

# Mongolia

Population <sup>1</sup>	3,113,779
Area (km <sup>2</sup> ) <sup>1</sup>	1,564,120
GDP per capita (USD) <sup>1</sup>	3,671.95
TPES (Mtoe) <sup>2</sup>	4.96
Energy intensity (toe/10 <sup>3</sup> 2010 USD) <sup>2</sup>	0.42
CO <sub>2</sub> emissions - energy (MtCO <sub>2</sub> ) <sup>2</sup>	18.00

Sources:

1. The World Bank 2017

2. ©IEA 2018, [www.iea.org/statistics](http://www.iea.org/statistics)

Mongolia's overall risk level against the assessed areas is **low**.

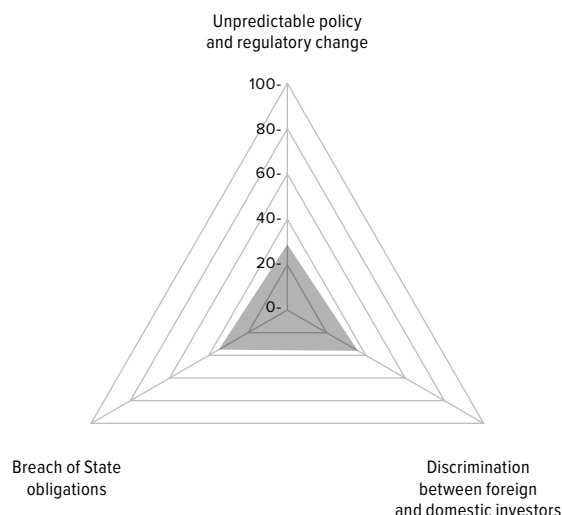
The risk of *unpredictable policy and regulatory change* continues to be lower compared to *discrimination between foreign and domestic investors* and *breach of State obligations*. The three risk areas are on the same level as last year.

Mongolia has a good performance on three EIRA indicators, and a moderate performance on one indicator. *Foresight of policy and regulatory change* has maintained the highest score with 75 points. On *management of decision-making processes* and *rule of law*, it has received 73 and 65 points, respectively. The score for *regulatory environment and investment conditions* stands at 53.

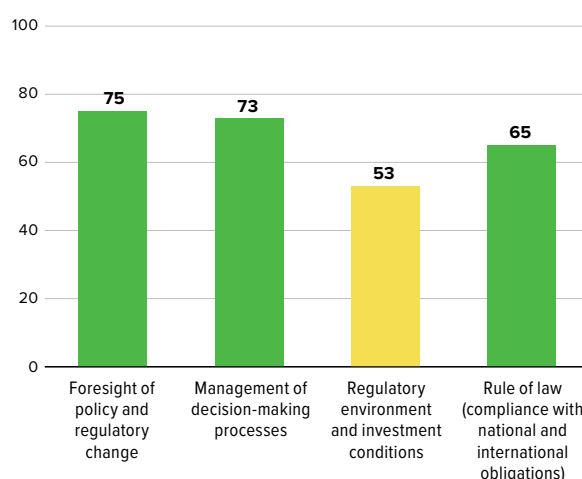
On a more detailed level, Mongolia's overall sub-indicator performance is good. *Institutional governance* is once again the highest-scoring sub-indicator with 88 points. The country has retained its scores from 2018 on *management and settlement of investor-State disputes* (80), *communication of vision and policies* (77), *robustness of policy goals and commitments* (72), *transparency* (58) and *regulatory effectiveness* (56). *Restrictions on FDI* and *respect for property rights* continue to be the lowest-scoring sub-indicators with 50 points each.

Mongolia provides attractive conditions for investors and is working in the right direction. Attention should be given to lowering the current restrictions on FDI and enhancing the respect for property rights.

## RISK LEVEL



## INDICATOR PERFORMANCE



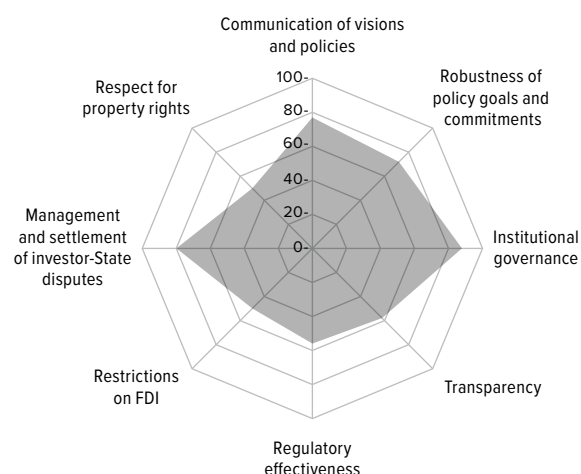
## YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	29	29
Discrimination between foreign and domestic investors	36	36
Breach of State obligations	35	35

INDICATORS	2018	2019
Foresight of policy and regulatory change	75	75
Management of decision-making processes	73	73
Regulatory environment and investment conditions	53	53
Rule of law	65	65

## SUB-INDICATOR PERFORMANCE



## Foresight of policy and regulatory change

### QUICK FACTS

The main strategic document for Mongolia's energy sector is the State Policy on Energy 2015-2030.

In 2018, the Mid-term National Program for Implementation of the State Policy on Energy 2018-2023 was adopted.

The operational planning documents for the energy sector include the National Energy Efficiency Action Programme 2014-2020 and the National Renewable Energy Program 2005-2020.

Mongolia ratified the Paris Agreement in 2016 and submitted its INDC.

### STRENGTHS

The newly launched Mid-term National Program 2018-2023 announces a wide range of public and private projects for coal, hydropower and energy transmission infrastructure. It articulates measures for establishing a cost-reflective tariff and pricing system, commissioning of solar PV and wind power farms. It also provides a blueprint for developing a power and gas transit infrastructure under the framework of the economic corridor between the Russian Federation, China and Mongolia. The Minister of Energy, Minister of Finance and the National Development Agency (NDA) are responsible for arranging the finances needed to execute the Mid-term National Program 2018-2023. As a first step, in April 2019, the Government signed an agreement with the Asian Development Bank to obtain financial support for the country's first distributed renewable energy system. It is also noteworthy that in 2018, Mongolia started setting up a Public-Private Green Finance Corporation.

The Law of Mongolia on Development Policy and Planning 2015 sets out a review processes for the state policies and national programs. The Ministry of Energy, the Energy Regulatory Commission (ERC) and the National Statistical Office are tasked with the implementation and monitoring of the State Policy on Energy 2015-2030. The Ministry of Energy is required to submit annual reports to the Government about the implementation of the Mid-term National Program 2018-2023. The Government assesses the implementation of its NDC through an annual review.

### AREAS FOR IMPROVEMENT

While the process of goal-setting and planning is quite robust, the Government should consider whether the aggregated measures will attain the criteria set for the mid term (2023) and the longer term (2030). Though the Mid-term National Program 2018-2023 sets out measures for increasing the share of renewable resources in the energy mix, it also contains a range of actions to ramp up coal-based power generation and export. To balance out these diverging interests, incentives should be devised to ensure energy efficiency measures are implemented and renewable sources are made competitive. Moreover, building upon the envisaged physical interconnections could expedite Mongolia's efforts to set up a market mechanism jointly with its neighboring countries.

## Management of decision-making processes

### QUICK FACTS

The Ministry of Energy sets the energy policies of the country.

The NDA, under the Prime Minister, frames the investment policies. The NDA acts as a single window for all enquiries concerning investment policies. It also provides business facilitation services to investors.

Mongolia enacted the Law of Mongolia on the Information Transparency and Right to Information in 2011, and the Law of Mongolia on Promoting Economic Transparency in 2015.

### STRENGTHS

Lead ministries have well-defined mandates and responsibilities in terms of guiding the implementation of the country's energy and investment strategy. The Ministry of Energy, the ERC and the NDA can consult each other while framing new policies and revising the existing ones. In February 2019, the NDA opened the "Invest in Mongolia Center", a one-stop service centre for assisting foreign investors. The Law of Mongolia on Minerals 2006 requires minerals exploration and mining licence holders to collaborate with the local administrative bodies and establish agreements on issues of environmental protection, development of the infrastructure and employment.

Law and regulations are made accessible both electronically and in print through a Government gazette. Information requests may be directed to public authorities per the Law of Mongolia on the Information Transparency and Right to Information. These requests must be complied with except when such information is classified or its disclosure is prohibited. The Law of Mongolia on Law 2015 aims to ensure consultation and involvement of stakeholders before the adoption of legislation. Most regulatory decisions of the ERC are made available to the public. The ERC annually publishes information on the power sub-sector.

### AREAS FOR IMPROVEMENT

Efforts should be made to promote greater inter-ministerial cooperation. For this purpose, a standing committee may be created to coordinate actions and decisions on investment in the energy sector. It will allow active dialogue between the concerned ministries, help to harmonise policy positions, and streamline the investment processes.

As indicated in 2018, measures should be taken to codify the steps and timeframes for informing, consulting, and collaborating with stakeholders on proposed laws and policies. Although stakeholders are notified and consulted in certain cases, there is no legal requirement to do so. Moreover, steps can be taken to release official translations of laws, policies and regulations in foreign languages. At present, the online registry of laws contains legislation only in Mongolian.

## Regulatory environment and investment conditions

### QUICK FACTS

The ERC regulates the generation, transmission, distribution, dispatch and supply of energy.

The mining sub-sector is under the authority of the Ministry of Mining and Heavy Industry.

The Authority for Fair Competition and Consumer Protection is responsible for enforcing the Law of Mongolia on Competition 2010.

The Law of Mongolia on Investment 2013 protects the legal rights and interests of investors operating in the country.

### STRENGTHS

The mandate and responsibilities of the ERC are determined by the Law of Mongolia on Energy 2001. The ERC is financially independent since it is primarily funded by the service fees and charges it levies. The Chairman and Regulators of the ERC can hold office only for a fixed period which can only be renewed once. The ERC is entrusted with responsibilities including the issuance of licences, monitoring compliance, setting the tariff methodology and resolving disputes between licence holders and those between consumers and licence holders. The ERC has developed an online tool for companies to obtain licences.

Mongolia gives equal treatment to domestic and foreign investors. The Law of Mongolia on Investment 2013 protects the legal rights and interests of investors in Mongolia. It establishes legal guarantees and incentivises investment in different forms, such as tax breaks and tax stabilisation measures. Foreign investors are not subject to local content requirements such as the procurement of products or services from domestic suppliers. The Law of Mongolia on Investment gives investors the right to transfer their assets and revenues, including profits, dividends, royalties, interests as well as shares of leftover properties after liquidation of a business entity, out of Mongolia without hindrance on the condition of having properly fulfilled their tax payment obligations.

### AREAS FOR IMPROVEMENT

The Government may consider reducing the level of State intervention in certain energy sub-sectors. For instance, foreign State-owned entities need prior approval from the National Development Agency before investing in the mining sector. Moreover, in the case of “strategic mineral deposits” the Government has the right to take an equity interest of up to 50 per cent or to impose a special royalty in lieu of such interest. Finally, the Law of Mongolia on VAT 2015 does not allow investors to reclaim VAT on certain capital equipment as well as some categories of exploration works and pre-mining activities. To retain the attractiveness of the sector, the Government may consider relaxing such discretionary provisions to the extent possible.

## Rule of law

### QUICK FACTS

Mongolia ratified the Energy Charter Treaty in 1999.

Mongolia is a contracting party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States since 1991.

The Law of Mongolia on Investment protects the assets of foreign investors from illegal confiscation.

### STRENGTHS

Dispute resolution mechanisms, available to domestic or foreign investors, are set out in the Civil Code of Mongolia 2002. Foreign investors are not required to exhaust local judicial remedies as a pre-condition to initiating international arbitration. The Government adopted the revised Law of Mongolia on Arbitration 2017 to ensure conformity with international arbitration standards. The Investment Protection Council was established in 2017 as an investment ombudsman to amicably resolve issues arising between investors and public authorities.

Property rights of foreign investors are upheld by the Mongolian State. Expropriation may only take place for public interest purposes and, on the condition of full compensation. The Law of Mongolia on Land 2002 provides a timeframe within which compensation should be effected for the acquisition of land by the Government. Intellectual property rights are protected by a number of domestic laws. Moreover, Mongolia is a member of the World Intellectual Property Organization.

### AREAS FOR IMPROVEMENT

Attention should be given to strengthening the domestic case management processes. For instance, a timeframe should be set for national courts to deliver final judgments. Efforts should also be made to ensure that hearings are set closely and not suspended for indefinite periods.

Legal provisions protecting foreign investors against expropriation should be strengthened. At present, the Constitution only safeguards citizens against illegal confiscation or requisition of private property. While the Law of Mongolia on Investment offers a degree of protection to foreign investors, it does not mention that expropriation should be non-discriminatory in nature nor does it set certain timeframes within which compensation must be paid, in case of expropriation.

Measures should be taken to streamline and clarify provisions related to land use. While Mongolia respects property rights, the central and local governments exercise a high degree of discretion in re-acquiring land for “special needs”. This makes strategic sectors such as mining, which have previously been subject to investor-State disputes, particularly vulnerable.