

Mongolian Legal Developments in 2014: Changes and Future Developments

Invest Mongolia Tokyo

Michael Aldrich and Erdenedalai Odkhuu
Hogan Lovells (Mongolia) LLP
Ulaanbaatar, Mongolia

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2014 as a Pivotal Year for Mongolia

- Repeal of Strategic Foreign Investment Law and Enactment of Investment Law
- Enactment of Securities Market Law
- Lifting of Exploration Licenses Moratorium
- New Regulatory Regime for Oil & Gas
- Court Reform for Enhanced Efficiency
- Major Infrastructure Projects and Opportunities for Supporting Services
- Cross-border Financing Opportunities

Overview of New Legislation

- Amendments to Law on Minerals (1)
 - Minerals Resources Authority remains to be the main regulator of the sector in charge of issuing licences and monitoring licence holders
 - maintains the existing licensing and operational regime with minor or supplemental changes
 - National Geological Bureau to be established by the Government with a mandate to:
 - carry out geological exploration, mapping, and other research
 - assess mineralised areas and prospects for mineral exploration
 - provide information services in relation to geological and minerals register/database
 - maintain a national minerals register/database and reserve records
 - *Ad Hoc* Advisory Council to be established by the Ministry of Mining to ensure stable regulatory regime, increase competitiveness and promote the sector

Overview of New Legislation

- Amendments to Law on Minerals (2)
 - The term of an exploration licence would be extended by 3 years to 12 years
 - Additional obligations on minerals licence holders:
 - relinquishment obligations
 - local procurement obligations (preference to Mongolian-incorporated, Mongolian tax payer entities in procuring goods, services)
 - prior notification obligations re suspension of activity
 - local content obligations
 - maintains the concept of strategic deposits
 - increases sanctions for non-compliance

Overview of New Legislation

- Amendments to Law on Minerals (3)
 - Conclusion:
 - Overall a positive development paving the way to the lifting of the current moratorium
 - No major changes significantly altering the existing regulatory regime
 - Separate state agency in charge of geological exploration and mapping
 - Clarifies but increases certain obligations of licence holders
 - Lifting of exploration moratorium (Repealed the Moratorium Law)

Overview of New Legislation

- Law on Petroleum
 - Sets out more sophisticated and comprehensive legal framework;
 - Provides two types of petroleum:
 - Crude oil and gas;
 - Unconventional oil (oil sands, oil shale etc.)
 - Provides three main petroleum activities (research, exploration, extraction/development)
 - Latter two activities are licensed activities:
 - Exploration licence for Oil and Gas;
 - Exploration licence for Unconventional Oil;
 - Extraction/development licence for Oil and Gas; and
 - Extraction/development licence for Unconventional Oil;

Legal Reform Update

- Legislation
- Court system
 - Restructuring first instance courts and increasing the number of judges
 - Specialization of courts and judges (administrative, criminal and civil matters)
 - Expectation: Increase the efficiency of court procedures and dispute settlement period. Business and commercial disputes will be settled quickly and judges will be more specialized.

Topics for Autumn Session of Parliament

- Law on Security Interests over Movable Properties and Intangible Assets
- Law on Permissions
- Law on Supervision
- Amendment to the "Long-name Law"
- Revised Law on State Registration of Legal Entities
- Others

Overview of New Draft Legislation

- Law on Security Interests over Movable Properties and Intangible Assets
 - Immovable properties are the main type of security for pledge agreements in Mongolia.
 - Security over movable property is registerable under the Civil Code. However, process is uncertain in terms of perfection and subject to contractual obligations.
 - New law will provide for registration of movable property and intangible assets as security for the performance of contractual and non-contractual obligations.
 - However, dependent upon implementing regulations and establishment of supporting administration.

Overview of New Draft Legislation

- Law on Permissions
 - Licensing Law contains a relatively comprehensive list of business activities that require special licences. These activities such as banking, securities-related business, finance, infrastructure, fuel, and energy.
 - The relevant ministries/committees/government agencies issue the relevant licences in accordance with separate laws and regulations.
 - New Law on Permission will repeal the Licensing Law.
 - Planned to set out more clear provisions in order to decrease the processing time and overlap of authority among agencies.

Opportunities for Japanese Business

- Infrastructure projects
- Mining: 20 percent of the country surveyed
- Banking and Finance
- Real Estate – management of commercial and residential properties
- Assembly Processing for Export Substitutes
- Food and Beverage
- Retail

2014 as a Pivotal Year

- Reversal of Past Mistakes
- Realization of the Critical Role of FDI
- Infrastructure Projects Continue Apace.
- Role for Japanese Business in this Process
- First Mover Advantage
- Realistic Expectations for Business in Emerging Jurisdictions.

Contact details

Michael Aldrich

Direct line: +976 7012 1020

Email: michael.aldrich@hoganlovells.com

Erdenedalai Odkhuu

Direct line: +976 7012 8913

Email: erdededalai.odkhuu@hoganlovells.com

Hogan Lovells (Mongolia) LLP
Suite 401, New Century Plaza
Sukhbaatar District, 1st Khoroo,
Chinggis Avenue-15
Ulaanbaatar, Mongolia
General line: +976 7012 8900

www.hoganlovells.com

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