financial Regulatory Commission

**Licensing:** Licencing authority: FRC

Applications must be accompanied by documents confirming the entity has the minimum capital available, charter, business plan, financial statements, etc. Licence validity is normally three years, renewable. Normal reporting, transparency, fiduciary and prudential requirements apply equally to domestically owned and foreign owned non-bank financial institutions.

**Prudential regulations:** Prudential ratios on reserve fund, liquidity, capital adequacy, loan loss provisioning, foreign currency exposure and other criteria shall comply with requirements set by the Committee on Financial Regulations under the FRC Resolution No. 191 of 2008 (Regulation to calculate and maintain the prudential ratios of NBFIs applies to the NBFIs).

Minimum capital requirements are determined by FRC upon consideration of the national economic situation, inflation rate, liquidity and specifics of the NBFIs from Tog 20 million to Tog 1,000 million.

Source: The Mongolian authorities.

<sup>41</sup> Eurasia Capital (2010).

<sup>42</sup> Tur-Od Lkhagvajav (2012).

**Box 4.4 Regulatory framework for savings and credit cooperatives, 2013****Supervisory authority:** Financial Regulatory Commission**Licensing:** Licencing authority: FRC

According to Resolution of the FRC No 60 of 2012 (General Regulation for Savings and Credit Cooperatives), savings and credit cooperatives shall:

- verify that the documents are completed required by Articles 2.1 and 2.2;
- verify that the founding members have made a founding contract, and supply supporting showing that more than 30% of the share capital has been mobilized;
- verify members of the Board of Directors, Supervision Committee and Loan Committee, the executive director, and the accountant meet the requirements set out in Article 2.1.8 of the Resolution; and
- provide a business plan developed in accordance with Annex 5 of the Resolution

Under the Resolution, a savings and credit cooperative has three months after submitting an application for a licence in which to complete documentation.

A licence is valid for 3 years.

**Prudential regulations:** There are no minimum capital requirements for obtaining a licence.

Under Resolution of the FRC No 180 of 2012, savings and credit cooperatives are required to make provisions for losses on loans and other assets and adjust the provisions each time there is a change in assets based on the following schedule:

- |   |                                       |
|---|---------------------------------------|
| • current loans   | no amount specified in the Resolution |
| • overdue loans   | 5%                                    |
| • non-performing loans:   |                                       |
| ○ substandard   | 25%                                   |
| ○ doubtful  | 50%                                   |
| ○ bad   | 100%                                  |
| • the sum of outstanding non-performing loans should not exceed 5% of the loan portfolio    |                                       |
| • the sum of loans to SCC members and related parties should not exceed 30% of total equity |                                       |
| • other prudential regulations relating to assets, asset structure, and the capital fund    |                                       |

Source: The Mongolian authorities; and WTO Secretariat.

4.81. Mongolia's stock exchange has seen a considerable increase in total capitalization and trading over the past few years, although the number of registered companies has declined. The decline in numbers listed follows de-listing of companies by the FRC, mainly on the basis that they have not followed the exchanges disclosure rules or for concentration of equity ownership (Table 4.20). The top 4 companies by market capitalization account for over half of total market capitalization, and the majority of the top 20 are mining companies.

**Box 4.5 Market and regulatory regime for securities and stock exchanges, 2013****Supervisory authority and licensing organ:** FRC

**Licensing:** Under the Law on Securities Market and accompanying regulations, the FRC may grant 16 different types of licence relating to the securities market: brokerage; dealing; investment advice; securities trust; underwriting; securities ownership rights registration; securities trade clearing; securities trade settlement; centralized depository of securities; other operations ordered by and on behalf of clients; custody; securities trading; investment funds; investment management; financial rating; and other operations prescribed as regulated by the FRC.

Validity: three years with the possibility of an extension for an additional three years.

Transferability: licences are non-transferable.

Limitations on number of licences: there are no restrictions on the number of licences that may be held, but under Article 51 of the Law on Securities Market, a regulated person or entity may only combine certain activities:

- a person authorized to undertake brokers' operations may conduct securities dealing and underwriting and investment advisory operations;
- an organization authorized to undertake securities central depository operations may conduct custodian, clearing and settlement operations;
- a legal entity authorized to undertake custodian operations may conduct securities' registration operations;
- a legal entity authorized to undertake custodian operations may conduct settlement operations; and
- operations as permitted by the FRC.

**Additional criteria for foreign firms:** There are no restrictions related to foreign ownership of securities operators provided they are registered entities in Mongolia as limited liability or public limited companies.

Source: The Mongolian authorities.

### 4.3.2 Telecommunications

4.82. In acceding to the WTO, Mongolia made full commitments on value added in telecommunications services in both market access and national treatment for cross-border supply, consumption abroad, and commercial presence; supply through the presence of natural persons was unbound, except for horizontal limitations affecting managerial and technical skills in short supply in Mongolia.<sup>43</sup> There are no restrictions on foreign investment in telecommunications, including mobile services, beyond licensing and other technical requirements, which are applied to foreign and domestic companies alike.

4.83. Although the information and communication sector employs relatively few people (1.4% of total employment) and contributes only 2.6% to GDP, it is critical to the functioning of the economy and has grown strongly in both nominal and real terms over the past few years (Table 4.21).

**Table 4.21 Information and communication to employment and GDP, 2007-12**

	2007	2008	2009	2010	2011	2012
<b>Employment ('000 persons)</b>						
Total	1,024	1,042	1,006	1,034	1,038	1,056
Information and communication	11	11	10	15	12	15
<b>GDP (Tog billion current)</b>						
Total	4,957	6,556	6,591	8,415	11,088	13,944
Information and communication	166	221	216	246	295	369
<b>GDP (Tog billion constant 2005)</b>						
Total	3,640	3,964	3,914	4,163	4,892	5,493
Information and communication	132	158	169	180	190	226

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

4.84. With a large area and small population, a significant portion of which are nomadic herders, telecommunications in Mongolia face particular difficulties. The land-line system is focused on Ulaanbaatar, although the number of land lines has been in decline for some years while mobile phone subscriptions have increased rapidly (Table 4.22). At the same time, internet subscriptions have also increased many of which undoubtedly use VOIP.

**Table 4.22 Telecommunications selected indicators, 2005-12**

	2005	2006	2007	2008	2009	2010	2011	2012
Revenue from telecommunications services (Tog million)	..	..	246,801	343,405	380,059	401,631	459,007	563,149
Telephone line subscriptions ('000)	151	157	150	152	143	143	132	149
Mobile phone subscriptions ('000)	571	770	1,175	1,746	2,209	2,533	2,942	3,426
Wireless telephone subscriptions ('000)	23	45	25	35	45	45	45	44
Internet service providers (No.)	26	24	34	30	56	77	85	67
Internet cafés (No.)	115	105	105	110	120	200	180	158
Internet subscriptions ('000)	22	26	30	42	106	200	458	696

.. Not available.

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

4.85. The Information Technology, Post and Telecommunications Authority (ITPTA), under the Prime Minister of Mongolia, is responsible for developing policy and preparing legislation on the telecommunications sector. Mongolia is a member of the International Telecommunication Union.

4.86. Development policy for the information communications sector is set out in the 2013 Mid-term Strategy for the Development of the ICT Sector, which is being implemented according to the E-Government Master Plan, the E-Mongolia National Programme, and the National Broadband Programme up to 2015. The objective is to complete a fibre-optic network using modern transmission technology (DWDM) with consideration being given for the most recent internet communications protocol (IPv6) with universal data service.

4.87. The legal framework for telecommunications is set out in several laws, including:

<sup>43</sup> WTO document WT/TPR/S/145, 15 February 2005, Table IV.3.

- Law on Communications of 2001, which revised the Law on Communications of 1995 and sets out the legal basis for the regulation of communications generally in Mongolia;
- Law on Radio Wave of 1999, which regulates relations on the allocation, usage, protection, ownership, and possession of radio waves; and
- other laws applying to licensing of businesses and competition that apply to telecommunications companies, while rules and procedures of the Communications Regulatory Commission of Mongolia provide more detailed regulations under the laws.

4.88. The Communications Regulatory Commission (CRC) of Mongolia was established under the Communications Act of 2001 as the independent regulator for the communications sector. Its responsibilities include: competition issues among communications enterprises, networks and services for fixed-line and wireless telecommunications, broadcasting (television, radio, and satellite transmission), spectrum management, and regulation of telecommunications, the postal services, and the internet.

4.89. Until 2007, the backbone network in Mongolia was owned and operated by the Mongolia Telecom Company (MTC) of which the State owns 51% and KT of Korea owns 40%. In 2007, the fully state-owned Information Communication Network Company (Netcom) took ownership of, and now operates the national backbone and access network, including international, long-distance, rural and local transmission networks and local loops.<sup>44</sup> The backbone consists of about 1,400 km of digital microwave, 20,000 km of optical cable lines, and more than 400 satellite-based systems (VSAT). MTC continues to own the last mile and switching for voice only.

4.90. In addition to the national backbone, Mobicom Corporation, Railcom and Gemnet LLC have their own fibre-optic and microwave infrastructure<sup>45</sup>:

- Mobicom Corporation, which is the largest mobile phone company in Mongolia, also provides internet and satellite services and wireless local loop (WLL);
- Railcom, a subsidiary of the state-owned Mongolian Railways, leases the lines to the Mongolia Telecom Company; and
- Gemnet LLC, a private company, offers international transits, internet wholesale, and channel-rent services through its 1,118 km of fibre-optic cable, which crosses Mongolia and connects with China and Russia.

4.91. Mobile phone subscriptions have continued to grow strongly and exceed the total population. There are four mobile phone operators. Mobicom is the leader, even though it is also the most expensive, as it offers the widest coverage extending to the population centres of each province and most *soums*. With a market share of more than 30%, Mobicom's pricing structure is subject to approval by the CRC (Table 4.23 and Box 4.6).

**Table 4.23 Mobile phone charges, 2012**

(Tog per minute)

	<b>MobiCom</b>	<b>Skytel</b>	<b>Unitel</b>	<b>GMobile</b>
In network	70	60	0	0
Out of network	110	70	35	30

Source: Oxford Business Group (2012), *The Report, Mongolia 2012*. Viewed at: <http://www.oxfordbusinessgroup.com/news/striking-black-gold-going-underground-maximise-oil-potential>

<sup>44</sup> Information, Communications, Technology and Post Authority of Mongolia (2011), p. 25.

<sup>45</sup> Communications Regulatory Commission online information. Viewed at: <http://www.crc.gov.mn/en/main.php?cid=1&do=5&did=0> [October 2013].

## Box 4.6 Telecommunications in Mongolia

### Main actors

#### Number of companies providing value-added telecom services:

NetCom owns and operates most of the backbone. MTC owns the last mile and leases lines from Mongolian Railways Authority and NetCom. Gemnet offers international transit, internet wholesale, and channel rents services through its fibre optic cable.

#### Name and market shares of the leading companies for mobile telephones services:

Number of operators: 4: Mobicom: 42.8%; Unitel: 28.6%; Skytel: 16.7%; and G-Mobile: 11.9%

#### Name and market share of the broadband internet services providers: Total: 85; Market leaders (by number of contracts, 2012): Gemnet; Mobinet; RailCom

#### Foreign ownership participation in telecom companies: Mongolia Telecom Company, 40%; Mobicom 60%.

State ownership: Mongolia Telecom Company 51%; Information Communication Network Company (Netcom) SOE, 100%.

### **Establishment of new companies, mergers or closures during the review period:** None.

### **Interconnection and competition issues**

Interconnection regime: Since 1 February 2012 the CRC has applied a non-discriminatory interconnection price and revenue sharing among telecommunications operators.

Pricing: Under the Law on Communications, the pricing plan for enterprises that have more than 30% market share must be approved by the regulator.

### **Regulation**

Regulatory supervision: Under the Communications Act of 2001, the CRC is responsible for regulating the communications sector (including post and telecommunications), including competition issues, provision of networks and services for fixed and wireless telecommunications, television, radio, satellite transmissions, spectrum management, postal services and internet services.

Facility sharing: BTS towers and shelters are shared when facilities are financed by the Universal Service Fund.

Number portability: Number portability is not possible.

Spectrum management: The CRC assigns spectrum based on demand.

Transparency: Interconnection requirements should be disclosed on websites of telecom companies while pricing and interconnection fees are disclosed to the CRC only.

Universal service: A Universal Service fund started to function at end-2008. Each service provider contributes to the fund at a rate of 2% of pre-tax profits.

Source: The Mongolian authorities.

## 4.3.3 Transport

### 4.3.3.1 Air transport

4.92. The domestic aviation market in Mongolia is small, comprising a number of flights linking Ulaanbaatar and other principle towns, run by several domestic air carriers, some of which also operate regional international flights. The state-owned MIAT Mongolian Airlines does not operate domestic flights. The number of domestic and international passengers and the amount of freight carried by air transport within, from, and into Mongolia have increased since 2005, and recovered quickly from the decline in 2009 (Table 4.24).

**Table 4.24 Air transport selected indicators, 2005-12**

		2005	2006	2007	2008	2009	2010	2011	2012
Freight	Tonnes	2,016	2,165	1,887	1,847	1,369	1,642	2,929	4,011
Mail		445	471	434	401	320	381	429	409
Luggage		394	325	297	263	349	272	393	480
Freight		1,177	1,370	1,156	1,183	700	988	2,107	3,122
Passengers	Thousand	335	365	388	366	309	397	574	770
International		205	234	266	263	236	276	379	442
Domestic		130	131	122	103	73	121	195	328

		2005	2006	2007	2008	2009	2010	2011	2012
International flights	Number	50,545	58,598	65,329	69,922	64,899	72,984	84,077	88,981
Overflights		47,109	54,537	61,245	65,543	60,778	67,936	77,975	82,628
Landings/takeoffs		3,436	4,061	4,084	4,379	4,121	5,048	6,102	6,353
Domestic flights		6,677	6,748	4,330	4,140	4,321	6,748	8,590	10,819

Source: National Statistical Office of Mongolia, *Statistical Yearbook*, various issues.

4.93. Under Mongolia Civil Aviation Regulation 139, there are 17 airports with licensed aerodromes, of which 10 are owned and operated by the Civil Aviation Authority of Mongolia (CAAM). These airports include Chinggis Khaan, near Ulaanbaatar, the only international airport in Mongolia. Of the 17 licensed airports, 8 have paved runways and runway lighting systems. A new international airport is under construction near Ulaanbaatar and is scheduled to become operational in 2016. Two new domestic terminals were completed in 2012: Deglii Tsagaan Airport in Uvs province, and Altai Airport in Gobi-Altai province.<sup>46</sup> In addition to the 17 airports, there are 5 licensed aerodromes, all owned and operated by the CAAM.

4.94. The principle legislation on civil aviation is the Civil Aviation Law of 1999, which states that regulations applying to civil aviation should comply with international conventions and agreements to which Mongolia is a party. The Ministry of Roads and Transportation is responsible for developing policy on air transport while the CAAM is the government agency responsible for overseeing and regulating civil aviation, including setting and applying safety standards in compliance with the Chicago Convention, and the licensing and certification of air operators. The CAAM is also responsible for providing air traffic services, and operating airports.

4.95. In 2013 the Parliament approved the State Policy in the Civil Aviation Sector through 2020. The policy recognizes the importance of air transport for a large, landlocked country with a low population density, and sets a number of objectives including improved regulatory environment, gradually opening the sector to competition through "open-skies" agreements, and developing a passenger and air freight hub at the new airport near Ulaanbaatar to service northern Asia. The policy also emphasizes the importance of air navigation; in 2009, air navigation services for international overflights accounted for nearly all of CAAM's US\$72 million income. About US\$25 million of this went to the Government.<sup>47</sup> Other aspects of the regulatory regime are detailed in Box 4.7.

4.96. The CAAM has certified 18 air operators, including 5 foreign operators (Table 4.25).

**Table 4.25 Certified air transport operators**

Airline	Certificate number	MCAR
MIAT Mongolian Airlines	AT-003	121
Aeromongolia	AT-009	121
Eznis Airways	AT-011	121
Mongolyn Alt "MAK"	AT-014	135
A-jet Aviation	AT-015	135
Sky Horse New	AT-016	135
Blue Sky Aviation	AT-017	135
Hunnu Air	AT-018	121
Hunnu Air service	AT-018/3	135
Geosan	AT-019	135
Thomas Air	AT-021	135
Fly Adventure	AT-023	135
Air Cargo Mongolia	AAT-002	301
Aeroflot	FAOC-001	129
Korean Air	FAOC-002	129
Air China	FAOC-003	129
Tianjin Airlines	FAOC-005	129
Turkish Airlines	FAOC-006	129

Source: The Mongolian authorities.

<sup>46</sup> ICAO (2013), pp. 7-8.

<sup>47</sup> Oxford Business Group (2012).

**Box 4.7 Mongolia's market and regulatory regime for air transport subsectors, 2013****Computer reservation services**

General regulatory framework: There are no specific regulations relating to computer reservations services.

Economic characteristics: Both domestic and foreign based enterprises with or without a branch office in Mongolia may provide computer reservation services.

**Selling and marketing of air transport services**

General regulatory framework: Regulation of Civil Air Transportation of 1998

**Aircraft repair and maintenance**

General regulatory framework: Civil Aviation Law of 1999 and Rule 145 on Aircraft Maintenance Organisations - Certification

Number of certified repair stations: 24 operators have been licensed to provide air maintenance operations in Mongolia, of which 10 are Mongolian based enterprises.

**Ground handling services**

General regulatory framework: No regulations.

Main providers: All ground handling services are provided by CAAM.

**Airport management services**

General regulatory framework: Civil Aviation Law of 1999 and Rule 139 on Aerodrome Certification and Operation and Rule 157 on the establishment, use and alteration of Aerodromes.

Economic characteristics: See Table 4.24.

**Commercial aviation**

General regulatory framework: Civil Aviation Law of 1999 and regulations by CAAM.

Source: The Mongolian authorities.

4.97. Mongolia has 36 bilateral aviation safety agreements. However, only five of these are active (with China, Germany, Japan, Korea, and the Russian Federation)<sup>48</sup> and they have been criticized for their restrictive coverage and failure to encourage competition, resulting, amongst other things, in high aviation fuel prices.<sup>49</sup> Mongolia is also a signatory to the Multilateral Agreement on the Liberalization of International Air Transportation (MALIAT) (with Brunei Darussalam, Chile, Cook Islands, New Zealand, Samoa, Singapore, Tonga, United States) for cargo services only, with effect from February 2008 (Table 4.26).<sup>50</sup>

<sup>48</sup> Civil Aviation Authority of Mongolia, online information. Viewed at: <http://www.mcaa.gov.mn/en.php/page/detail/id/21> [February 2014].

<sup>49</sup> InterVISTAS LLC (2011), p. 20; and Chemonics International Inc (2011), p. 74.

<sup>50</sup> MALIAT online information. Viewed at: <http://www.maliat.govt.nz/country/mongolia.php> [September 2013].

**Table 4.26 Active air services agreements**

Partner	Date	Entry into force	5 <sup>th</sup>	7 <sup>th</sup>	Cabotage	Cooperation	Designation	Withholding	Pricing	Capacity	Stat
<b>Active agreements<sup>a</sup></b>											
Russian Federation	08/09/1997	08/09/1997	Y	N	N	CS	Multi	SO	DA	PD	Yes
Japan	10/07/1999	25711/1993	N	N	N	CS	Multi	SOE	FP and DA	PD	Yes
Germany	29/05/1998	29/05/1998	Y	N	N	N	Multi	Other	DA	PD	Yes
China	08/04/1989	08/04/1989	Y	N	N	N	Multi	SOE	DA	PD	Yes
Korea	23/10/1991	23/10/1991	N	N	N	CS	Single	SOE	DA	PD	Yes
EU <sup>b</sup>	03/04/2009	n.a	n.a	n.a	n.a	n.a	n.a	n.a	n.a	n.a	n.a

n.a: Not applicable.

a Inactive agreements with: Austria; Belarus; Bulgaria; Denmark; Egypt; Finland; France; Hong Kong China; Iceland; India; Democratic People's Republic of Korea; Kazakhstan; Kyrgyzstan; Luxembourg; Macau, China; Malaysia; the Netherlands; Norway; Philippines; Poland; Romania; Singapore; Sweden; Switzerland; Thailand; Turkey; Ukraine; United Arab Emirates; United Kingdom; Viet Nam.

b The Agreement between the European Community and the Government of Mongolia on certain aspects of air services replaces "certain provisions in existing bilateral agreements between EU Member states and Mongolia with an agreement recognising that consistency between EU law and provisions of bilateral air service agreements between Member states of the European Union and Mongolia will provide a sound legal basis for air services between the European Union and Mongolia and preserve the continuity of such air services."<sup>51</sup>

Note: "5<sup>th</sup>" stands for fifth freedom rights; "7<sup>th</sup>" for seventh freedom rights; "CS" for code sharing; "IP" for in progress; "Stat" for statistics; "Y" for yes; "N" for no; "Multi" for multi-designation; "Single" for single designation; "SO" for substantial ownership "SOE" for substantial ownership and effective control; "PPoB" for principal place of business; "DA" for double approval; "FP" for free pricing; and "PD" for pre-determination.

Source: The Mongolian authorities.

4.98. Mongolia is a member of ICAO, and the Civil Aviation Authority is seeking full membership of the ICAO TRAINAIR *PLUS* training development assistance programme in 2014. MIAT Mongolian Airlines is a member of IATA.

#### 4.3.3.2 Road transport

4.99. With a large surface area, low population density and an economy that depends on bulk exports, road infrastructure is important to the economy. Furthermore, the amount of freight, number of passengers, and number of vehicles using roads have been increasing steadily over the past few years (Table 4.27) and are projected to continue increasing as the economy expands and mineral production increases. However, the road network has been characterized as "underdeveloped and dilapidated" and "has been recognized as a bottleneck in the country's development."<sup>52</sup>

**Table 4.27 Road transport selected indicators, 2005-12**

		2005	2006	2007	2008	2009	2010	2011	2012
Roads									
Hard cover	km	2,279	2,393	2,597	2,671	2,824	3,016	4,063	4,349
Gravel cover	km	1,980	1,980	1,962	2,000	1,994	2,072	1,959	1,959
Improved soil	km	1,868	1,908	1,902	1,874	1,874	1,647	1,611	1,611
Total	km	6,127	6,281	6,461	6,545	6,692	6,734	7,633	7,919
Carried freight	'000 tonnes	8,082	9,189	9,207	9,256	10,564	12,610	25,635	32,899
	million tonne km	311	458	662	782	1,161	1,834	4,910	4,461

<sup>51</sup> EU Treaties Office Database online information. Viewed at: <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=8261> [February 2014].

<sup>52</sup> Asian Development Bank (2011), p. 1.

		2005	2006	2007	2008	2009	2010	2011	2012
Passengers	million	188	191	205	227	229	247	292	314
	million passenger km	640	648	870	1,215	1,536	1,480	2,322	2,263
Vehicles	passenger cars	87,792	94,442	110,150	127,538	153,906	172,583	208,514	228,650
	trucks	27,435	29,389	33,676	41,138	47,291	61,841	75,090	83,718
	buses	11,067	11,726	13,038	15,780	16,136	16,366	22,547	21,642
	other	3,623	3,960	5,125	6,003	6,735	3,696	6,391	11,463

Source: National Statistical Office of Mongolia, *Statistical Yearbook* (various issues).

4.100. Less than half of Mongolia's 6,734 km of roads, have hard cover; these are mostly in and around Ulaanbaatar with one hard cover road connecting the capital with the Russian Federation and another under construction to connect with China. Away from Ulaanbaatar and its surrounding areas, most urban centres are connected by gravel and dirt roads of varying quality. The network of hard-cover roads has nearly doubled since 2005 while the number of vehicles has nearly tripled and carried freight quadrupled (Table 4.27).

4.101. A large portion of vehicles are imported second hand, principally from Japan despite the fact that these vehicles are right-hand-drive while traffic in Mongolia drives on the right. The import of second hand vehicles is one factor that accounts for the large portion (nearly half) of cars and trucks over 11 years old.

4.102. The Ministry for Roads and Transportation is responsible for developing policy and preparing legislation on roads and road-based transport. Government policy is set out in a number of documents including the National Development Strategy 2007-2021, the National Transport Strategy for Mongolia, the Transit Mongolia programme, the Mongolian Road Master Plan 2008-2020, and 15-year investment programme developed by the Ministry of Roads and Transportation.

4.103. Since the early 2000s, roads policy has focused on construction of five north-south highways and one east-west highway, including the Mongolian sections of the Asian Highway Network<sup>53</sup> and the Central Asia Regional Economic Cooperation (CAREC) corridors.<sup>54</sup> In addition, paved access roads from provincial urban centres to the main road network are being constructed. However, it has been reported that, despite a tripling of the road construction budget, from Tog 30 billion in 2006 to Tog 94 billion in 2009, results have been modest and well behind government targets.<sup>55</sup>

4.104. Licensing requirements for the provision of passenger and freight transport apply to foreign and domestic firms (Box 4.8).

#### Box 4.8 Mongolia's road transport framework

##### Regulatory framework

##### Establishment/domestic regulatory framework:

**Licensing requirement:** For licences to transport passengers and freight within Mongolia a permit and agreement from the Ministry of Roads and Transportation is required along with technical requirements, applied equally to foreigners and Mongolian nationals. Licences for transport of goods or passengers between Mongolia and other countries are subject to terms of the transport agreement between Mongolia and the other country. For passenger transport, the transport company and the Ministry agree on the transport route, schedule, and type of vehicles to be included in the licence.

**Capacity regulation:** There are no specific limits to market share in road transport, and there are no exceptions for the road transport subsector in the Law on Competition.

**Pricing:** There are no regulations on pricing for freight. Passenger transport in Ulaanbaatar is regulated by the city's transport department.

<sup>53</sup> AH4 and AH32 which crosses Mongolia along the east-west axis, and AH3 on the north-south axis. The highways cross at Ulaanbaatar.

<sup>54</sup> CAREC (4a) connecting the Russian Federation and China through western Mongolia and CAREC (4b) connecting the Russian Federation and China through Ulaanbaatar and central Mongolia.

<sup>55</sup> Asian Development Bank (2011), p. 12.

**International regulatory framework:**

International transport conventions: Customs Convention on the International Transport of Goods under the Cover of TIR Carnets; the Convention on the Contract for the International Carriage of goods by Road; and the Convention on Road Traffic and on Road Signs and Signals.

Intergovernmental agreements: Russian Federation, China, Republic of Kazakhstan, Ukraine, Belarus, Turkey, and Kyrgyz Republic.

Source: The Mongolian authorities.

4.105. Apart from four public-transport companies operating in and around Ulaanbaatar, all road transport enterprises are private sector entities.

**4.3.3.3 Rail transport**

4.106. Mongolia has a total of 1,815 km of railway. Most of this (1,110 km) is the Trans-Mongolian Railway connecting the Trans-Siberian Railway from Ulan Ude in the Russian Federation to Erenhot (and on to Beijing) in China. In addition, there are several spurs from the Trans-Mongolian Railway to urban centres or mines in Mongolia (such as Baganuur and Erdenet) and, in the east, a spur from the Trans-Siberian Railway that terminates in Choibalsan. Mongolian railways use the Russian gauge (1,520 mm), requiring a change to standard gauge (1,435 mm) at the border with China.

4.107. Mongolia depends on railways to carry freight. About half of freight originates and terminates in Mongolia and half is international trade (Table 4.28). A significant, though declining, portion of freight is transit traffic between the Russian Federation and China, about 90% of which is crude petroleum and timber carried through Mongolia to China for processing.<sup>56</sup>

**Table 4.28 Rail transport selected indicators, 2005-12**

		2005	2006	2007	2008	2009	2010	2011	2012
Total	Km	1,815	1,815	1,815	1,815	1,815	1,815	1,815	1,815
Freight turnover	Million tonnes km	9,948	9,226	8,361	8,261	7,852	10,287	11,419	12,143
Carried freight	'000 tonnes	15,586	14,800	14,073	14,647	14,172	16,804	18,448	20,445
Local	'000 tonnes	7,559	7,337	7,513	8,016	7,656	8,304	8,574	9,890
International	'000 tonnes	8,028	7,443	6,560	6,631	6,515	8,500	9,874	10,555
Exit	'000 tonnes	1,468	1,814	1,776	2,565	2,955	4,639	5,966	6,576
Entry	'000 tonnes	1,166	1,163	1,310	1,727	1,264	1,546	2,018	2,446
Transit	'000 tonnes	5,393	4,466	3,473	2,338	2,297	2,315	1,889	1,534
Passengers	'000 persons	4,227	4,323	4,482	4,359	3,118	3,516	3,832	4,000

Source: National Statistical Office of Mongolia, *Statistical Yearbook* (various issues).

4.108. Most indicators show a declining or stable trend for rail traffic, except for international exit freight (exports), which increased due to exports of minerals.

4.109. The Ministry of Roads and Transport is responsible for developing policy and legislation on railways. Under Resolution No. 82 of the Government and the 189<sup>th</sup> Decree of the State Property Committee of March 2008, the Ulaanbaatar Railway Mongolian-Russian Joint Stock Venture (UBTZ) became the national operator of railways. UBTZ was 50% owned by RZD of the Russian Federation, 25% by the state-owned Erdenes MGL mining company, and 25% by the Mongolian Railway State Owned Shareholding Company (MTZ). UBTZ is the sole operator of the railway.

4.110. The Mongolian Railway Authority is the railways regulator. It has the authority to issue licences for the construction of new railways. State Policy on Railway Transportation in Resolution No. 32 by the Parliament on 24 June 2010, sets out an ambitious project for railway construction of 1,100 km in the first phase, 900 km in the second phase, and 3,600 km in the third phase. The first phase would link Oyu Tolgoi copper/gold mine and Tavan Tolgoi coal mines to the existing line crossing the country and link this existing line to the spur of the Trans-Siberian line in the east of Mongolia. Construction under phases 1 and 2 started in 2013, with a projected cost of US\$5.2 billion and completion date in 2016.<sup>57</sup>

<sup>56</sup> Asian Development Bank (2008b), p. 40.

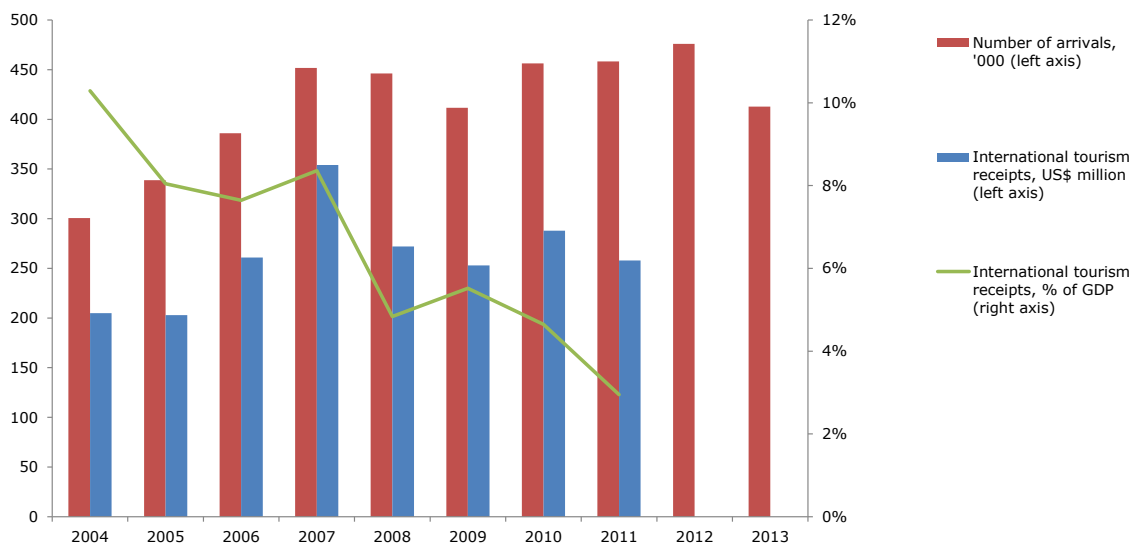
<sup>57</sup> Ministry of Roads and Transportation (2013).

#### 4.3.4 Tourism

4.111. In acceding to the WTO, Mongolia made full commitments on tourism and travel services in both market access and national treatment for cross-border supply, consumption abroad, and commercial presence; supply through the presence of natural persons was unbound. In the previous TPR of Mongolia, the authorities indicated that there were no restrictions on foreigners providing tourism services, other than guide-interpreters, who must be Mongolian citizens and meet certain training and grading requirements.<sup>58</sup>

4.112. Mongolia offers a number of attractions ranging from the landscape to historical sites, with considerable potential for further development, particularly adventure-based holidays, ecological excursions, and winter activities.<sup>59</sup> According to the authorities, 412,931 tourists visited Mongolia in 2013, representing a sharp decline from the record of 475,892 in 2012. The most recent data for receipts from tourism are for 2011 and show a decline compared to earlier years. Furthermore, as the economy has grown rapidly, receipts as a percentage of GDP declined from over 10% in 2004 to under 3% in 2011 (Chart 4.1). However, the authorities noted that in 2013 tourism represented US\$262.2 million in exports or 10% of total export earnings for goods and services.

**Chart 4.1 Tourism in Mongolia, selected indicators, 2004-13**



Source: The Mongolian authorities (number of arrivals); and World Bank online information. Viewed at: <http://data.worldbank.org/> [February 2014].

4.113. Data from the National Statistics Office show that, in 2012, nearly half of all tourists were from China and one fifth from the Russian Federation. However, the majority of these were reported to be small traders.<sup>60</sup> In 2013, there were 750 registered tourism enterprises employing 4,050 people; about 84 of the enterprises had foreign investment. Around 400 hotels offer 18,000 beds (Table 4.29).

<sup>58</sup> WTO document WT/TPR/S/145, 15 February 2005, Chapter IV, paragraph 96.

<sup>59</sup> Bayasgalan (2012).

<sup>60</sup> Oxford Business Group (2012), p. 196.

**Table 4.29 Tourism in Mongolia in 2013**

<b>Hotels and ger camps</b>				
Accommodation type	Number	Number rated	Beds	Rooms and ger
Hotel	402	61	18,000	6,850
Tourist camp	349	83	14,000	2,900

<b>Tour operators</b>				
Registered with Mongolian Tourism Association	Foreign invested companies	Employees	Drivers	
750	84	2,050	2,000	

Source: The Mongolian authorities.

4.114. Several impediments to development of tourism have been identified, particularly general infrastructure such as roads, airports, and communications as well as tourist-orientated investment such as hotels, and restaurants. In addition, the rapid expansion of the mining sector has attracted many skilled workers away from tourism.<sup>61</sup>

4.115. The Ministry of Culture, Sports and Tourism is responsible for policy and preparing draft legislation on tourism. The Mongolian National Tourism Center, which was set up in 2009, is responsible for tourism promotion, including promotion of investment in tourism-related facilities. Since 2011, the Mongolian Tourism Association (a non-governmental organization) has been responsible for licensing tourism enterprises. The Tourism Law of Mongolia of 2000, last amended in 2010, sets out the responsibilities of the "tourism organization" (the National Tourism Center), grading of hotels and tourist resorts, licences for hotels of 3 stars or more, promotion of tourism, and provision of tourism-related services. According to the authorities, a new law on tourism is being prepared, with assistance from the UN World Tourism Organization.

4.116. Hotels and tourism resorts catering for foreigners receive the same support and depreciation allowances as other export-related enterprises. Tour operators who bring foreign tourists into Mongolia (inbound tourism companies) are exempt from VAT.

4.117. The general policy for tourism was set out in the Millennium Development Objectives of the National Development Policy. Under the government programme for 2012-16, tourism was identified as one of the sectors to be developed to reduce dependence on mining.<sup>62</sup> Government policy established six regions for tourism development, (roughly speaking, a central, northern, eastern, southern, and western region plus the region around Ulaanbaatar). The projects covered by the regional plans include general infrastructure (airports) as well as tourism/leisure-related centres such as theatres, museums, parks, and stadiums, which are to be financed from public expenditure.<sup>63</sup>

4.118. According to the authorities, the 2012-16 programme emphasizes special interest, eco, and heritage tourism, while the Ministry of Culture, Sports and Tourism seeks to promote sustainable tourism through conservation, including protecting the Khangai region, which is the main tourist destination. The Ministry's policy is to support new theme parks, museums, and resort complexes through private and public partnership and joint investments.

#### **4.3.5 Construction**

4.119. In acceding to the WTO, Mongolia made full commitments on construction and related engineering services in both market access and national treatment for consumption abroad and commercial presence. Cross-border supply and supply through the presence of natural persons were unbound except for measures affecting the entry and temporary stay of natural persons with managerial and technical skills, which are in short supply in Mongolia, and fall within the following categories: business visitors, intra-corporate transferees, and professionals under a service contract.<sup>64</sup>

<sup>61</sup> Ts Orgodol (2012).

<sup>62</sup> KPMG Audit LLC (2012), p. 14.

<sup>63</sup> Purevsuren Gombosuren (2011).

<sup>64</sup> WTO document GATS/SC/123, 28 August 1997.

4.120. The construction sector in Mongolia has grown strongly over the past few years and its contribution to GDP more than doubled in real terms between 2004 and 2012. However, it has followed an exaggerated track of general economic performance as its contribution to GDP fell by over 40% between 2007 and 2009 and then recovered rapidly as the economy improved (Chart 4.2). Construction is also important in employment, representing 5.6% of total employment (Table 4.30).

**Chart 4.2 Construction and GDP**

(Tog billion, constant 2005)



Source: National statistical Office of Mongolia, *Statistical Yearbook* (2007 to 12).

**Table 4.30 Construction to employment and GDP, 2004-12**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Employment '000 persons</b>									
Total	951	968	1,010	1,024	1,042	1,006	1,034	1,038	1,056
Construction	39	49	56	60	67	50	49	52	59
<b>GDP Tog billion current</b>									
Total	2,152	2,780	3,715	4,957	6,556	6,591	8,415	11,088	13,944
Construction	50	59	63	106	122	36	107	173	226
<b>GDP Tog billion constant 2005</b>									
Total	2,592	2,780	3,017	3,640	3,964	3,914	4,163	4,892	5,493
Construction	51	59	62	91	58	52	60	82	103

Source: National Statistical Office, *Statistical Yearbook* (2007 to 2012).

4.121. In line with its contribution to GDP, the gross value of production for construction has also increased, reaching Tog 811 billion in 2012. Residential building (including residential elements of mixed projects) accounted for 39% of the value of production, while roads and bridges accounted for 9%.<sup>65</sup>

4.122. The construction industry faces several natural difficulties, including the harsh climate, the risk of earth quakes, and the lack of vocational workers. However, economic growth, urbanization, and the low quality of pre-1990 buildings and other construction works have required, and continue to require significant investment in the sector. While the sector has expanded considerably since 2004, further investment is probably needed to improve the supply and quality of housing, other building, and infrastructure throughout the country.

<sup>65</sup> National Statistical office of Mongolia (2013), Tables 9.3-9.5.

4.123. The State has played an important role in the expansion of the sector as both legislator/regulator and as an important source of demand: the budget for urban development alone was Tog 240 billion for 2013.<sup>66</sup> In addition several aid agencies and the Asian Development Bank have contributed to specific projects.

4.124. The Ministry of Construction and Urban Development is responsible for policy formulation, coordination of policy implementation, preparing legislation, developing technical requirements, monitoring the sector, construction policy, urban development, housing, public utilities. Under the Ministry there are a number of state-owned enterprises including: the Construction Development Centre; the Public Housing Corporation; and the Design and Research Development Institution. Other ministries are also responsible for aspects of the construction sector related to their responsibilities, such as the Ministry of Roads and Transportation, and the Ministry of Energy.

4.125. The construction sector is regulated under several laws including:

- Law on Construction of 2008, which sets out the responsibilities of each level of government at both central and local levels, as well as the legal basis for applying technical requirements to buildings and their design, and building materials;
- Law on Housing of 2011, which sets out the responsibilities of each level of government at both central and local levels. The Law requires the regional and local authorities to develop plans for housing and associated infrastructure, and provides the legal basis for the Housing Finance Corporation under the Ministry; and
- Land Law of 2002, according to which only Mongolian citizens may own land. Under the Land Possession Law, while foreigners and legal entities may not own land, they may have usage rights.<sup>67</sup>

4.126. The Ministry is also preparing new legislation on urban development, cadastral system, geodesy and cartography, and compulsory purchase of land, as well as developing a building and planning code.<sup>68</sup>

4.127. Government policy is set out in several documents, including the National Development Strategy of 2008, and the Government Action Plan 2012-2016. The State is also directly involved in construction through other projects, such as the Urban Development Master Plan to 2020 for Ulaanbaatar, the 100,000 homes project, and the Sainshand Industrial Complex Project. In addition, the authorities noted that the Government intends to develop the main urban centres of *aimags* and *soums*.

4.128. The rapid growth of the construction sector and competition for resources from the mining sector, along with the relatively short production season, have led to some bottlenecks in access to seasonal labour, materials, and design. Some reports have noted the increase in the costs of materials as a result of supply constraints<sup>69</sup>, while other reports have stated that the construction sector has responded to the shortage of skilled labour by hiring foreign workers.<sup>70</sup> There are laws limiting the number of foreigners working on building sites and a head tax is applied to foreigners; however, it has been reported that they outnumber Mongolians in the construction sector, although there are quotas set for the number of foreign workers (Box 4.9). Furthermore, the civil engineering work already under way and work planned for the near future require participation of foreign firms.<sup>71</sup>

<sup>66</sup> Mongolian Briefing online information, "The Status of Construction and Urban Development Projects". Viewed at: <http://mongolia-briefing.com/news/2013/04/the-status-of-construction-and-urban-development-projects.html> [December 2013].

<sup>67</sup> Laws and regulations are available from the Ministry of Construction and Urban Development. Viewed at: <http://www.mcupd.gov.mn> (Mongolian only) [January 2014].

<sup>68</sup> Baigalmaa (2013).

<sup>69</sup> IMF (2012), p. 9.

<sup>70</sup> Cambridge Education Ltd, MEC LLC (2010), p. 35.

<sup>71</sup> Oxford Business Group (2012), p. 192.

**Box 4.9 Construction services**

**Regulation:** The Ministry of Construction and Urban Development is responsible for policy formulation and coordinating its implementation, preparing legislation, technical regulations, and overseeing the construction, building materials, urban development, land affairs, housing and public utilities sectors. Other government ministries are also responsible for construction law and regulation for their area of authority.

The principal laws on construction are the Law on Construction, the Law on Housing, the Land Law, and Law on Utilization of Urban Settlement's Water Supply and Sewage. The Ministry is also preparing legislative reforms intended to cover several shortcomings in the current laws, including urban development and a cadastral system.

**Professional associations:** Mongolia's profession associations include the Mongolian Constructors' Association, Association of Construction Material Producers, Association of Engineers, and the Union of Mongolian Architects.

Membership of the appropriate professional association is required in order to practice as an architect or civil engineer

**Establishment/licensing requirements:** In addition to the general criteria required for all enterprises, some specific criteria must be met to obtain a licence to provide construction services, such as qualifications of each engineering and technical worker, references from clients and evidence of work, and other proof if available. In addition, to obtain a licence in Mongolia, a foreign enterprise must have a licence from its country of registration or operation.

An employment quota for non-Mongolians is set annually by government resolution. For the construction sector, the foreign employee quota is up to 25% of total employees, depending on the number of employees and capital.

**Recognition of qualifications:** Qualifications obtained abroad for architects, civil engineers, and other construction service providers are recognized.

**Foreign presence:** As of end-2013, there were five foreign architects and civil engineers registered in Mongolia.

**Materials:** There are no requirements to use domestically sourced materials for construction works.

Source: The Mongolian authorities.

4.129. The authorities stated that they plan to reduce the sector's dependence on imports by increasing domestic production of some inputs, such as cement, aggregates, and steel, with the objective of becoming self-sufficient within a few years. However, there are no requirements to use domestically sourced raw materials (Box 4.9).

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## 5 APPENDIX TABLES

Table A3. 1 State owned enterprises , June 2013

State-owned companies	
Name	Shares owned by the State
Power Plant-2 shareholding company	100
Power Plant-3 shareholding company	100
Power Plant-4 shareholding company	100
Darkhan power plant	100
Erdenet power plant	100
Dalanzadgad power plant	100
Ulaanbaatar Electricity distribution network	100
Erdenet-Bulgan power grid	100
Baganuur, south-east regional power grid	100
National electricity distribution network	100
Western regional power station	100
Eastern regional power station	100
Southern regional power grid	100
Ulaanbaatar power station	100
Darkhan power station	100
Baganuur power station	100
Nalaikh power station	100
Dulaan Shariin Gol	100
Altai Uliastai power station	100
Ulaanbaatar AZZA	100
Tuv AZZA	100
Khuvsgul AZZA	100
Darkhan AZZA	100
Uvurkhangai AZZA	100
Arkhangai AZZA	100
Govi-Altai AZZA	100
Dornogobi AZZA	100
Bulgan AZZA	100
Zavkhan AZZA	100
Orkhon AZZA	100
Selenge AZZA	100
Kharkhorin AZZA	100
Uvs AZZA	100
Khovd AZZA	100
Auto Zam TTT	100
Baganuur AZZA	100
Erdenesant AZZA	100
Khargui state-owned company	100
Talin-Zam state-owned company	100
Darkhan metallurgical manufacture	100
MIAT	100
Khutuliin Tsement Shokhoi	100
Stock exchange	100
Orgil Rashaan Suvilal resort	100
Mongolian Railway	100
Erdenes MGL	100
Erdenes Tavan Tolgoi	100
Medeelel Kholboonii Suljee	100
Mongolian Post	100
Mongolian Securities Clearing House and Central Depository	100
National operator center	100
Sainshand Industrial complex	100
Mon-Atom	100
Biocombinat	100
Mongol kino negtgel	100
Geologiin sudalgaanii tuv Geological research center	100
Geological laboratory	100
National renewable energy center	100
Liquid fuel transship facilities	100
National tourism center	100
Tsagaan Shonkhor	100
Mongol Tamga	100
Turiin Uilchilgee	100
Construction development center	100

State-owned companies	
Name	Shares owned by the State
Energy development center	100
Mongol-Us	100
Zavkhan pedigree breeding center	100
Bayankhongor pedigree breeding center	100
Gobi-Altai pedigree breeding center	100
Khuvsgul pedigree breeding center	100
Uvs pedigree breeding center	100
Tuv pedigree breeding center	100
Sukhbaatar pedigree breeding center	100
Dornod pedigree breeding center	100
Dundgobi pedigree breeding center	100
Umnugobi pedigree breeding center	100
Bulgan pedigree breeding center	100
Khentii pedigree breeding center	100
Civil Aviation general authority	100
State Bank	100
Development Bank of Mongolia	100
Mongolia-Korean oriental medicine center	100
Biotechnological manufacture	100
MOH-ZAVKHAN unit	100
Erchim Corporation	100
Armono Corporation	100
Traditional medicine science and industrial corporation	100
XXX Tutorial manufacture	100
IT Park	100
Baganuur	75
Shivee-Ovoo	90
Autoimpex	51
Kino art university	51
Erdenet Uildver	51
Mongolrostsnetmet LLC	51
Telecom Mongolia	54.7
Monsame XXK	80
UB Railways	50

Source: Information provided by the Mongolian authorities.