DETAILED INTRODUCTION TO THE DRAFT OF
THE PRIMARY LAW ON ECONOMIC FREEDOM

By Resolution No. 52 of 2020, the Parliament of Mongolia approved the “Vision-2050” Long-Term Development Policy of Mongolia, which set the goal to lay the foundation for economic development policy, to meet domestic needs independently, to intensify exports, to build investment and accumulation capacity, and to become a country with a multi-pillar economy. It also aimed to achieve this by 2030 through creating a favorable business and investment environment and developing public–private partnerships.

In addition, by Resolution No. 21 of 2024, the Parliament of Mongolia approved the “Government of Mongolia Action Plan for 2024–2028.” In Chapter 3, “Economic Policy,” it states that the role of the state in the market will be reduced, the business and investment environment improved, public–private partnerships strengthened, and a diversified, inclusive, export-oriented economy consolidated.

Within Section 3.1, “Economic Freedom,” clause 3.2.2.1 provides that the Law on Investment and the laws regulating business activities will be revised to protect the interests of investors, support entrepreneurs, and improve the legal environment. Clause 3.2.2.3 specifies that barriers to market entry for new enterprises will be removed, an ecosystem to support start-ups will be established, free market competition will be promoted, and anti-monopoly measures will be implemented. Clause 3.2.2.4 further states that the licensing activities of government organizations will be fully digitized and a unified licensing platform launched.

Therefore, in order to guarantee the right of citizens and legal entities to engage in business activities as provided by the Constitution of Mongolia, and to implement the goals and measures set out in Mongolia’s medium- and long-term development policy, this draft of the Primary Law on Economic Freedom has been developed in accordance with the Law on Legislation.

1.2 Practical Requirement

The Heritage Foundation calculates the “Index of Economic Freedom” using four categories and twelve indicators. In 2024, Mongolia ranked 76th out of 176 countries with an overall score of 60.6, placing it in the fifth decile.

Category	Subfactor	Score	Rating	Rank
Governance Effectiveness	Property Rights	48.8	poor	92/176
	Judicial Effectiveness	34.8	low	71/176
	Governance Integrity	55.0	poor	117/176
Government Size	Tax Burden	84.0	very good	59/176
	Government Spending	62.0	moderate	113/176
	Budgetary Discipline	64.3	moderate	83/176
Regulatory Efficiency	Business Freedom	68.0	moderate	79/176
	Labor Freedom	67.5	moderate	24/176
	Monetary Freedom	67.9	moderate	117/176

Open Market	Trade Freedom	74.4	Good	72/176
	Investor Friendliness	50	low	119/176
	Financial Market Openness	50	low	96/176

The subcomponents of the index are evaluated as indicators within the following framework:

1. **Property rights –** the freedom of individuals to own property, risks, protection of intellectual property, and risks related to land ownership.
2. **Judicial effectiveness –** shows how well citizens are protected.
3. **Government integrity –** evaluates the extent of corruption in the civil service.
4. **Tax burden –** shows how much taxes place pressure on individuals and businesses.
5. **Government spending –** shows how budget deficits and excessive expenditures burden the budget.
6. **Fiscal health –** reflects mismanagement by the government.
7. **Business freedom –** shows the extent to which efficient business operations are restricted.
8. **Labor freedom –** shows the degree of freedom in employment opportunities.
9. **Monetary freedom –** assesses the effectiveness of monetary policy and the state of domestic inflation.
10. **Trade freedom –** shows tariff and non-tariff barriers affecting exports and imports.
11. **Investment freedom –** reflects investment risks and the extent of restrictions on investment flows.
12. **Financial freedom –** shows the efficiency of banking operations.

According to the World Heritage Fund, the “Economic Freedom Index” is calculated using 12 criteria across four categories: governance efficiency, government involvement, regulatory effectiveness, and open markets. In 2024, Mongolia ranked 74th out of 176 countries with a total score of 60.6. The scores for individual criteria were evaluated as follows: property rights 92/176 (poor), rule of law 117/176 (poor), business freedom 79/176 (moderate), and investor-friendliness 119/176 (low). This indicates the need to ensure individuals’ property rights, reduce the risk of corruption in public service, lessen restrictions on efficient business operations, and lower investment risks.

Analysis of Mongolia’s business and investment environment, based on the World Bank’s *Doing Business 2020*, the Mongolian National Chamber of Commerce and Industry’s *Mongolian Business Environment Assessment 2023*, the Economist Intelligence Unit, and the World Economic Forum’s *Global Competitiveness Index* reports, shows that business, trade, and investment activities are broad issues affecting all sectors of the economy. Therefore, it is necessary to align the implementation of development policies and legislation at the national, sectoral, and regional levels, and to establish a coordinated, unified regulatory framework within government institutions to support investment.

To achieve the objectives and measures outlined in Mongolia’s development policy documents, and to address external and internal factors affecting the economy, it is important to diversify the economy and create a favorable environment that supports business and investment. In this context, urgent policy and regulatory measures should be implemented to improve the legal framework aimed at removing barriers to market entry for enterprises, supporting startups, building an ecosystem, and promoting free market competition.

In recent years, global policy and structural changes have altered trade and investment flows, while uncertainty in global political and economic developments has increased significantly. For example, the Global Uncertainty Index has recently reached an all-time high. The IMF projects global economic growth at 3.0% in 2025 and 3.1% in 2026, lower than the pre-pandemic average of 3.7%. The potential expansion of trade wars further risks restricting global economic activity and driving inflation.

For Mongolia, the ratio of balanced budget revenue to nominal GDP was 29% in 2018 and 2019, rising to 33% in 2023 and 37% in 2024. The government plans to gradually reduce this ratio to 30.9% in 2026, 29.3% in 2027, and 28.2% in 2028. This phased reduction will create space for tax reforms that support the private sector, expand private business, and gradually reduce government intervention in the economy.

Currently, Mongolia has 933 laws in force (as of September 8, 2025, according to the Legal Information Unified System). Of these, approximately 368 laws regulate relationships directly or indirectly related to the right to conduct business activities (including business, investment, and trade). These laws often provide detailed sectoral regulations, including restrictions, prohibitions, additional requirements, or mandates to obtain approvals, even in cases where such measures are not strictly necessary.

Therefore, to ensure freedom for business activities not prohibited by law, protect property rights, guarantee equal rights for participants, allow free participation in domestic and foreign markets, reduce government intervention, and increase regulatory effectiveness, it is necessary for government agencies and officials to prioritize primary legislation when issuing laws, regulations, and decisions related to business activities, and to improve the legal environment that guarantees economic freedom.

The aforementioned *Economic Freedom Index* also evaluates investor-friendliness and regulatory efficiency by assessing the extent to which business activities are restricted. To protect investors' interests, reduce government pressure on private sector activities, and create a favorable business environment, it is necessary to simplify approval processes and accelerate digitalization. In this context, amendments and additions should be made to the *Investment Law*, the *Licensing Law*, and other relevant legislation in line with the draft *Primary Law on Economic Freedom*.

From 1990 to the first quarter of 2025, Mongolia received a total of USD 48.95 billion in foreign investment, of which 74% went into mining extraction, 10% into trade and services, and the remaining 16% across other sectors. This indicates that foreign investment is not diversified and is relatively heavily concentrated in a single sector.

Due to mining extraction and related infrastructure projects, over the past ten years, an average of 42% of foreign direct investment has been accounted for solely by *Oyu Tolgoi LLC*, and in 2024, 80% of foreign direct investment was concentrated in the mining sector.

Regulations that discriminate between domestic and foreign investment, prohibit or restrict certain business activities, and impose differential requirements, processing times, and fees for government services have led foreign-invested enterprises to establish dependent companies, subsidiaries, or corporate groups. This practice continues to complicate the accurate assessment of the real benefits of foreign direct investment and hinders the formulation of a unified investment policy.

For example, in Mongolia, there are more than 40 laws that limit or prohibit the ability to invest and conduct business, or impose additional requirements on foreign individuals and legal entities. In addition to laws that establish legitimate and necessary requirements, several laws currently in force restrict foreign individuals and legal entities from conducting business or investing in Mongolia, impose prohibitions, or create unnecessary additional requirements.

Since investment activities span all sectors of the economy, it is necessary to coordinate the implementation of investment policies and legislation across national, sectoral, inter-sectoral, regional, and local levels, and to ensure coordination among government institutions to support investment effectively.

Additionally, on June 17, 2022, the State Great Khural (Parliament) of Mongolia passed the *Law on Licensing*, which legally reduced the number of over 1,000 types of special licenses specified in the *Law on Special Licenses for Business Activities* to a total of **381** licenses across 14 sectors: **251** “special licenses” and **130** “general licenses.”

Since the implementation of the *Law on Licensing*, a total of **16** new licenses have been added: 4 in the education sector, 3 in the environmental sector, 2 in banking and finance, 2 in food and agriculture, 2 in defense, 1 in legal services, and 2 issued by provincial and capital city governors.

Article 9.1 of the *Law on Licensing* establishes a non-permanent council under the Prime Minister, consisting of representatives from government, private sector, and non-governmental organizations. This council is tasked with monitoring activities of authorized entities, identifying grounds and requirements for amendments to the law, and providing recommendations regarding the creation and issuance of licenses. However, some authorized licensing bodies have bypassed this process, resulting in violations involving unauthorized amendments and changes to the law.

According to the evaluation report on the implementation of the *Law on Licensing*, the law is unable to precisely regulate the license issuance process for each sector. Because sector-specific laws do not formally legislate these types of relationships, each sector issues administrative acts to govern the issuance, renewal, suspension, and revocation of licenses. This practice conflicts with Article 1.5, Clause 17 of the *Law on Licensing*, which prohibits the issuance of administrative acts related to issuing, renewing, suspending, reinstating, or revoking licenses.

A study examining how the relationships related to issuing, renewing, suspending, and revoking licenses are regulated by law and administrative acts/procedures found that, of the **251** special licenses, **89** are governed by administrative acts or procedures approved by the authorized body, and **33** are regulated in a duplicated manner by both law and administrative acts/procedures. In other words, out of the **251** types of special licenses, **122** are regulated solely by administrative acts or procedures.

Based on these findings, the Licensing Council provided relevant conclusions and recommendations to the authorized licensing bodies to ensure the proper implementation of the *Law on Licensing* and to align sectoral laws and procedures with its provisions. Following these recommendations, the authorized bodies have annulled more than 60 administrative acts and made amendments and additions to certain regulations.

A review by the State Efficiency and Productivity Council of documents issued by government agencies that are required to conduct business—though not officially called “licenses” in legislation—found that Mongolian laws include 264 registrations, 232 conclusions, 132 certificates, 30 accreditations, and 9 other types of certifications. These processes are essentially equivalent to the license issuance process, which conflicts with the provision in the *Law on Licensing* stating:

"Except for activities prohibited by law or activities requiring special or general licenses under Articles 8.1 and 8.2 of this law, individuals and legal entities are free to conduct other types of activities in accordance with legislation."

To improve the business environment, increase investment, and support economic growth, it is necessary to enhance existing laws, study international best practices, consider recommendations from international organizations, and introduce certain amendments to the laws on licensing and investment where required.

As part of efforts to streamline the license issuance process, studies and reports from international organizations, as well as the laws and legal frameworks governing licensing in some foreign countries, show that, in addition to special and general licenses, legal regulation of certain activities can be achieved through notifications submitted to the licensing authority.

For example, the *Law on Licenses and Notifications* of the Republic of Kazakhstan establishes a common framework for activities with low risk, such as one-time, time-bound activities for household purposes, which can be conducted based on a notification. Under this law, "activities conducted by notification" refer to conducting a certain type of activity based on a notification form approved by the relevant government authority. The law provides for the submission of the notification form to the authority's electronic database, monitoring of the activity, verification where necessary, and risk assessment. Citizens and legal entities start and complete the activity within the period specified in the notification form, and in the case of violations, are held accountable in accordance with the relevant laws.

Therefore, it is considered necessary to introduce regulations on "activities conducted by notification," as used internationally, allowing certain types of special and general licenses to be conducted based on notifications. This would involve redefining the classification of special licenses, standardizing terminology in legislation, incorporating procedures for issuing certain types of licenses into sectoral laws, and improving ongoing monitoring of license holders. These measures would remove conditions that complicate the licensing process due to administrative acts and procedures inconsistent with the *Law on Licensing*, enhance digitalization, and ensure that licenses can be obtained quickly, smoothly, and within the legally prescribed timeframe, while preventing bureaucracy, corruption, and conflicts of interest for citizens, businesses, and organizations. Accordingly, it is necessary to draft a law on amendments and additions to the *Law on Licensing*, as well as related amendments to other relevant laws.

This comparative study examined the licensing and investment frameworks of selected developing Asian countries, including the Republic of Korea and the Socialist Republic of Vietnam, as well as former socialist countries such as the Czech Republic, and countries in Northeast Asia like the Republic of Kazakhstan. It also reviewed the investment policies and legislation of the Republic of Chile, which has successfully attracted investment in the mining and extraction sector. The investment environments and legal frameworks in South Korea, Vietnam, the Czech Republic, Kazakhstan, and Chile have been implemented consistently and stably since their enactment.

In all of the countries mentioned above, establishing independent agencies to support investors and promote business, while maintaining stable organizational structures and operations, has been recognized as an effective way to build investor confidence. These agencies generally have the authority and responsibility to propose changes to laws, regulations, and related procedures based on their implementation experience, practical knowledge, and the challenges faced by the government and investors.

In addition to agencies supporting investors, in Chile, a council of ministers advising the President on strategic policy also has overlapping responsibility for investment matters. Similarly, in South Korea, vice ministers and agency heads responsible for trade and investment regularly meet and exchange views with foreign company executives, members of the Chamber of Commerce and Industry, and officials in charge of trade and economic issues.

The governments of South Korea, Vietnam, the Czech Republic, Kazakhstan, and Chile share the following positions to attract foreign investment:

- Maintain a stable legal environment;
- Establish a one-stop, comprehensive solution system;
- Simplify and automate the license issuance process to reduce human dependency;
- Reduce the numerous requirements imposed on investors regarding project implementation;
- Provide investors the ability to purchase, own, and use land and real estate for business purposes;
- Allow investors to freely use and transfer their capital abroad;
- Limit government expropriation of private property and income, considering only public necessity;
- Expand and enhance investment incentives in two ways: treat strategic investors and regular projects differently and provide distinct types of investment support for each;
- Promote economic growth, enhance international competitiveness, produce value-added products, and create employment by encouraging investment in sectors, green projects, programs, and regions outside central urban areas;
- Create a legal environment favorable to attracting investment and open channels for market-based investment;
- Reduce the number of relevant regulations and procedures.

All of the countries mentioned above link the monitoring of legal compliance directly to the granting and renewal of operational rights, licenses, land rights, and the provision of tax and non-tax incentives. In particular, policies supporting green projects, innovation, and the introduction of new technologies in manufacturing, tourism, and agriculture are coordinated with tax benefits, incentives, visa conditions, and the granting and renewal of land and real estate rights.

The objective of the law is to define the principles the government will follow in enabling citizens and legal entities to exercise their right to conduct business within Mongolia’s territory, the methods for implementing these principles, and the responsibilities of government institutions, thereby ensuring the protection of private business rights.

The draft law has been developed based on the aforementioned legal and practical requirements and includes the following content.

- ***Defining the principles to uphold economic freedom:***

Article 5, Section 1 of the Constitution of Mongolia states: “Mongolia has a multi-sectoral economy that corresponds to global economic development trends and the country’s unique characteristics.” Section 4 of the same Article provides: “The state regulates the economy to ensure national economic security and the social development of all sectors of business and the population.” Article 16.4 recognizes the right to engage in private business.

Therefore, the law clearly defines the general principles the government must follow when participating in relations related to the business activities of citizens and legal entities, and all levels of government, as well as individuals and organizations (as applicable), are obliged to observe these principles.

- ***Ensuring guarantees for economic freedom:***

The law details the mechanisms for implementing these principles, providing regulations designed to address current issues under existing legislation and guarantee the economic freedom of business operators.

- ***Detailed regulation of restrictions and prohibitions on economic freedom:***

Any measures by the state to limit or prohibit the economic freedom of business operators are to be established solely by law. The draft law clearly and unambiguously regulates the requirements for developing and approving such laws.

For example, the draft specifies the scope and content of restricted or prohibited regulations, and the procedures for public disclosure, participation, consultation, and information provision, thereby fully protecting the rights of citizens and legal entities to be informed.

- ***State support for business operators:***

According to Article 19.1 of the Constitution: “The state shall ensure economic, social, legal, and other guarantees that protect human rights and freedoms, prevent their violation, and restore infringed rights.” Accordingly, the state works collaboratively with citizens and legal entities engaged in business activities to support national economic growth.

Therefore, the draft law includes general provisions aimed at promoting public-private partnerships, providing state services to citizens and legal entities quickly and efficiently, and encouraging mutual cooperation and information exchange.

Expected positive economic, social, and legal outcomes of the law:

1/ Government institutions and officials at all levels will adopt a unified policy and principles, limiting arbitrary decisions affecting the business activities of citizens and legal entities.

2/ Legal and judicial institutions will ensure uniform application of the law in resolving disputes related to business, investors, and trade operators.

3/ State involvement in business activities of citizens and legal entities will decrease, allowing a fully competitive, free-market economy to develop.

4/ Expanding public-private partnerships will significantly contribute to the economic growth of Mongolia.

Accompanying the draft law, more than 100 additional laws have been drafted for amendment or supplementation to remove legal restrictions and prohibitions on attracting investment, streamline the license issuance process, improve oversight, and allow low-risk, one-time activities to proceed based on notification without requiring a license.

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