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MONGOLIAN ECONOMY

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The President Answers to The Financial Times



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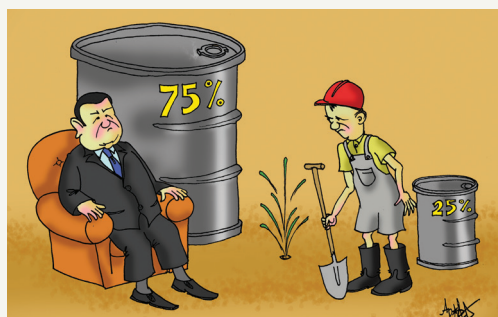
“Too many cooks spoil the broth”

At the same time, there is a tendency to think that all we have to do is enact a law and that law will solve the problem. I think that perhaps that is some ways a reflection of traditional Mongolian thinking. ...20



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METAL EXCHANGE

Copper prices fell last month due to China's sliding copper reserves. Reports of an increase in copper demand are expected for the second quarter of this year. However, less good news lies ahead of the market. Another fall in copper prices could appear, reported Reuters. Sanjay Rahan, an economist and an analyst from Reuters, said, "China plays a major role to the copper market price. It has strengthened its control over domestic imports and foreign trade".

COPPER	Prompt Date	Buyer (\$)	Seller (\$)
Cash	15/06/2012	7,397.00	7,397.50
3 Months	13/09/2012	7,415.50	7,416.00
December 1	18/12/2013	7,415.00	7,425.00
December 2	17/12/2014	7,410.00	7,420.00
December 3	16/12/2015	7,395.00	7,405.00

Source: London Metal Exchange

The government ratified its scheme for the distribution and trade of Erdenes Tavan Tolgoi shares to citizens and enterprises for June 13. The regulation allows elders and disabled people to exchange the MNT 1 million they received from the government to purchase shares of the firm. Applicants must report to their local community offices to make the change.

As of May 29, over 1.5 million citizens had applied to sell their shares to the government. However, many missed

the application deadline, claiming they did not have enough information on the process. Additionally, some citizens have decided to return their cash and take back their shares.

SMALL-MEDIUM ENTERPRISES



The Development Bank of Mongolia has decided to grant loans worth a total of MNT 50 billion to small-medium enterprises as part of its New Construction programme. The Development Bank is expected to provide loans with 13.5 percent interest. However, that does not meet the guidelines set by government policy to support small-medium enterprises, which allows for more than 7 percent interests. Thus, the government is looking to compensate for the gap in annual interest with this year's annual budget.

BUSINESS

The National Development and Innovation Committee, in cooperation with Mongolian National Chamber of Commerce and Industry, has released its Creating Standards for the Rural Business Environment 2011 Index for the first time. The report includes around 610 businesspeople and

entities throughout the country aiming to identify ways to improve government policies and develop the business environment. The report also provides a summary of the rural business environment with conclusions on its findings.

The research focuses on seven main indicators used by the World Banks' *Business Index*: "business management", "approbation and licensing", "property registration", "loan access", "tax payments", "foreign trade", and "contract implementation". The research reveals that a lot of time and money is required to start a business in rural regions. In addition, steep taxes and interest on loans can cause difficulties. The city of Darkhan as well as Sukhbaatar, Uvurkhanga, Bayan-Ulgii and Arkhangai Aimags were named as places with good business opportunities, while Tuv, Dundgobi, Gobi-Altai, Khovd, and Umnugobi Aimags produced low scores.



ECONOMY

According to the Ministry of Finance, growth in the mining sector has resulted in new jobs, expanded foreign investments and growth to the agricultural industry. Mongolia's

average economic growth is set for 15 percent. The Oyu Tolgoi project's approach to the beginning of operations is one major factor for growth. The Ministry of Finance also noted that inflation could be kept within the single digits if the government can maintain prudent policies between 2012 and 2015. The price of gold and copper, Mongolia's main export products, are expected to rise with rising demand in coming years, reported the Ministry of Finance in its 2012 economic review.

UNEMPLOYMENT

The rate of unemployment is growing, reported the National Statistical Office (See Table A).

Table A

Month	Registered unemployed citizens
I	58200
II	58400
III	50100
IV	54000
V	58200

Source: National Statistical Office of Mongolia

INFRASTRUCTURE

The construction of 96 metres of tunnel at Darkhan Station has begun. The tunnel, the first of its kind in Mongolia, will require MNT 1 billion for its completion. It will have public services such as a police department and shops. The tunnel is planned to

be commissioned on September 1.

INDIA

India's output rose by 0.1% from a year earlier, much less than the projected growth of 1.7 percent. It comes a day after credit rating agency Standard & Poor's (S&P) warned that India's investment grade may be downgraded.

Analysts said the weak numbers may prompt the central bank to introduce fresh measures to boost growth. Data released last month showed that its economy grew at an annual rate of 5.3 percent in the first quarter, the slowest rate in almost a decade. A widening trade gap and poor investment were among the key contributors to slowing growth. At the same time, the country has been hurt by the sliding value of its currency. The Indian rupee has fallen by almost 25 percent against the U.S. dollar in the past 12 months. To make matters worse, political controversies have delayed the introduction of key reforms.

The combination of these factors has resulted in a warning by S&P that "slowing GDP [gross domestic product] growth and political roadblocks to economic policymaking could put India at risk of losing its investment grade rating".

CHINA

The state council of the Chinese Cabinet laid out measures to improve

food safety, including tighter supervision and harsh punishments for violations.

"It is an onerous task for the government to ensure food safety," as China's food industry is still suffering from non-standardized management and many hidden safety risks, according to a statement released Wednesday after a state council executive meeting presided over by Premier Wen Jiabao. The government should enhance supervision by setting up an efficient mechanism that includes all links within the food industry and a rigid food recall and disposal system for defective products, the statement said.

The state council has vowed for a "harsh crackdown" on those risking food safety, saying those in violation will be penalised in

accordance with the laws and regulations. The statement advised that legislation be revised for increased fines. The state council urged Chinese company owners to accept primary responsibility in ensuring quality and safety, while government departments should enhance quality and safety inspection.

Greater effort should be taken to accelerate the establishment of complete standards for food safety and quality assessment for the improved capabilities of agencies to inspect operations and issue emergency response orders.

Source: Xinhuanet

RUSSIA

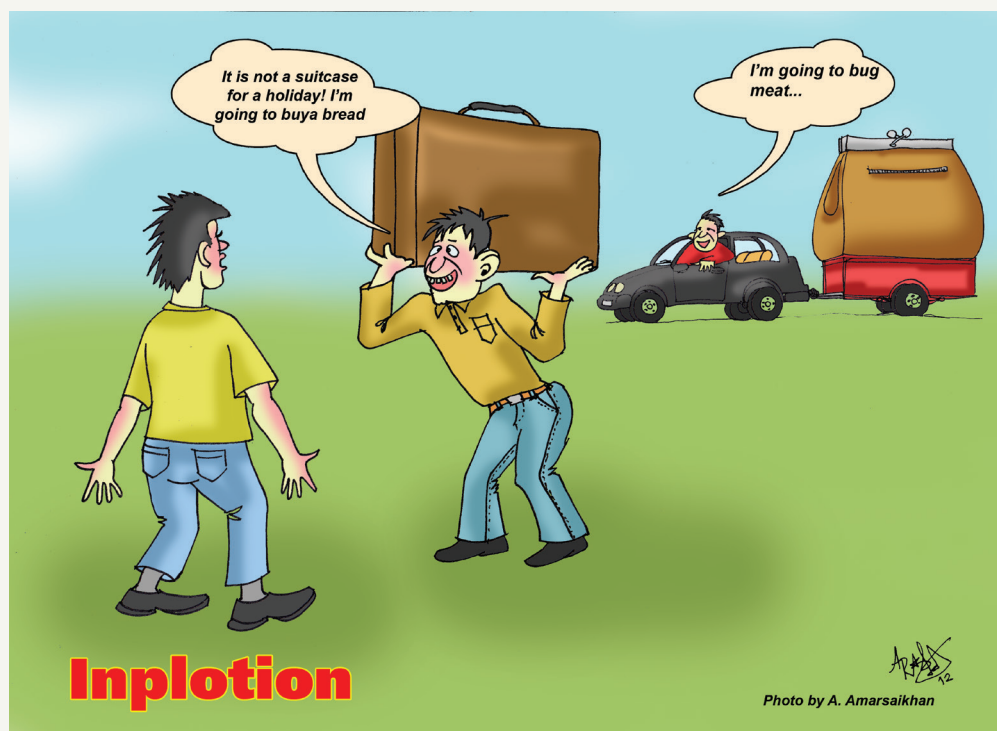
The Russian government may set aside over 200 billion rubles (USD 6 billion) in its 2013 budget for anti-

crisis support to domestic companies in case of further global economic deterioration, said Finance Minister Anton Siluanov on Saturday.

"I do not rule out that we'll use the same practice adopted for 2012. Possibly, we'll set aside a sum even larger than that amount for 2012," said Siluanov.

The Russian government set aside 200 billion rubles for anti-crisis support for domestic companies in 2012. Siluanov said the finance ministry has advocated for an anti-crisis mechanism in Russia's 2013 budget, which would include the creation of a reserve that could be used in response to possible crises.

Russian companies may be granted state grants totaling 80 billion rubles this year, of which 26 billion rubles has already been approved by the government. ■





OPINION

BALANCING THE GOOD AND THE BAD

BY I. OTGONJARGAL

Mongolian Economy has chosen legal reform as the featured issue of this latest edition. The saying “If you want others to follow you, follow them first” came to my mind as I was attending the Fostering Inclusive Economic Growth Through Legal Reform forum.

It has been a while since Mongolia first gained its global intrigue once word got out about its mineral resources. Many expected those resources to become the breadwinner for the nation’s future generations. The country’s rapid economic growth was another factor bringing Mongolia centre stage in the world. The whole world stood stunned by its 17.5 percent growth last year. Mongolia has even received the nicknames “The Kuwait of Central Asia”, “an Asian tiger”, “the wolf economy” and even “The Saudi Arabia of coal”. New, less flattering, names such as “Minegolia” and “Moncoalia” also appeared.

Mongolia stunned the world once again with the news that state-owned Chinese firm Aluminium Corp of China (Chalco) had proposed to acquire more than half of Mongolian mining company SouthGobi Sands. In response to the media attention, the government ratified its Law on Foreign Investment

so that it could impose its influence on such deals. As the winds generated by the election season took force and with the media abuzz, people said that passing the law was a necessity while others criticised it as imbalanced and investment poison.

Mongolia attracted even further global interest with the detainment of the nation’s third president, N. Enkhbayar, making headlines worldwide.

It might seem delightful for Mongolia to stand at the centre of the world’s interests. However, the country faces a dilemma: Will its resources lead the country to wealth or a wealth curse?

During the legal reform forum, attendees discussed all that is good and bad. More than half of the 150 participants were foreign guests. They should have a clear understanding of Mongolia’s circumstances.

For that reason, President Ts. Elbegdorj gave an interview with David Piling, a journalist from the *Financial Times*. Forum delegates listened carefully to his interview for over an hour. *Mongolian Economy* played a supportive role to this forum. In this issue we deliver reports on the important issues discussed at the forum for our readers. ■

IN THE PRESIDENT'S WORDS

THE PRESIDENT ANSWERS TO THE FINANCIAL TIMES



*Ikh Tenger, Mongolia May 29, 2012
Financial Times reporter David Pilling speaks with
Tsakhia Elbegdorj, President of Mongolia*

We are building a society which enables inclusive and effective for people growth, where mining is one of the many sectors of the economy

FT: Mr. President, let me start by asking you about the origin of Mongolia as an independent nation. It has an interesting beginning after the fall of the Soviet Empire, and unlike some other former soviet states, it became democratic almost immediately. You were part of that whole movement. Can you explain that event?

President Elbegdorj: Mongolia was an independent nation in the old socialist system. For a man, as well as for a nation, freedom is indispensable. It is vital for private individuals to be free because free men and free

individuals make up a free nation. Mongolians have a sense of freedom. We carry that feeling in ourselves. The sense of independence and the sense of free life has been in us through generations, at all times. I think that this sense was a great help to Mongolia acquiring its freedom and independence again in the full sense, in particular after 1990.

There is a special feature of the Mongolian change. First, it was generally understood that for Asian nations it was not possible to make political and economic reforms concurrently. Mongolians broke that

perception. Beginning in 1990 we did make political reform, and we did make economic reform. We doubly implemented this reform of giving our people rights and freedom. Thus, in this way Mongolian reforms are one special feature. The second special feature is that we were able to make this major societal transformation in a peaceful way, through dialogue and consensus. The third special feature is that it has been 22 years since 1990, and during this period of 22 years the strive of Mongolians to continue these reforms has been resolute. We never abandoned nor retreated from our »



▶ path and choice. We are proud that Mongolia has evolved as a nation with the most free economy, politics and society in the region.

FT: Now it is no secret that Mongolia is sitting on enormous resources, some of which have been discovered, some of which have not been found yet. Countries that have resources have sometimes even more curses than blessings. West African and its oil, for example. Honestly, we would like Mongolia to become Chile or Qatar. What would prevent this place from becoming another country with a less than honorable record?

President Elbegdorj: I interpret your question as asking us, a nation with great natural wealth, whether we are going the right or wrong path, right? Let's think of what could safeguard Mongolia if we'd go the wrong way, for example. The answer clearly comes to my mind—I am confident in this. Nations with great natural wealth which have taken the wrong road are by and large closed nations. Countries richly endowed with mineral resources but which have gone the right way are open countries.

What about Norway, Australia or Canada? We see that these nations are democratic nations. It is, by and large, not the countries that take action by

the instructions of its investors or those who hold power in that country. But it is the countries that takes action through the wishes and desires of its people that are most successful. Traveling on the right road makes it possible for us to navigate ahead while correcting our failures and mistakes. People have a sense of right and wrong. They feel nature is being destroyed or that the profits from economic development are not coming to them, and that the gap between the poor and the rich is increasing. This voice and feeling comes more loudly from the people than from those in power.

Therefore, since the fate of the people in this country is decided by people's wants and desires, and leaders follow the people's wishes, we are able to fix our problems. The most essential guarantee to Mongolia's development and prosperity that is reflective of the people's interests and benefits is our openness. It is that Mongolia is an open country. And also, we are eager to learn from others always. We do criticize ourselves, and we do openly talk about our shadowy side.

Our media is independent. People have every opportunity to receive information, and these opportunities will be further expanded. And, as I said, we have all the possibilities and

chances to learn from others. In fact, if we were to describe democracy in a few words it is about learning from your mistakes and learning from others. Learning means progressing, moving forward.

FT: Let me ask a question about corruption. Corruption is the one I always worry about. This country doesn't particularly do well if you look at the Transparency International table list. To get into Parliament, I believe it's calculated one needs USD 2 million. But the wage of a Parliamentarian is some USD 800 a month. That would suggest that people see getting into Parliament as some kind of earning opportunity. Can you assure people here that your government and Mongolians are willing and able to do away with this?

President Elbegdorj: We do worry about this issue. It is shameful for me to see news where Mongolia's reputation is damaged because of corruption. Corruption makes Mongolia look awful and ugly. Corruption is the daunting enemy of a free society; it is the main brake for the further growth of a free society.

Corruption is associated with governance, state structure, and policies. Therefore, I set this both as a goal and a call: let's make the coming ▶▶

▸ four years those for fixing the wrongs in the state, and government. Mongolia's people can't live a decent life because the country has no money. Mongolian people live a poor life because our society lacks justice. People live poor lives because Mongolian law does not treat its people equally. People lack equal access to the law. And I think today's forum at Ikh Tenger addresses this issue specifically.

It was not possible to talk about this 20 years ago. Twenty years ago the problems that were pressing on us were much different problems. Even 10 years ago it was not possible to discuss this. Perhaps even five years ago it would not have been time for our society to accept discussing this openly. But now it is very important that we have begun discussing with our thoughtful friends, experts and researchers, people, and non-governmental organizations how to lay the basis for inclusive growth, and how to ensure that there are benefits from economic growth for our people. For myself, Mongolia's struggle against corruption is the aim and purpose of the Mongolian state and government. We can work effectively in this direction. Before Parliament broke it adopted six laws on judiciary that I initiated. All in all, we have to change and amend 18 laws to reform our judiciary. We will have to undertake many reformative actions further on.

FT: What kind of resources does this country have? In per capita terms, what are you looking at? Could this place be as wealthy per capita as Qatar? Could we be talking about that kind of level and in what kind of time period?

President Elbegdorj: Last year Mongolia was ranked as the country with the highest rate of growth. Some surveys indicate that our economy grew by 17.5 percent. However, the public doesn't seem to be happy about this growth. People are more cautious of such growth. Our people have become more resilient and wiser in the course of the past 20 years of hard work. And the caution stems from the fear of not becoming a country dependent on only one source. Our growth is based only upon the development of the

mineral sector—mineral exports and investments into the mineral sector. Processing industries, infrastructure and other sectors have virtually no growth.

In two years, our GDP [growth domestic product] grew 100 percent, but with the old infrastructure and old capacities we cannot keep up with this growth rate. Therefore, with the proceeds we make from the minerals industry we have to invest in other sectors very wisely, based on accurate projections and estimates. So we are discussing these issues very actively. One can say we are about to hold a referendum. And speaking of which, parliamentary election is voting for the politicians and political parties which propose the smartest, most visionary, and most realistic policies, based on sound evaluations and calculations. Such candidates shall receive the people's support. So we have to look at the returns of the vote. The discussion is talking place all over Mongolia.

FT: You are sitting on all those resources. First of all, you have to decide how to divide them between Mongolia and foreigners who come here. You need them because they have experts, capital, lawyers and others. They have something that Mongolia doesn't have yet. And then you have to divide it between yourselves. But let's start with how you divide it with foreigners. The foreign direct investment law, which is now being discussed, is, I guess, an attempt to begin to create the rules of how that is to be done.

President Elbegdorj: When we began the fundamental societal transformation, there was an acute need to attract foreign capital. Mongolia was like the family of a bride. We were a family with a fine, flawless girl, who hadn't yet found a proper groom. No country was found that could be a potential son-in-law. Now, our daughter is noticed, men approach our daughter, who is very intelligent, capable, highly educated, and is potentially a good mistress of the household.

You see, we make our choices with our values and measurements. First, we needed to be open. Now

that our minerals sector receives the core attention of foreign investors, we prioritise the common, fundamental rights and benefits of the Mongolian people.

In the past we desperately needed money and foreign investment. Now we need to find the most effective equilibrium between the two.

Recently our Parliament discussed issues related to regulating foreign investment, foreign public and government investment. We have found the solution after three years of intensive discussion. It is not that we began discussing them once the matter of Chalco arose. This law was put forward three years ago. These discussions have proceeded openly for three years. There is one thing to say about it here. In Mongolia, before 1990, all properties and assets were owned by the state.

Since 1990 we have tried to support the private sector. We have always tried to impose stringent control over state ownership. We have striven to curb government ownership and support private initiatives within Mongolia domestically. Such regulations have not been in place only in Mongolia. Open economies, including the most powerful economies, have such regulations. We introduced these regulations looking at the experiences of those countries as well.

I wouldn't say we have adopted the best law, the best regulations. There are some things to criticise here. But we have them anyway and let's go with them and see. There are opportunities to improve them. We are always open to improvements. We will listen to what our partners say, and what those parties interested in investing in Mongolia say, as this is the first time we have introduced such a regulation in Mongolia.

FT: Are you worried about foreign state companies or Chinese state companies? Obviously there are a lot of [state-owned enterprises] in China.

President Elbegdorj: As for the participation of companies with foreign state ownership, it's not just Mongolia, but all countries are careful, as you know. We did not provide any ▸

▶ article in our law against state-owned companies of any one particular country. The articles of the law are equally applicable to all economic entities and companies, all state owned companies.

FT: I was phoned by some investors since I have been here. And they say unless they can have control of 51 percent, they are not interested because it's too risky. They need control. Now the law, as I understand it, says that if they seek control they must go through Parliament. Is that the bottom line? Are you going to call foreign investors' bluff?

President Elbegdorj: In fact, 51% control is not considered the highest level of all criteria. This is just one criterion. Second, if a problem has arisen in connection with this criterion, we must make a clear mechanism that solves that problem. That is discussing the issue at the parliamentary level. So we must make regulations for situations like what sort of issues will be decided at the government level, what things will be decided within the scope of investment law at the level of an enterprise, and what sorts of issues will be decided at the parliamentary level. It's not that there are issues here that will absolutely not be discussed, negotiated, or decided. So I personally view that we have just clarified the mechanism of solving the issue.

FT: [Investors] hope that once the elections are over, things will settle down a bit. Is that a realistic hope?

President Elbegdorj: Mongolians fully understand that the sun will rise after voting in the election. This isn't the first time we've held an election. This is the sixth time we've held our parliamentary elections. Because of this, I don't think it's something to worry about. In fact, Mongolians look near and far and then make their choice.

The Mongols are a people who think about what place they will go to, then they catch a horse and saddle it. Because of this we're not people who only look at today or look at one side and then decide the issue. I personally

really trust in the people's wise choice. I believe that the people I have spoken of can send a clear message to the power holders with that choice. This is a chance to make our decision on the basis of what policy from the government our people support, and what policy they oppose.

FT: I am a little bit suspicious of cultural explanations, but I still want to ask you a cultural question. There are some Asian nations that have a sense of a national mission, such as countries that had gone through the vast development stage like Japan, South Korea, Singapore. And there are other nations that haven't had this sense of a national mission. I would think of the Philippines, for example.

I want to ask you where Mongolia fits in this picture? A nomadic civilization in the vast lands, Mongolians seem to me to be more self-reliant, and they think of their own wellbeing, separately. Now as I say it, I am a little bit suspicious about this explanation, but this question is worth asking.

President Elbegdorj: Last year Mongolia celebrated the 2,220th anniversary of the establishment of our state. Today we are talking about some 20 years of our history.

Back centuries ago, the Mongols had conquered half of all known dry land. It is a nation which formulated the global policies for the next 200 to 300 years. The best traditions and legacies of the Mongol Empire have lived on in the Mongols. I find my fellow Mongols to be wise, realistic, objective, resilient, and adaptable to new conditions. They are able to collectively solve issues which I think are the merits developed in the course of centuries and a millennia of statehood. Also, we house today the best part, the hearth of the massive terrains that were dwelt by the Mongols.

On the other hand, the nomadic way of living is a high standard living. If an eco-friendly lifestyle is considered to be a high standard, I would say Mongolian nomads live such a life, a life in full harmony with nature. Nomads never pollute, they never dry up rivers, or damage nature. The fascinating

tradition and wisdom of living as one with nature is that of the Mongolians. Therefore, the Mongolian people set the environmental criteria and requirements. The sense of fairness and justice is in the Mongol genes. It's our common value. Therefore, what the people demand constitutes the core of our policies. So if we do have issues and problems in Mongolia, they are because of the policymakers and not because of the people.

FT: There has been a lot of press, especially in the foreign press, about your former president and his arrest. A lot of news was published about his arrest and the surroundings of the arrest. I wonder whether you think the story has been properly told abroad? I want to know your interpretations of what precisely happened?

President Elbegdorj: As for the press, there is a principle I have kept in my political life, my public life: I never blame the press. If the press has got something wrong or printed anything wrong, I only blame myself. We blame ourselves. The reason is that we have given the media a reason or an excuse, or we let them misunderstand. Therefore, we are always open to fix our mistakes.

Mongolia is open to any organisation, individual, international organization, and medium willing to constructively cooperate with us in combating corruption and securing human rights, freedom and the rule of law. Corruption and money are big powers. Corruption is not a phenomenon that resides in just one particular country. The power of the corruption from money and the corruption network can reach anywhere on earth. Our people all see how hard it is to combat corruption.

Corruption is not mere chitchat. It is not something easily declared and then abandoned. It requires concrete results.

It requires the law to be enforced equally. So we are learning in the process, our society is learning. We must derive the right lessons and move forward.

Another principle that I strictly adhere to—until the court issues its ▶▶



▶ verdict, no one can be blamed for wrongdoings. We in Mongolia do abide by this principle. On the other hand, the organisms of law and justice all have the rights to call, inspect, interrogate, and clarify issues from any person allegedly in violation of the law, and undertake measures that are provided by law.

The president has no chance to exert any influence. We strictly abide by the principle that the organisms of law must act independently and by the law. This principle must be observed by every single citizen in this country, be that the President, a businessman, politician, or any other citizen.

The question you asked has been at the center of public attention. There is another issue that people are attentive about: the Tyrannosaurus baatar, which might have been found in Mongolia. There was a sensation around the auction of a nearly complete skeleton of the dinosaur in America. We most likely will save the 80-million-year-old skeleton of baatar. It was taken out of Mongolia, so we will manage to get it back. But there is another dinosaur that Mongolians are now faced with. This is corruption. Can we manage to keep our country, our people, their rights and liberties, and our new choice safe from the dinosaur of corruption? Or shall Mongolia become a corrupt country in the claws of the corruption dinosaur? Will we be able to tame the animal by law? This is a choice of fate that the Mongols are facing today.

FT: I have my last (and a little weird) question. This place is going to transform economically, socially, and politically over the next decades. And it has been suggested to me that Mongolian women may be more adaptable, maybe better prepared, for the changes that are about to happen than the Mongolian men. And it could lead to social problems, social frictions. I wonder what do you think about this?

President Elbegdorj: The contributions Mongolian women make to this society are indeed unique. At the same time, the Mongols have regarded their women—our mothers, grandmothers, daughter and sisters—as very special and truly fascinating. We hold our women in the deepest esteem, with respect and honor. We admire the love and care that emanates from our women and mothers. On the other hand, our women have been serving under this definition: they are the ones to stretch their arms of help to those in need; they see society in the full spectrum of its colours.

That's why we must support our women to work in the state and government, and in public organizations. At the moment, there are very few women in Parliament. The situation is a bit better at the local government level, 30 to 40 percent. The education and health sectors predominantly employ women. Yet, their participation is very limited at the political decision-making level. So,

we have amended our election law to [require] no less than 20 percent of women candidates. Of the 76 candidates in the election, 15 are women. And from this level on, we have to further increase this rate. I have never heard of a corrupt woman, a woman who builds a corruption network. I have never heard of a woman dictator. I wish for one day a woman becomes the president of Mongolia. The judiciary is also our people's life. We will find the right solution is taking economic and legal matters as inherent parts of people's lives.

Today, one color predominates in Mongolia's economy. The colour of a mining-dominated economy is brown. Or, given the size of the coal industry, it's dark brown. What we want is an economy with a rainbow of colors, a colorful, vibrant economy. We want to build an economy where mining is one of its many sectors and provides inclusively and effectively for people to grow.

In a certain period of Mongolia, Mongolia will have evolved as a country with tangible contributions to the global affairs, with a powerful economy, with free people, with educated and healthy citizens looking confidently ahead into their brilliant future.

I have no doubt we will be able to transform Mongolia into a fascinating country of justice, rule of law and economic prosperity. ■

INVESTMENT

THE BATTLEFIELD FOR INVESTMENT

Has Mongolia compromised the flow of investment in its haste to pass foreign investment limitations before elections?

BY B. BAYARTOGTOKH

Foreign investors are claiming that investment flow to Mongolia is facing new obstacles due to the recently passed Law on Foreign Investment to Strategically Important Enterprises.

According to economist D. Jargalsaikhan, the law masquerades as patriotic and includes discriminatory guidelines. Politicians have slipped into election fever, unaware of the consequences of the law. Nor do they care about the quality of their enforcement. The foreign investment law was passed through Parliament quickly and without much trouble. However, life seems to go on without paying much mind to this important legislation.

The executive director of the Mongolian National Mining Association, N. Alгаа, concluded that the law was imbalanced and biased. National interests were a priority, followed by monitoring of foreign investment and coordination.

A Law to Scare Investors

Some fear money will not continue to rain over Mongolia because of this law. However, the almighty elections dim these precautions. The main reasons for the panic among investors is restrictions set in the three leading sectors—mining, banking and finance, and telecommunications and media.

During the Fostering Inclusive Economic Growth Through Legal Reform forum, a sub-session was held that devoted discussion to foreign investment regulations. Some participants at the session noted that certain articles within the foreign investment law must be revised and adjusted. The draft law, first initiated in 2009, was introduced to Parliament in 2011. However, the government did not approve it until recently.

The government's hasty decision to legalise the law right before elections has been seen as reckless. Consider the real essence of the law.

The law states: "In order to ensure national security, the law will serve to allow accreditation or to regulate relations between national strategic industrial enterprises and foreign

investors, appellants with integrated interest or third party investment".

In response to the law N. Enkhtaivan, director of the Department of Foreign Trade and Economic Cooperation, commented, "Foreign investment regulations were undefined before. However, the Law on Foreign Investment was an innovative move that allowed us to take one leap forward".

Any investment in the above-mentioned three leading sectors will not exceed 49 percent ownership without approval. Any more than that and investors must negotiate the deal with Parliament. The legislation has been heavily criticised by the private sector. The legal environment for national companies to broaden their activities and expand their market by attracting investments is becoming dull.

"Government responsibility over foreign trade regulation could lead to administrative bureaucracy, corruption and a fall in foreign investments", said mining representative Alгаа.

Although it would be hard to oppose the government, the law was developed using input from the private sector. But M. Bold, president of the Mongolian Bankers Association, countered this sentiment saying, "I'm not very confident that the foreign investment regulation law is prudent. We need laws that are more definite".

In addition, the clause that orders Parliament to decide what sectors must be categorised as influential might put investors' patience at risk. Investors have to be accredited and negotiate with the government in order to purchase one-third of a company's shares within a strategically important sector. For that reason, industry representatives have put their doubt on the continued rapid growth of the financial market. However, the Foreign Investment and Foreign Trade Agency (FIFTA) said the new regulatory law will not have any direct effect on investors.

"In cases where an investor's shares in a strategically important enterprise exceed the appointed 49 percent and investment surpasses over MNT 100 billion, Parliament will take decisive actions. In other circumstances the government will be in charge of accreditation". »

- ▶ As the Parliament and the government's direct and indirect influence increases, involvement and participation from politicians will increase as well.

"Ratifying a law in a very short time without clarifying the rules of the game is causing problems. Research and presumptions had to be made. Foreign investments might weaken due to the new law", said Michael Aldrich, Director of Hogan Lovells.

On the other side of the spectrum, Parliament member R. Gonchigdorj said, "The law did not limit any foreign investment. Opportunities for fully foreign invested companies to operate in Mongolia's strategically important sectors are still available".

Do We Need Investment?

When asked if Mongolia needs investment, the whole nation answers yes. To expand their businesses, people seek investment opportunities. Business people have admitted that both public and private business lack investment.

"Mongolia needs foreign investment", said Bold. "The nation must develop its country by attracting foreign capital to rid itself of poverty, and to develop its economy and manufacturing industries. In addition, policy regulations have to be accurate and precise".

In an interview with *Financial Times* Reporter David Piling at the legal reform forum, president Ts. Elbegdorj spoke in depth about the law.

"Domestic state properties are monitored. Thus, we have to



do the same for foreign state properties as well", said Elbegdorj. "Such regulations are conducted, not only in Mongolia but also in powerful countries that have open economies."

"I, personally, cannot say the law was the best, either. First, we had to be open. Now, Mongolia is at the centre of global investors' attention—especially the mining sector. Mongolia's national interests are the priority. We needed financial support and foreign investment. We have to continue balancing these two aspects in our further policy development".

The president said: "The world is watching Mongolia". We must improve many issues plaguing the investment law or Mongolia might end up with nothing. However, as the president also warned, national interest must be kept the top priority. ■

TRADE REGULATION

NO SOIL, NO FLOWERS

Two terms that will never be erased from economic study are deficit and profit. Nobody wants to incur losses. However, Mongolia's foreign trade is facing the great loss of USD 2.7 billion, or 35 percent of its gross domestic product.

BY E. ZORIGT

Trade civilised human beings. Social relations, and later tribal communities, were established after people could exchange the goods they needed from each other. The expansion of tribes to nations along with trade led to the creation of the concept of an economy. The only

engine driving Mongolia forwards is its foreign trade. Until the 1990s Mongolia had traded with only about 20 countries, with trade worth about USD 200 million. At present, the country has trade relations with over 130 countries, worth USD 11.4 billion.

Deficit Versus Profit

Two terms that will never be erased from economic study are *deficit* and *profit*. Nobody wants to incur losses. However, Mongolia's foreign trade is facing the great loss of USD 2.7 billion, or 35 percent of its gross domestic ▶▶



▶ product. Although a shower of money is pouring down on Mongolia from the mining industry, the country is losing more than it makes through a negative trade balance due to imports. That door must be closed.

But the main problem is Mongolians do not manufacture a single needle themselves. Even yeast is imported. These are the biggest problems. Mongolia is not a country that produces goods; it consumes them.

“Looking at Mongolia’s foreign trade dependency, Russia and China each make up to 30 percent of the country’s imports”, said S. Javkhlanbaatar, Deputy Director of the Foreign Trade and Economic Cooperation Department at the Ministry of Foreign Affairs and Trade.

Up to 90 percent of construction materials are imported exclusively from China. In 2011, 89 percent of Mongolia’s exports consisted of only mineral resources and 92 percent of these minerals head to Chinese markets. However, being too dependent on any single country could have serious consequences if those mining commodity prices fall. But that sort of caveat should not be a reason for hampering foreign trade because Mongolia must make money to develop. Thus, Mongolia must improve its foreign trade, develop its business environment, and build factories with investment from investors.

The final results are important. However, Mongolia’s foreign trade policy is one of the factors preventing Mongolian businesses from being recognised on the global market. According to the *World Bank’s Ease of Doing Business Index*, Mongolia ranked 159th out of 183 countries for its cross border trade. This shows how urgently Mongolia needs innovative methods for foreign trade. Offshore development for production is one possible solution. That would allow domestic capital to increase and help close the wide-open door for imports.

A reason for everything

“In order to function effectively, global companies conduct pre-calculations of every single possible aspect,” said Canadian Ambassador to Mongolia Gregory Goldhawk at the Fostering Inclusive Economic Growth Through Legal

Reform forum. “The same goes for trading. However, it is not easy to make such estimations. Infrastructure, which Mongolia doesn’t have, plays a major role in eliminating problems that occur”.

“There are two types of infrastructure: hard and soft. If soft infrastructure is not developed the other can’t be developed. Transparent governance and a strong legal environment are priorities to running a business”.

Railways and roads are called hard infrastructure. Soft infrastructure includes good governance, transparent activities, social responsibilities and an effective legal environment. Some even say that these two are the guidelines for business. If these two developed parallel to one another, it would create the foundation for a strong business environment.

Mongolia has neither of these. So what now? Foreign business giants will not even take a glance at a country without business guidelines and if it has weak soft infrastructures. And if they do, they might run away as fast as they can. As a result, the circulation of foreign investments is closed. As soon as coal deposits run dry, foreign investors will leave Mongolia forever. There is no time for establishing offshore production operations. After foreign investors get the minerals they need, we have no other choice than to open the gates for imports again. According to economists, if the nation does not leave behind this weakness the country could end up as a arm to other economic moguls.

Where the Economic Growth Came from

A constantly changing society requires proper legal regulations. It is rather embarrassing that Mongolia does not have any official foreign trade legislation, although the country has been involved in foreign trade for 91 years. It has been 20 years since Mongolia entered the foreign trade market.

“Foreign trade expansion demands legal regulations. However, we haven’t had a government that has supported any initiatives in these matters for the last 20 years. No one really worries about it, even though the country’s ▶▶

► economy relies on foreign trade”, said N. Enkhtaivan, Director of Department of Foreign Trade and Economic Cooperation.

Mongolia’s economy makes the world wonder. Politicians repeat the words rapid economic growth like parrots. But what exactly triggered this economic growth? Was it only coal exploitation? Or did political promises have any influence? However, politicians seem not to understand that mineral exploitation helps the economy grow. If they did, the least they could have done is pass foreign trade legislation.

The first consequence is disorderliness. Bureaucracy emerges where people operate for the sake of their own self interests, while national gain is behind. According to the Bureaucracy Index 2011 by the Mongolian National Chamber of Commerce and Industry (MNCCI), the customs and offices are the most bureaucratized.

“Zamiin-Uud is one of the biggest foreign trade ports in Mongolia. However, it is also one of the most bureaucratized places”, said the director of the Consolidated Policy, Planning and Coordination Department, Ch. Nergui. “How can we expect foreign trade to develop there”?

Other studies state that Mongolia’s business conditions are worsening. In 2006 it took around 30 days to import or export goods. Last year the number of days grew to 47. Businesses, which value time as priceless, cannot afford to lose those days. Comparing Mongolia’s foreign trade procedures with other countries, preparing documents for cross border trade in Georgia takes only four days. France, Japan, South Korea and Sweden have maximums of four days as well to process three documents for export. These are a few examples of developed countries that have finalised foreign trade processes in very short time.

These are indications of developed soft infrastructure, or a precise legal environment. Mongolia ranked 97th out of 183 countries in the World Bank’s 2011-2012 business sub index for these matters. The index shows that a new business must devote 13 days for documentation while spending 2.9 percent of a business’s average income per capita.

Foreign trade has become a global phenomenon. But in Mongolia no more than ten people from the Ministry of Foreign Affairs and Trade are concerned about this industry.

“We have a team with only ten employees. How can we develop foreign trade policy with such a small workforce? The next government should support this matter and take it into consideration”, said N. Enkhtaivan, director of the Department of Foreign Trade and Economic Cooperation.

Despite the small workforce, the team has introduced its foreign trade draft law, which would support exports. If ratified, clarity would appear. Enkhtaivan expressed his confidence that bureaucracy would disappear too, noting that, “The law can be compared to soil. If that soil is healthy, then flowers will flourish”.

The starting line must be drawn correctly. The world

Export Commodities /million USD/

Types	First three months				Changes in amount /by %/
	2011		2012		
	Volume/ton, barrel/	Total amount	Volume/ton, barrel/	Total amount	
1 Hard coal	2,918,515	201.7	3,279,224	358.8	77.9% ↑
2 Copper concentrate	138,149	241.7	140,134	198.6	-17.8% ↓
3 Iron ore and concentrate	909,895	75.3	1,478,607	107.7	43.1% ↑
4 Crude oil	498,986	46.3	750,247	75.4	62.9% ↑
5 Zinc ore and concentrate	40,049	48.2	31,453	30.3	-37.2% ↓
6 Pure gold	832	32.8	472	20.8	36.6% ↓
7 Fluorite and nepheline	89,479	17.3	88,747	19.2	10.6% ↑
8 Molybdenum ore and concentrate	1,010	12.4	1,063	10.1	-18.7% ↓
9 Purified cashmere	38	2.2	24	0.9	-57.3% ↓
10 Carded cashmere	16	1.5	89.5	8.1	431.4% ↑
Other		62.7		153.8	-14.2% ↑
Total export		742.1		883.8	19.1% ↑

Foreign Trade Turnover /million USD/

	First three months		%
	2011	2012	
Total turnover of foreign trade	1,830.0	2,341.7	28.0%
Goods paid in foreign currency	1,601.5	2,097.6	31.0%
Export	742.1	883.8	19.1%
Goods paid in foreign currency	729.0	882.6	21.1%
Import	1,087.8	1,457.9	34.0%
Goods paid in foreign currency	872.5	1,215.1	39.3%
Foreign trade balance	-345.7	-574.1	1.7x
Goods paid in foreign currency	-143.5	-332.5	2.3x

Performance of import goods /million USD/

Types	First three months		Changes /by %/
	2011	2012	
1 Crude oil products	183.1	352.4	92.4% ↑
2 Transport	214.1	224.1	4.6% ↑
3 Heavy mechanisms, equipments, spare parts	200.3	241.3	20.4% ↑
4 Food products	35.8	41.9	17.3% ↑
6 Office and home furniture, commodity	34.5	46.8	35.6% ↑
7 Pharma, biology and chemical products, fertilizer	14.8	24.4	64.3% ↑
5 Metal goods	2.5	6.5	159.1% ↑
8 All types of cloth	0.3	0.2	-12.0% ↓
9 Other main consumption goods	38.7	47.9	23.5% ↑
Other	363.6	1472.5	29.9% ↑
Total import	1,087.8	1,457.9	34.0% ↑

Source: MCO

is not perfect. There will be flaws, but Mongolia could aim for the top. To do so, the country must increase its social wealth, produce more by low expenses, and seek profits. ■



INTERVIEW

“TOO MANY COOKS SPOIL THE BROTH”

“At the same time, there is a tendency to think that all we have to do is enact a law and that law will solve the problem. I think that, perhaps, that is in some ways a reflection of traditional Mongolian thinking”

Michael Aldrich is a partner at Hogan Lovells law firm in Mongolia

BY B. ENKHTSETSEG

What is your impression about this legal reform forum?

Last year's forum was a larger event with a larger invitation list and named a much wider scope of matters. The difference with this forum is that the focus is slightly different. On one hand we are speaking about international standards of doing business suitability to addressing the problems within Mongolia or to be able to facilitate the conduction of business in Mongolia. It is more so geared to business issues. How can we make the banking sector more efficient? How can we change the laws dealing with our arbitration in order to help and be able to resolve disputes more rapidly?

So the focus is more on businesses. It's more on the practical side of things, less so on courts, and less so on the ideas about passing laws in order to deal with higher justice issues.

But more so to looking at how a law can facilitate business in order to encourage economic growth.

What would you say about the legal environment of

Mongolia?

I disagree with many people who paint it very negatively. My view point is that looking at the law fairly, what you see is a legal system that aspires to promote the freedom to contract and very much memorializes certain rights such as the rights to compensation in event of expropriation. Fundamentally, the basis of the legal system is something that is much closer to that which exists in the west than China, Vietnam or Indonesia.

At the same time, there is a tendency to think that all we have to do is enact a law and that law will solve the problem. I think that perhaps that is in some ways a reflection of traditional Mongolian thinking. Mongolians have always embraced the idea of a code of behavior. If you promulgate a new part of a code, people would follow. But the problem is, in this complex age, many times when you are looking

▶ at things as complex projects as the creation of new electricity, heating and power stations—these things are fairly complex. What we need is more than just simply supporting the idea, but to take those concepts and bring them towards implementation.

You have a great legal concept, but if you can't take the law and be able to fashion it into a contract that people understand, then there really isn't that much advancement.

How can we enforce the laws so that everyone complies with them?

I think it is important to encourage Parliament to not only think of the laws, but also think about the contracts that will be used to implement the laws. For example, there is a concession law that was enacted about two years ago. Prior to its enactment, the focus was exclusively on the issue of how do we draft this law, and what do we provide for it. But once you have the law, no one knows how to apply. There were a series of private sector attempts at a concession agreement that were pretty underwhelming. My thought was, fine you can speak about the law but why didn't Parliament authorise people to focus on preparing a concession agreement that would comply with Mongolian law, would be written in a way that is compliant with international standards, and be regarded as an equally balanced document—something that could be then used internationally, the international community could feel comfortable with, and the Mongolian community could feel comfortable with.

That does not happen many times because in my opinion people think when you get to the tedium of actually writing contracts that it is not as exciting. That can be boring, but that is really where the heart of the action actually is in order to be able to implement the concept of a law and then in turn be able to develop the economy.

What is a good model for implementing a law in developing small countries like Mongolia?

I think the system here is a reflection of both the greatest strengths and

occasional weaknesses. Mongolia made it its transition to democracy, so, therefore, Parliament is very responsive (some people might say reactive) to popular sentiment. That is fine. That is one of the attributes of democracy, and that is very good.

Though, at times this leads to Parliament reacting very rapidly to an issue and enacting a law without really considering all the consequences. What other countries will do is [different from] the process used here, which usually involves a working group. The problem with working groups is that it's everyone's responsible, but no one's really responsible. You have drafting done in a patriotic fashion, and, at times, no one or two people taking responsibility for the final version of the law.

We would have to move away from the working group concept because I find that it generally tends to slow any project down, whether it's looking at investment in a power plant or drafting a law. "Too many cooks spoil the soup" is the old phrase. I think that is what happens here. But also what I think is needed here is enhanced appreciation of legislative drafting. By that I mean the specific style by which one writes a law.

When a lawyer tries to write a contract, if it doesn't really have the substance, the technical aspects, to make it as enforceable as the parties wish it to be, when there is a dispute it winds up being unworkable because you can't interpret it as a contract. When you write a law, there is a similar process. You have to go forward and draft the law in accordance with a particular style of writing, with a particular anticipation of definitions to make the law as specific and definite as possible, to remove vagueness, and to make sure that the law addresses precisely the social or economic problem that parliament thinks its remedying.

The current strategic investment law is an extremely broad document, and I'm not sure if its breadth necessarily addresses the particular concern that Parliament had when it had been considering it. And then that creates confusion.

In other jurisdictions you will find a more finely honed process of how to write a draft law. You usually don't find a group of people doing it, but one or two people who are drafting it in response to a specific legislative objective. From there it often comes down to a process of being able to have consultations with the public, the business sector (which may be involved), private individuals, and sometimes scholars.

But ultimately, if it is to be a commercial law, the whole focus needs to assist people in business with their decision making process. They are sitting down thinking out a particular business plan. What they need to do is to say to themselves, what does this law tell me I should do. If I understand that, then I can make a decision whether I should pursue this business activity. That is the essential purpose of a law. That is what a properly drafted law must do. There are times where that is not achieved here, as well as other jurisdictions.

What do you think about Mongolian policymakers making laws in their own interest, as they often are running their own business behind the scenes?

I do know that a conflict of interest law has been passed. I don't believe that it has been drafted as strictly as it is ought to be. Quite simply, there is this regrettable tendency of people to pursue laws not for the public good but for personal their own personal advancement, or the advancement of family members. One aspect of all of this is this has to become something that is wildly, socially unacceptable. Anyone who would aspire to be a politician in other jurisdictions would disqualify himself with that behavior. Firstly, there needs to be a social change in people's thinking here. The other side of it is there needs to be much stricter laws.

The current version of conflict of interest of law speaks about one individual. Well, what if you pass a law and it supports your family or someone else. That is outside the scope of the law. Someone gets away with that.

What is your opinion on the ▶

► foreign investment law?

One of the problems is that usually Mongolian Parliament is very reactive to certain events. There have been laws in the past that were enacted where, for environmental concerns, a law was passed, but it was too broad. We were seeing same thing with the strategic investment law. It is a response to Chalco. (The Aluminium Corp. of China)

That reactive fashion is not a good way of being able to implement laws. But rather, it's better trying to be able to have a thought-out policy that is implemented over time. Most people say the strategic investment law has been considered now for over two or three years. But come on, we all know what triggered it: the reaction to Chalco. I share the concerns about potential Chinese aggression through economic penetration in Mongolia. I lived in China for 18 years. I understand that is a realistic concern. But it is far better to have the discipline to think out broader policies and have the implementation of those plans in the abstract than just reacting to one problem and passing something that is too broad.

It sends a very mixed message to the international community. In the one hand, "please invest to Mongolia". On the other hand, "you have to comply with laws, which is not clear, and if you don't there are very severe penalties". The idea is not bad but the environment requires more refinement and sophistication. If the purpose of the law is to prevent Chinese investment, but not say so, there are other ways a law could be facially neutral but would slowdown Chinese investment. For example, proof of Chinese government approval in a foreign investment project in Mongolia is a requirement in Chinese law that is never gotten. People just go forward with the projects here without getting their own internal approvals. If you require that to be presented and they don't have that, that stops the flow of foreign investment.

Although Mongolia is one of the biggest mining destinations in the world, are we still dealing with small investors? Are big investors

still watching and waiting before entering Mongolia?

For the most part, it has been small investors that have been attracted here. We started to see large investors (Rio Tinto and Ivanhoe are the obvious examples) and there are others looking very seriously at the Mongolian market.

It's not just mining companies, but companies that support what mining companies do, whether it is building power stations or supplying local motives or construction. Our own client list consists of quite a few Fortune 20 companies, but the problem now is that this law seems to have taken away the red carpet. The law has a lot of vagueness, and foreign investors anywhere don't like uncertainty. If your law can't say what the process is to comply with and the law has severe penalties you would actually feel uncomfortable about investing a lot in a particular country.

I do worry that sometimes people (worry) foreigners are coming here. It's true that they are, but it hasn't reached a stage of extraordinary development. There are a number of mines coming together, but we are still not at a stage where the volume of foreign participation has already produced a lot of wealth.

Until the capital comes in to get those minerals and metals out of the ground, those things are just rocks. That's dirt in the ground of absolutely no value. To say, well we are going to make it more difficult to get foreigners investors to get this wealth, then how does one get at it? If it remains something unextracted, it remains valueless. How do you materialise that value?

People think in some ways that more wealth has materialised then the case actually holds. And obviously there is concern over what will be the future direction of the country. You are looking at people who have lived a traditional nomadic life being compelled to accept a sedentary existence. The challenges that involves, in terms of really changing your role as someone who supports a family and all these new developments that didn't exist in the past, has a lot of confusion and concern. All that is understandable, but in terms of calmly and passionately discussing

describing the circumstances, people do not have an exaggerated view of foreign colonisation of Mongolia.

What do you think about the current corruption law of this country?

I think it is very insufficient. But even if the law was more strenuous, it is a question of enforcement. More importantly, before enforcement is the question of having this accepted as a forbidden social vice. Society shaming people for being corrupted is the first step in terms of creating a mechanism of enforcement and a will to draft laws seeking enforcement.

In some ways it is a question of instilling a certain sense of ethics and integrity in society. It is an issue that starts off with education in order to be able to encourage people to take a viewpoint that is tied to integrity with their studies. I heard there were people who were taking the Mongolian lawyer exam last year and they were openly cheating. That is something that just couldn't happen in other parts of the world. That would be socially unacceptable, a lawyer starting his career by cheating to get qualified. It's a need to be able to create that social sense, that ethical aspect, in order to be able to give the will to the governmental system to implement anti corruption laws.

As a lawyer, what ideas for amendments to laws that should be made first do you have?

The ones I would look to first would be very narrow things that impact my clients. But there are certain ambiguities in the revised company law that should be fixed. I feel that there are certain administrative procedures that need to be implemented. For example, there are various types of collateral that the law envisions there is a registration process. The state authorities haven't implemented the process for those types of collateral. This would be a very easy way to enhance lenders' comfort in issuing loans to Mongolian companies to fix these things.

So the things that are at the forefront in mind are usually pretty mundane things that relate to business but also slow down business. ■



STOCK MARKET

ELECTION OVERSHADOWS SECURITIES LAW

BY B. EMKHTSETSEG

So much is riding on the passage of the new securities law, but it looks like Parliament will not make time before the formation of a new government.

The Mongolian Stock Exchange (MSE) was once called a cemetery for capital, a name still applicable despite renovations made to the market. This is a positive push for the mining sector, but both a hot and cold topic for Mongolians.

Both foreign and local voices have said that the stock market cannot go far until it meets international standards. The work has finally started. Last year the London Stock Exchange (LSE) Group and the MSE board signed a strategic partnership agreement to guide its development. Thus, the rules of the LSE will be replicated for this legislation, say those close to its development.

"The Financial Regulatory Commission [FRC] and the stock exchange together are developing rules to match those of the LSE. Although there is still great need for refinement to the legal regulations to get it passed through Parliament by 2013", said, D. Bayrsaikhan, director of the FRC, at a discussion for capital market regulation at the Fostering Inclusive Economic Growth Through Legal Reform forum.

The capital market cannot grow without solving some the big issues delaying the passage of the law. As part of the contract agreement, the MSE and its partners are working, but today the election overshadows those efforts. According to Chief Regulatory Officer G. Saruul, the stock exchange reforms are nearing completion, as the market is now ready for new the software the LSE has promised to provide.

But some circumstances will require more time, putting the MSE in the waiting room to play with old toys. Brokers, for example, need time to become acquainted with and implement the new rules and responsibilities. The MSE would like to start using the new system as soon as possible, but the brokers need time to catch up.

The MSE is ready to fight, but the weapons that the governors should have handed out are ►►

▶ missing. The new securities law was expected to pass through Parliament in the spring session, but the discussion was put aside, and unfortunately it looks like it will not be picked up again until after the Naadam festival.

“They had the time and opportunity to discuss the new securities law, which was submitted to Parliament over a month ago”, said, V. Udval, Deputy minister at the Ministry of Justice and Home Affairs, at the legal reform forum. The MSE and FRC are hoping the securities law will be passed before Parliament breaks in July. Just as, like Mongolian say, “fall comes after Naadam”, this law too might have to wait for after Naadam when Parliament’s changes hands. Policy makers have said already they will need more time to dissect the law before it can pass.

With the help of the new securities law and other regulations that have been implemented since 2009, the market exchange is nearing its rebirth. The new law will change half of the existing legislation. For instance, the new law will allow Mongolian companies to have dual listings and set up custodians with depositary banking regulations that the current law makes no mention of. The law will also allow for Erdenes TavanTolgoi to list on international bourses.

“We are not talking about the development of the capital market just for foreign investors. We have to create a stock market for Mongolian investors who might be investing with their private pension funds”, said M. Bold, the MSE’s board director.

Mongolians will also need regulations for their future pension fund as well as for how companies managing those funds can participate on the market. One big change from the new securities law will be the introduction of

penalties to brokers who use inside information to profit on the market. Fines will be several hundred times more than the average monthly wage and criminal charges will be possible too.

“I truly admire the aspiration to achieve international standards, but one little concern from me is that there must be lots of rules that are familiar to international investors”, said Jamie Barr, a partner of the Hong Kong branch of international law firm Hogan Lovells. “But I wonder whether they would be right or a little too difficult for the market at this stage of development”.

It is not only the three million Mongolians that make up the country’s population, but also another 7 billion people worldwide preparing to compete. The legal renovations being made to the capital market (which are apparently now put on hold while we wait for a new government) will be the foundation to the new capital market.

“Fifteen strategic deposits, starting with Oyu Tolgoi, Tavan Tolgoi, and Tumurtei, will come up one by one. This is property belonging to the public, not the state,” said Bold. “We are trying to implement the world’s best practices, aiming to create a culture that understands ownership of equity among citizens”.

In addition to a familiar landscape provided to international investors, it is important that the rules are simple and straightforward, emphasized participants at the conclusion of the legal reform forum. Although the technology, trading system and market rules are being renewed already, there is still much left unexplained. It is likely the legislation will have to be retooled and enhanced as the developers of the market move forward. For now, we must wait for policy makers to move their fingers. ■

PPP

THE FUNDAMENTALS OF PUBLIC- PRIVATE PARTNERSHIPS

When government is not enough, it may need a helping hand from private investment.

BY KH. KHULAN

The term concession has entered the Mongolian language and is used widely now. The Law on Concession was approved two years ago by Parliament. The law gives hope for a broader use of the public and private partnership models in Mongolia. At present, there are no projects taking advantage of the public-private partnership principles. Yet future opportunities remain open.

The government of Mongolia approved the National Strategy to Support Private Sector Development in 2011. The strategy officially declares the state’s support on improvement of the private sector’s competitiveness and development ▶



▶ of public- private dialogue and partnerships. This proves that economic growth and responsibility both rest upon the shoulders of the private sector. For example, the Sainshand Industrial Complex and Dornod Oil Refinery projects are to be realised using public and private partnerships.

The Eiffel Tower, a symbol of Paris, was constructed with these principles in 1889. Another example is the 20-kilometer-long Incheon Airport Expressway. Worldwide, there are numerous examples of projects implemented by these partnerships.

Public and private partnerships mean the execution of long-term projects arranged by agreements between the private and public sectors. In other words, the government stands on one side and businesses on the other to provide infrastructure and social services for the public. Until recently, the construction of roads, power stations, and hospitals as well as the establishment of public services were performed entirely by the state. But now there is the chance to involve capital from the private sector into the economic cycle. If these partnerships are implemented correctly, it brings mutual benefit to all stakeholders. Yet, the road to a good partnership is long and has many challenging issues to contend with.

The State Property Committee has a total of 86 projects to be carried out by the concession nationwide (See Table A), requiring USD 8 million for the implementation of the foremost project. These include the railway project, Power Plant No. 5, the Mogoi Gol Thermal Power Plant, and road construction. At present, there

are four public and private partnership projects with concluded contracts: the Mogoi Gol Thermal Power Plant, the Nariin Sukhait- Shiveekhuren road, and the railway base structures between Sainshand-, Tavan Tolgoi and Ukhaa Khudag, and another running from Ukhaa Khudag to the Gashuun Sukhait China-Mongolia border point.

Forum Fostering Inclusive Economic Growth Through Legal Reform

A recently held forum on economic growth and legal reform considered the issues of the public-private partnership seriously. Cooperation with the government distinguishes itself from everyday business activity of the private sector.

Vice President of the Bank of Mongolia N. Zoljargal emphasized the necessity of precise regulation. He expressed his standpoint of supporting only a few of the best concession projects available. The attendees of the forum agreed that the role of the stakeholders, the government and the business, should be clear.

The government is obliged to prescribe the standard requirements for the project agreement and monitor it strictly. The private sector is responsible for providing the modern technology, know-how, human resource and the capital.

Ch. Khashchuluun,
Chairman of the ▶▶



► National Development and Innovation Committee (NDIC) reminded the audience that the partnership should be competitive. He said the secret of the dynamic development of the private sector in Mongolia is the government order. Germany had the same development model in the 19th century. The state supported the participation of the private sector during industrialisation period for the construction of its railways.

Alex Wong, a partner in the Hogan Lovells Singapore Office, said that Mongolia's Law on Concession presses all the right buttons regarding involvement of the public and private sectors. He also stressed that the Law on Concession is not the end, but the beginning of public-private partnerships. Wong noted that in respect to how Mongolia goes about infrastructure and these partnerships will depend on the implementation of the law.

Ch. Khashchuluun considers the Law on Budget to be insufficient. The budget law was approved by the end of last year, and skipped the issue of public-private partnerships development completely. Also, other participants during the session on this matter pointed out the small involvement from the Ministry of Finance.

State Budget? PPP? Development Bank?

The right use of the financial instruments available can be fruitful. This rule is valid also for public-private partnership agreements.

Khashchuluun stressed that less-profitable social projects (such as building a road) should not be implemented using these principles but rather from the state budget. The public and private partnership is appropriate for projects that can bear a certain amount of profit. The Development Bank of Mongolia involves itself with highly profitable opportunities. In that case repayment must be done correctly. Otherwise only the least-profitable projects would be implemented through the Development Bank, which would be the wrong way to go, explained Khashchuluun.

The session attendees pointed out the outdated investment policy, and gave recommendations for its improvement. They also noted that a close cooperation with the Ministry of Finance would be required.

It was left to the economists to decide how the financial mechanisms should be used. English newspaper *The Independent* once asked German professor of economics Hans-Werner Sinn what he would do if he had the power to change the world. He answered that he would send all the ministers responsible for the economy in Europe, to lecture on economics.

Elements of Successful PPP

1. Batkhuu, the expert of the PPP and concession at the State Property Committee names the elements for the successful PPP implementation.

1. Transparency. The public should be aware of all PPP procedure.

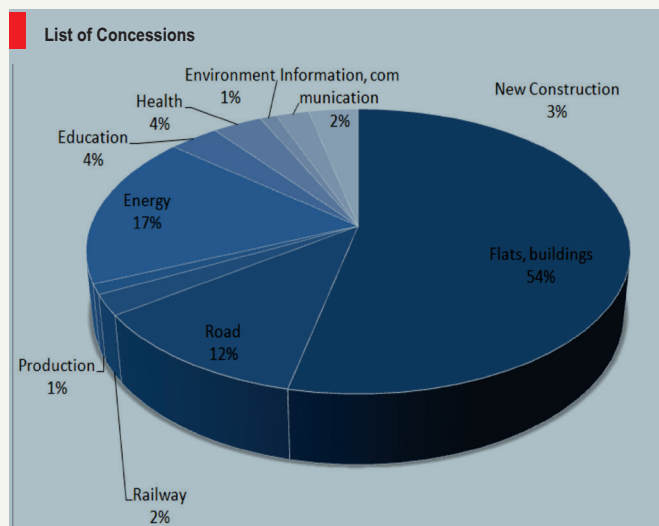
2. Equality. Inland and international investors have the same right.

3. Efficiency. The project should be economically profitable.

4. The project should be oriented towards the society.

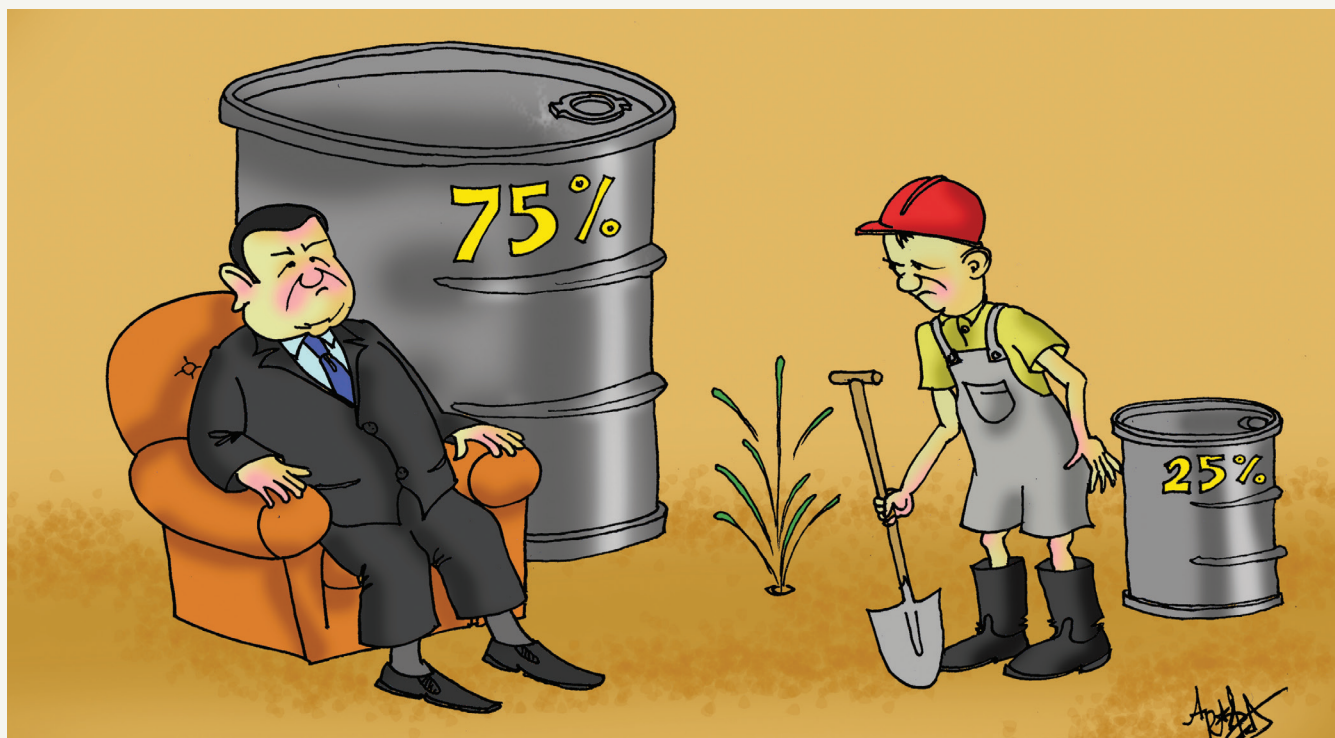
5. The final result of the PPP project should benefit the public.

6. Private sector transfers the best management, technology, and know-how.



Khashchuluun introduced about the establishment of the Guarantee Fund to be used to promote the private sector. Private investors in public-private partnership agreement would receive the guarantee that their investment will be repaid.

Mongolia lacks experience with these partnerships as of yet. However, they can become the core of the economy by enhancing the link between the stakeholders involved and the law. ■



OIL

THE NEXT MOVE

The law, which was ratified in 1991, needs some serious adjustments and revision. According to experts from the Petroleum Authority, it has become an aggregate of informal agreements that profiteers exploit as the monitoring and regulation of the sector weakens.

BY B. ENKHMART

What is a country with 1.6 billion tonnes of oil reserves, of which 196 tonnes are proven, to do? Must it be exploited? The answer is no. Creating a suitable legal environment would be the most appropriate choice. Does Mongolia have such an option?

"The petroleum law is one of the few laws under the name of Mongolia, meaning it is considered to be very strong law that has been enforced very strictly", said D. Zorigt, minister of natural resources and energy, at the international legal forum held last month at Ikh Tenger.

This statement triggered

arguments among attendees. Some said although Mongolia has a great amount of oil resources, it is completely dependent on Russia. This can be directly linked with the law on oil and its legal environment. However, the head of the ministry of that sector argues the opposite. It was his opinion that making industry more beneficial and profitable for the government, domestic companies and the nation would require revision to the petroleum law.

The law, which was ratified in 1991, needs some serious adjustments and revision. According to experts

from the Petroleum Authority, it has become an aggregate of informal agreements that profiteers exploit as the monitoring and regulation of the sector weakens.

Fourteen domestic and foreign-financed companies together can barely exploit 300 tonnes of oil annually, which only takes a few hours in Saudi Arabia. That sum might sound small, but in a nation like Mongolia with a small population, it is not as bad as it appears. The minister of the oil sector said it had the goal to exploit 1.5 tonnes of oil by 2015. Last year, Mongolia was ranked ▶

▶ 33rd from over 100 countries for its oil resources. If Mongolia could take advantage of it, it would have a bright future ahead of us.

Slipping Policies

The Mongolian petroleum industry can be compared to a toddler who is just learning to walk. For that reason, global giants in the industry have expressed their interest. However, they want to eliminate the current petroleum policy on production sharing between the government and companies, letting a cool breeze blow over those old law papers.

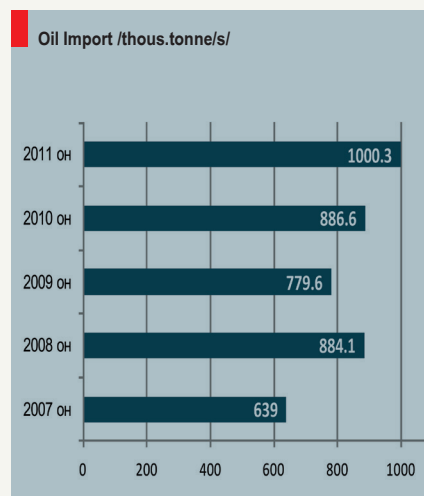
J. Oyungerel, the board director of Petrovis, said at the legal forum that domestic oil importers are willing to support this aim.

“After lot of hard work, we exploit very little oil”, said Oyungerel. “However, up to 75 percent of it goes to the government, according to the production sharing agreement. In other countries like Mongolia, a maximum 62 percent is taken. The industry needs a stable legal environment. If the law was revised, then our initiations and opinions must be heard and included”.

“They go to quite a lot of trouble taking surveys and doing research. But the final results are often unrecognizable and completely different. Speaking directly, we don’t want to share the products we have worked so hard to deliver”.

After having worked so hard, nobody would want to give away his or her profits for free. However, the petroleum sector in Mongolia is different because the natural and ground resources in the Mongolian territory are legally the property of the nation. Thus, citizens want to benefit from this resource as they will from the shares of Erdenes Tavan Tolgoi. Considering this, the government has decided not to eliminate its production sharing policy in the revisions to the petroleum law that were initiated by the president. To share or not to share? Which side will win?

Who will benefit from monitoring petroleum imports or gathering profits by a production sharing policy? What



results can it bring?

According to petroleum importers, the government tries to minimize their importance, close their profit circulation, and, finally, eliminate them from the market by taking the petroleum sector in its own hands. In addition, there are rumours of its intent to erase domestic companies from the market, allowing the government to invite big foreign investors to strike product sharing agreements with them.

However, the government said it intends to accumulate the natural resources, compounding national petroleum reserves instead of selling the crude oil directly. Doing so would bring stability to fuel prices. It is irrelevant to ordinary citizens which side wins this battle. The most important issue is producing fuel domestically and reducing dependency on foreign nations. If the fuel price decreases, it would be helpful to all. However, the government must not neglect domestic traders who have sweat blood running their businesses. For example, the government should clarify vague resolutions, including issues on the granting of special exploitation licences and their transference.

Foul Deals Effect Foul Results

“The production sharing agreement causes various disputes around the world”, said British Ambassador Christopher Stuart, at

the legal forum. He added “Stability must be sought. Governments tend to seek profits by privatising this risky sector. The industry has to have a strict taxation and budget policy. The revised law should include exact sums for taxation”.

“Comparisons with foreign markets could be effective in the future. Big investments and tonnes of experiences are crucial in Mongolia’s still developing petroleum sector. Thus, developing policies that could attract investors would be efficient. The sector itself is a risky one. For that reason, investors might not be interested if taxes are too high”.

“At present, Indonesia declares it will take 85 percent of its domestic petroleum trade. As a result, the foreign investment rate has fallen because executives are not approving of such demands. Ratifying the law doesn’t solve problems. Enforcement and improvements would lead to great production”.

Forum participants noted that in under-populated countries like Mongolia, the sharing ratio in the production sharing agreement with the government usually takes about a third of the profits.

The petroleum law of 1991 allowed domestic companies to make their agreement classified for exploration and exploitation when cooperating with foreign companies. This means if anything goes wrong, the situation will be resolved according to the agreement, not the law. Simply said, if one runs away with all the profits from the petroleum operation, he cannot be held legally responsible because the cooperation was based on the agreement rather than the law.

Any foul articles could be mentioned in the agreement. However, before legalising the agreement it must be reviewed by the National Consulting Authority. But Mongolian companies have to be cautious. Industries based on natural resources are developing. Thus, leaving loopholes in these laws and regulations could lead to negative consequences for Mongolians.

The government must function to reserve shares for our future generation by implementing strict laws and strong regulations. ■



COMPETITIVENESS

COMPETITIVE CHANGES IN COMPETITION

Although this is a joke, the government is too involved in the market policy and is allowing corruption network to appear by misleading citizens with its unclear regulations and ordinances.

BY B. UUGANBAYAR

There is a story about a man who gave advice to his brother who was just starting a small business of his own. His first piece of advice was to never compete with the prime minister's company or he would end up homeless. Second, he told him he should gather information about the companies owned by the prime minister's wife and children. Third, he should know more about the companies owned by the prime minister's friends before going ahead with anything. And then, if there is any space left for him he could start his business.

Indeed, the government is too involved in the marketplace and is allowing a network of corruption to materialise by misleading citizens with its vague regulations and ordinances.

"Good companies and quality products come only through competition", said D. Enkhbat, a member of Parliament. "Even sport masters are born as a result of it. Thus, tackling any kind of conspiracy by supporting fair competition in both business and sports would lead to development".

It is a good sign that Mongolia has an independent agency that regulates fair competition and enforces its Law on Fair Competition. However, regulations on fair competition have never been enforced to the fullest extent and monitoring is weak.

Fair competition guides development while enhancing a nation's economy and improving competitiveness. ►►

► Together Consumers Can Protect Their Rights

An organisation is needed to monitor and regulate fair competition. It must be a strong institution that cooperates with police and court officials. The consumer protection organisation, initiated by citizens, should represent civil society. In Mongolia the Fair Competition Organisation is overloaded. It is stretched thin with too many responsibilities, from regulating fair competition among enterprises, protecting consumer rights and enforcing the Law on Advertisements and Tenders.

Looking at its structure and its staff of just over 40 personnel, the organisation does not seem to have the capacity to achieve everything it is tasked with. Theoretically, the policy and responsibilities of the organisation are bigger and broader than any other organisation. But its staff, too, is confused by vague laws and thus make ineffective decisions. In the early 90s, the National Committee for Consumer Protection (NCCP) was established. Unfortunately, the committee has never had a voice that could reach the national stage to protect the rights of consumers.

In Japan, for example, it has an organisation with over 600 rural offices across the country to accept consumers' complaints. It gathers all the complaints in a database and makes analyses for further resolution. Australia has its Fair Trade Law, which focuses on protecting consumers' rights in addition to securing fair competition and a sustainable economy.

During the Competition Policy and Regulations sub-session of the Fostering Inclusive Economic Growth Through Legal Reform forum, many participants criticised the fact that the NCCP is in sleep mode.

"Businessmen raise product prices overnight after hearing rumours about cash distribution or fuel price increases", said L. Dashdorj, advisor to the president.

Last December fuel prices rose by up to MNT 260, which created havoc for many citizens. But while fuel prices have dropped, other commodity prices that increased along with fuel have not fallen despite today's cheaper fuel prices. Instead prices continue to rise. In addition to those consumer protection organisations, there is the City Consumer Protection Association. Unfortunately, it remains silent.

Recovering Competition

There was much criticism at the economic forum that there is no mechanism to direct the legal responsibilities. Companies will try to profit as much as they can by utilising loopholes in the law. Any entities profiting well from a cartel are subject to a heavy fine and could be charged with a crime.

Chile, a country with an economy that can be compared to Mongolia, has done much to improve its regulation of competition within the last 10 years. The country established an independent competition court and raised its monetary penalties. It also revised its law for criminal procedures while fortifying its monitoring and punishment abilities. In addition, Chile established a non-government organisation called the Office Against Economic Crimes.

"Chile has the same development as Mongolia, so it would be a suitable model for Mongolia to take from its experience on competition", said Fernando Bertoli, director of Chemonics International and technical and management advisor to the USAID-funded Business Plus Initiative.

The international advisor to another project funded by USAID, the Economic Policy Reform and Competitiveness project, Pablo Garcia, gave speeches to the Fair Competition and Consumer Protection in 2010. These are few examples of how an international organisation willing to help Mongolia can improve competitiveness for the nation.

However, the government and state authorities remain silent. Foreigners have shared their experiences and taught what should be done. There would be nothing to do if Mongolia had the strongest competitiveness in the world already. Meanwhile, businessmen benefit from their cartel agreements.

Strangling Competitiveness

Policy maker Enkhbat said competitiveness is a call for fair competition goals that create equal participation in business for all citizens and eliminate obstacles. According to him, it is the most important part of the concept to give citizens economic freedom. However, Mongolia doesn't have the proper environment for robust competition.

Presidential advisor Dashdorj said the conflicting laws on competition include too many incomprehensible articles. A third of the law mainly directs fair competition, introduces status-oriented activities for consumer protection organisations, and manoeuvres regulations that would otherwise contradict one another. However, the law has left out important issues such as consumer protection and supportive actions towards small-medium enterprises and businessmen.

"The law did not include any suggestions from the private sector and it did not correspond with the domestic market. A third of the law was taken directly from the Russian Competition Law", said the head of Civil Law Department of the National University of Mongolia's law school, B. Temuulen.

Temuulen noted that in order to bring competitiveness to the business sector, the government needs to improve its economic legal environment and its economic policies. The Law on Competition would be more suitable to the legal environment for business if it was based on a civil administrative law. Doing so would create regulations that would allow for market participation.

The most common problems in business are administrative issues allowing cartels to continue operating unchecked. If the sector is not reformed as soon as possible, it could end up rotting out. Talk about economic growth, development and business innovations would be useless. The country would be steeped in corruption from the inside out, while citizens would groan from their poverty.

Strong organisations that can identify whether companies are operating as a cartel must be established. Such a mechanism would instil healthier competition. It is crucial that Parliament revise the Law on Competitiveness for the national economy and the development of business. ■



BY E. ZOYONOO

A principal to economic growth is the effective and fair pursuance of agreements. This is especially so when a country aims to contract an economic agreement with domestic and foreign investors. However, behind all these businesses there has to be a sincere court and strict laws. The Office of the President organised the Fostering Inclusive Economic Growth Through Legal Reform forum, which included a sub-session for a discussion about the competencies of legal professionals regarding commercial disputes. The following is an interview with N. Lundendorj, the vice principal of the National University of Mongolia School of Law.

Is Mongolia ready to offer full legal services during this time of rapid economic growth?

Law science has its own infrastructure. One of its main elements is issues of juridical education. *The Open Society and Its Enemies* by American political scientist Karl Popper was translated into Russian in 1990. Its introduction, one of my favourite passages, was dedicated to Russian readers. He wrote if Russians want to establish a market economy, they have to start preparing brand new lawyers. Thus a new economy, new politics, and new ideology need both good lawyers and economist to develop.

No matter how perfect a proposed economic project is, if there is no precise legal environment it welcomes a doomed fate. The economy also has to be regulated by laws. However, laws can't be developed without lawyers. Thus, their development is a priority. Knowledge, experience and practice are important. Mongolia's lawyer regime was established through practical experiences. It reached its current status by experimenting with people and their freedoms.

There is a saying that doctors from a third-world country have better medical skills than those in developed countries because they ▶

LEGAL EDUCATION

THE SECRETS OF A WOODEN HAMMER

BY E. ZORIGT

A new economy, new politics, and new ideology need both good lawyers and economist to develop. No matter how perfect a proposed economic project is, if there is no precise legal environment it welcomes a doomed fate.

- ▶ are able to practice on real human beings. Mongolia's lawyers are the same. They only need a bachelor's degree instead of further training.

Does the government support the legal decisions made by lawyers?

I have truly nothing to say about what the government has done to prepare lawyers. They carry the responsibilities of the market economy's transition, innovations in society, politics and the economy. The Legal Innovation Programme was introduced in 1998. The programme has included many passages on preparing lawyers.

A few years ago, the Ministry of Justice and Home Affairs concluded the programme. However, no significant summary was made to how government is responsible. Not a single lecturer of law at NUM (The National University of Mongolia) has been sent abroad by government through scholarships. Not a penny from the budget has been invested in education for this sector.

In short, Mongolia's government is doing nothing. But the faculty members of NUM have joined forces with great effort. NUM's law degree requires 150 credit hours of classes, of which 25 hours are devoted to skills training. This training allows students to gather knowledge through experience solving cases. In foreign countries, this kind of training is received by students after completing their bachelor's degrees. Students specialise in certain area and study for up to five years.

As the Mongolian economy grows, commercial disputes continue to arise. Do Mongolian lawyers have enough knowledge and experience to participate in international commercial disputes?

It is true that economic development is allowing such disputes to arise. However, Mongolia doesn't have any specialised lawyers in this field. I would like to say that the problems of legal professionals in commercial disputes are not our business. We provide education for a bachelor's in law. It is impossible to provide training in solving disputes in a country that only offers bachelor's programmes.

In the classic sense, bachelor's degree programmes aim to pave the way of the very first steps to becoming a lawyer. However, graduates must pursue higher degrees in order to develop. But we don't have such an educational system

in Mongolia. Instead of ignoring the situation, lecturers try their best to teach their students. Around 20 credit hours are dedicated to educating students in this area. However, the training doesn't meet international standards. Because we can't do it by ourselves, the government needs to give a helping hand.

How can the government help?

The law on the legal status of lawyers was passed this year. For the very first time the idea of offering advanced trainings to legal professionals was raised. Based on that law, an educational system has to be established that can deliver professional, skilled lawyers. The seeds must be watered to grow.

It is not appropriate to talk about skilled lawyers if there is no dedicated educational system. It is no secret that even judges are not skilled enough to write court procedurals properly. Only a few write their procedurals according to the instructions. That is because they are not skilled. Foreign countries have started to prepare their lawyers at the professional level because they know exactly what the world demands. Let's set out to create something completely new. Instead, we could learn how others have reached their current levels of development.

You just mentioned judges. Some say that they lack ethics. What do you think?

In developed countries judges are selected not only by their knowledge and education, but also by their character. For example, one could be humble and modest while another is bright and charming. One's character doesn't change after becoming a judge. However, if that bright one is chosen as a judge, he or she would have to work hard to understand the complexities of cases.

Thus, we can't leave the court to those who aren't meant to hold the gavel. Personal character should be considered important too. High criteria, which we don't have in Mongolia, are hard to fulfil. Ethics are directly related to character.

Some lawyers at the forum noted that it was impossible to fulfil their duties because the laws they must follow are unclear. What is your opinion?

Here's one classic example. Let's say a judge is about to make a decision. But the reality is we cannot deduce what a jurist based his juridical decision on. We don't have the legal environment to judge that. ■

A few years ago, the Ministry of Justice and Home Affairs concluded the programme.

However, no significant summary was made to how government is responsible. Not a single lecturer of law at NUM has been sent abroad by government through scholarships. Not a penny from the budget has been invested in education for this sector.



CONFRONTING RISING INEQUALITY IN DEVELOPING ASIA



JAN HANSEN
Senior financial specialist of ADB

There is an important conceptual difference between what is called pro-poor growth and inclusive growth. Growth is sometimes defined as pro-poor if it reduces poverty. Inclusive growth, on the other hand, is usually defined as growth that equitably benefits all income groups and is not associated with an increase in inequality.

Over the past two decades, developing Asia has grown and reduced poverty faster than any other region of the world, at any time in history. This performance in growth and poverty reduction has, however, been accompanied by rising inequality in many countries. This is the first of two articles which analyze trends in inequality in developing Asia. The first article provides some key data on inequality, discusses the relationship between inequality, institutions and economic growth and analyses drivers and channels of rising inequality in developing Asia. The second article will develop a range of policy options to support inclusive growth which is benefiting all people.

Over the past two decades, developing Asia has grown and reduced poverty faster than any other regions of the world. From 1990 to 2010, the average annual growth rate of gross domestic product (GDP) for developing Asia reached 7% in 2005 purchasing power parity (PPP) terms. The proportion of the population living on or below the \$1.25-a-day poverty line declined from 51.8% in 1990 to 20.8% around 2008, as 714 million people were lifted out of poverty.

This performance in growth and poverty reduction has, however, been accompanied by rising inequality in many countries. Of the 28 countries that have comparable data between the 1990s and 2000s, 11 – accounting for about

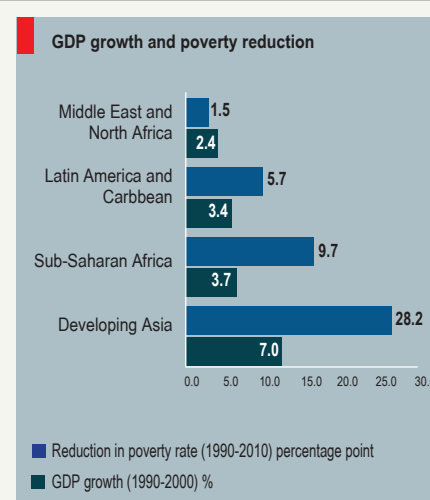
82% of developing Asia's population in 2010 – experienced rising inequality of per capita expenditure or income, as measured by the Gini coefficient. For example, the Gini coefficients worsened from 32 to 43 in the Peoples Republic of China; 33 to 37 in India; and 29 to 39 in Indonesia. Taking developing Asia as a single unit, its Gini coefficient went from 39 to 46. A Gini coefficient at or greater than 40 is widely considered the threshold for "high inequality".

Developing Asia has historically been a region with relatively low levels of inequality, especially compared with other regions such as Latin America. Unlike developing Asia, though, most Latin American countries have seen narrowing inequality in the last 2 decades – even if average inequality there is still much wider than in developing Asia.

Pro-poor growth, inclusive growth and equality of opportunity

There is an important conceptual difference between what is called pro-poor growth and inclusive growth. Growth is sometimes defined as pro-poor if it reduces poverty. Inclusive growth, on the other hand, is usually defined as growth that equitably benefits all income groups and is not associated with an increase in inequality.

In discussing inequality, it is useful to distinguish inequality of opportunity



from inequality of outcome. Equality of opportunity means that all people have equal opportunity to participate in economic development and benefit from its fruits. Inequality of opportunity can be attributed to differences in individual circumstances, i.e. those features that are outside the control of an individual, such as gender, ethnicity, place of birth or a child's parental characteristics, for example, father's education or income. In many low-income countries, extreme circumstances often occur that severely limit opportunities for a large segment of the population. In particular, for children, variations in access to education and health are indicators of inequality of opportunity, as these are outside children's control. On the other hand, given an individual's circumstances, what individuals choose for effort in the

▶ labor market or in education – individual effort – will also influence their outcomes. Inequality of opportunity is a crucial factor in widening income inequality in developing Asia. Moreover, these two forms of inequality can lead to a vicious circle as unequal opportunities create income disparities which in turn lead to differences in future opportunities for individuals and households.

Inequalities due to circumstances are ethically unacceptable because it is attributable to factors over which the individual has no control. In contrast, inequalities due to effort may be ethically acceptable, and may even be desirable to reward enterprise and thereby spur productivity and growth. Thus inequality of opportunity is the more important for policy action. For example, to the extent that inequality of parents' income leads to inequality of opportunity for children, this inequality needs to be overcome by interventions to assure equal access to public services, in particular health and education and to markets for all in society. This emphasizes the importance of public sector interventions to counter inequality in opportunities and wider inequality.

Inequality, institutions and economic growth

Inequality is an important dimension of development in its own right, but it can also affect both the potential for future growth and poverty reduction. Firstly, inequality of wealth and income can lead to a misallocation of human capital as those with little wealth or low income are unable to invest in human capital, and wealth- and income-enhancing activities, and will remain poor. Secondly, inequality may undermine social cohesion. In particular, rising inequality, with more people at the top and bottom of the income ladder, can mean a hollowing out of the middle class which is often seen as important for stability and growth. Growth driven by and benefiting a middle class may more likely to be sustained—both economically, to the extent that the rent seeking and corruption associated with highly concentrated gains to growth are avoided. Thirdly, there is a broad consensus among analysts on the link

between inequality and the quality of institutions, ranging from political through institutional stability to property rights. There is also a link on the effect of inequality on crime and violence and, through that, on the investment climate.

Finally, there is a concern that rising levels of inequality could lead to a political backlash in which demands for and support for populist policy measures grows. The political process may favor policies which, in the short term, would benefit the lower end of the income distribution, but which in the long run could hold back efficiency and growth. In addition, the pressure for populist policies from the bottom end may trigger efforts by the elites to resist this pressure through corruption – both of which are inefficient and detrimental to growth.

Drivers and channels of rising inequality

Technological progress, globalization, and market-oriented reform have been the key drivers of developing Asia's rapid growth in the last 2 decades. These forces combined have opened new opportunities for economies to prosper, but they are also the key forces behind the rise in inequality, by changing the return on capital and labor, the income distribution between skilled and unskilled workers and incomes in urban and coastal areas over rural and inland regions. These changes can explain many of the movements in inequality in many regional countries.

Technological change, especially connected with improvements in information and communication technologies, has raised the productivity of capital relative to labor, in particular unskilled labor. As a result, economic growth has become more capital-, and less labor intensive, which means that each percentage of output growth now implies a lower percentage of employment growth than in the past – a phenomenon sometimes referred to as “jobless growth”. The declining labor intensity of growth reduces labor's share of national income while increasing the income share of the owners of capital. Several countries in developing Asia saw declines in labor income share during

the mid-1990 to mid-2000. A lower share of income going to labor and higher share of income going to capital tends to increase inequality, because capital income is more unequally distributed than income from basic wage labor. Both the poor and middle class rely heavily on labor for their income.

Similarly, technological change has probably also increased demand for better skilled workers and raised the rate of return on higher education and human capital. Finally, locations with superior infrastructure, market access, and scale economies—such as urban centers and coastal areas—are better able to benefit from the new opportunities. The increasing rural-urban income gap is a significant contributor to rising inequality in several countries in developing Asia.

The Asian Development Bank (ADB) is a multilateral development bank owned by 67 members, 48 from the region and 19 from other parts of the world. ADB has been Mongolia's largest source of development finance for two decades and provided financial and technical assistance for projects in agriculture, education, energy, finance health, industry, telecommunications, transport, and urban development.

¹ The two articles summarize a special theme article in the Asian Development Outlook (ADO) 2012 (<http://www.adb.org/publications/asian-development-outlook-2012-confronting-rising-inequality-asia>). The ADO, ADB's flagship annual economic publication, provides a comprehensive analysis of economic performance for the past year and offers forecasts for the next 2 years for the 45 economies in Asia and Pacific that make up developing Asia.

² The country group “developing Asia” refers to 44 developing member countries of the Asian Development Bank, covering East Asia, South-east Asia, South Asia, Central and West Asia, and the Pacific.

³ The Gini coefficient is a common measure of inequality, ranging from zero indicating perfect equality and 1 (or 100) indicating perfect inequality. ■



NEWSWIRE HIGHLIGHTS

NewsWire is a weekly news feed sponsored by the Business Council of Mongolia. Each week, newsWire delivers breaking and significant news from local and international news sources for a Mongolian and foreign audience alike. The following are news highlights from April.

BUSINESS

ERDENES-TT VALUED AT USD 10.6 BILLION

Erdenes Tavan Tolgoi JSC may be worth as much as USD 10.6 billion, according to Frontier Securities.

The value of each Erdenes share is MNT 933, Frontier Securities said in an emailed report, citing a May 30 statement on the government's website. Frontier calculated the value of the company based on Erdenes having 15 billion shares. Erdenes Chief Operating Officer Graeme Hancock confirmed a value had been set without giving further details.

The company last month delayed its planned initial public offering (IPO) until February or March, citing a decline in global market conditions. It had planned to raise USD 3 billion from the share sale in Hong Kong, London, and Ulaanbaatar before the delay.

"The valuation is reasonable and is in line with that of Mongolia Mining Corp", said Helen Lau, an analyst at UOB-Kay Hian Ltd. in Hong Kong. "But market sentiment is poor right now and investors may not have the appetite."

Mongolian Mining Corp., the nation's biggest coking coal exporters, is worth HKD 19.8 billion (USD 2.5 billion) based on a recent share price. It has 3.7 million shares outstanding. Mining

companies have lost 32 percent of their market value in the past year. Companies including Sany Heavy Industry Co. and Ching Nonferrous Mining Corp. canceled or reduced share sales planned last month in Hong Kong.

Companies have raised USD 3.1 billion selling new shares in Hong Kong so far in 2012, down 65 percent on a year earlier. The IPO is set to be Mongolia's first listing of a state-run miner overseas.

Source: Bloomberg

SOUTHGOBI WELCOMES NEW BORDER GATES

The opening of eight new border gates between Mongolia and China yesterday will "significantly increase" coal export capacity between the two nations, miner SouthGobi Resources Ltd. said in a statement.

Coal was previously transported out of Mongolia through a single gate, which would allow empty trucks into Mongolia in the mornings and loaded trucks into China in the afternoons, the company said.

Alexander Molyneux, SouthGobi Resource's President and Chief Executive Officer, said the new gates at the Shivee Khuren-Ceke border crossing eliminate a bottleneck reducing costs for transport companies by allowing more efficient use of trucks.

Source: Bloomberg

ECONOMICS

E-FILING TO SAVE MNT 12 BILLION

Research shows that electronic tax filing would result in MNT 12 billion in savings. Electronic filing was introduced on June 1. The elimination of paper records would save businesses MNT 4.7 billion and more than 80,000 tax payers MNT 1.5 million each. "We are working to enter Mongolia as one of the top 10 countries in the world for tax renovation," said development consultant Olin McGill.

Source: Zuunii Medee

POLITICS

GEC BARS ENKHBAYAR'S CANDIDACY

The General Election Committee decided it would not allow former President N. Enkhbayar to run for office in the upcoming parliamentary election on June 28. The former president is in the midst of a corruption case he says is a ploy to keep him from returning to power.

Enkhbayar planned to run as a candidate under the Justice Coalition, a political pact between the Mongolian People's Revolutionary Party and the Republican Party. The Election Committee ruled that Enkhbayar could not run under the terms of the Law on Elections as well as the Law on Central Election Organization.

One clause directly attributed to the Enkhbayar case: "devotion of one's mind, labor and strength for homeland and people, ethics to respect justice and law, ability to adhere to norms and ethics of Member of Parliament."

Enkhbayar's son, E. Batshugar, was also denied his registration. Batshugar could not qualify on the grounds that he has not fulfilled his military service, compulsory for all Mongolian males.

Dale Choi, chief investment strategist of Frontier Securities, saw the news as negative for investment into Mongolia, citing "increasing political risks due to intensification of political confrontation."

Source: News.mn, Frontier Securities

ALLOWANCES SET OFF HIKES IN FOOD PRICES

Food prices have shot up following the distribution of cash handouts to elders and the disabled. The government began distributing allowances of MNT 300,000 to the elderly and disabled last week. The payment is the first of three that will eventually total MNT 1 million to those individuals. As economists predicted, food and vegetable prices spiked following the payments. Food products jumped by MNT 50 to MNT 200 compared with a week ago.

Source: News.mn ■

OYU TOLGOI

STANDARD

The Oyu Tolgoi project is bring a sea change to Mongolia.

BY B. ALTAI

The Oyu Tolgoi project's development train is ready to board its passengers. Those with tickets sit comfortably in their seats, while others rush to the station to get one. Mongolians have already started to see the benefits of the Oyu Tolgoi project. The globally recognised investment that has brought new standards to Mongolia's mining industry has had immense success. Thus, as project reaches its final stage of development there will be major changes entering our daily lives.

Mongolia won't lose its pace on the fast track to economic growth. As the development train heads towards its final stop at full speed, the hope is development shines brighter. The nation aims to emerge as another "Asian tiger".

Foreign investment is followed by financial freedom, management and technological know-how. Huge investment allowed Mongolia's professional education sector to introduce itself to new instruction technologies, methods and financial freedom. The Oyu Tolgoi project brought new standards to Mongolia through its MNT 168 billion in education programmes. Officials have noted that Oyu Tolgoi's advanced management method has become a reality. It aims to impart new standards, not only in the mining industry but also in the lives of common people. Industrialisation has proven its economic advantages as Mongolians can now benefit from these world standards with the larger salaries paid out by the Oyu Tolgoi project.

Everyone dreams of living happily. It is delightful to hear that the project is lending a helping hand with preparing society. Responsible mining has entered Mongolia and skilled professionals are being delivered. Around 30 lecturers are heading to Australia for retraining. Thirteen managers from the mining industry received the opportunity to study



in Australia. The Oyu Tolgoi project has granted scholarships to foreign schools to 30 students as well as 200 scholarships to domestic schools. The project the developers have also started a campaign to train 1,200 teachers for fluency in English, and aim to make Mongolians bilingual.

In addition, the Oyu Tolgoi project has invested MNT 36 billion into 47 schools throughout the country. Cities such as Darkhan, Erdenet, Nalaikh, »



▸ Govosumber and Umnugobi Aimag have also received a slice of the Oyu Tolgoi pie. New training and manufacturing centres are being built and expanded within those regions. Considering all these achievements, it seems the project has been fulfilling its aim for education.

Sustainable development and social responsibility are the calling card of Oyu Tolgoi. Recent official news stated that a technical training centre with the

capacity to hold up to 150 children was commissioned for Khanbogd Soum. Community residents have started to witness the many advantages brought by the Oyu Tolgoi project. Children no longer have to rush to the city to attend school. New jobs have been created.

In short, the Oyu Tolgoi company is investing in the Mongolia's economy as well as the intelligence of the population. ■