



FOREIGN DIRECT INVESTMENT INFLOW SUMMARY

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Overview

International:

- FDI is crucial to economic growth (Hanse and Rand, 2006)
- Strong positive correlation between FDI and economic growth (Almfraji, Almsafir and Uano, 2014)

Mongolia:

- FDI supports economic growth directly and indirectly (Anand, 2011)
- FDI encourages increased economic growth and trade flows (Munkhtsetseg and Gantumur, 2015)

FDI encourages social development (technological advancements, management practices, etc.)

1. Base Study

- Purpose: Identify the main causes of FDI fluctuations, estimate the economic impact of FDI, and how to attract more FDI based on the best practices of other nations

2. Follow-up 1: Comparative Analysis and Terms of Trade

3. Follow-up 2: Comparative Study

4. Follow-up 3: Conflict Resolution and Arbitration

Base Study (2017)

Factors influencing FDI

- Exogenous factor – Mineral commodity prices
 - Positive correlation between commodity prices and FDI inflow
- Endogenous factor – Investment climate

Index - 2016	Mongolia	Chile
Doing Business Index (DBI)	64/190	57/190
Corruption Perception Index (CPI)	87/176	24/176
Investment Attractiveness Index (IAI)	81/104	39/104
Policy Perception Index (PPI)	101/104	35/104
Mineral Potential Index (MPI)	50/104	49/104

• Conclusion

- Mongolia has limited control over FDI inflows – mainly determined by commodity prices
- Mongolia's current investment climate is unable to attract FDI
- Effectiveness of FDI depends on how much is absorbed into the domestic market
 - Most FDI is made into the mining sector and require capital investments that cannot be provided domestically, reducing benefit of FDI

Follow-up 1: Comparative Analysis and Terms of Trade (2018)

- Updated indexes – Higher ranks due to high commodity prices and the IMF's EFF agreement
- Compared Terms of Trade between Chile and Mongolia
 - Terms of Trade: Ratio between export prices and import prices
 - 50% of Chile's exports are mineral commodities (was 84% in 1970)
 - 70% of Mongolia's exports are mineral commodities
 - Large differences in level of processing
- Conclusion
 - Mongolia's macroeconomic indicators such as economic growth are higher than Chile. However, Mongolia's institutional and investment environment are lower due to higher levels of corruption and political instability.

Follow-up 2: Comparative Study (2019)

- Country comparative study with Mongolia, Kazakhstan, Peru and Zambia (mining sector, location)

Index	Mongolia	Kazakhstan	Peru	Zambia
DBI (2019)	74	28	68	87
CPI (2018/180)	93	124	105	105
IAI (2017/91)	53	24	19	58
PPI (2017/91)	70	59	43	71
MPI (2017)	65%	78%	78%	63%
Conclusion	Decreased concerns over geological database, availability of labor and skills and uncertainty concerning protected areas	Improved legal system, decreased uncertainty regarding administration, interpretation, or enforcement of existing regulations and security	Decreased concern over availability of labor and skills, improved socioeconomic agreements and community development conditions and labor regulations and employment agreements	Increased concern over taxation regime, geological database and political stability

Follow-up 2: Comparative Study (2019)

Recommendations:

- Diversification
 - Priority sector: agriculture, such as cashmere and meat industry
 - Identify other sectors which have greatest potential in attracting FDI
- “One stop shop”
 - Provide assistance and help streamline licensing procedures for starting business for foreigners for all sectors, not just mining
 - Accessible online and in-person
- Stable environment
 - Institutional and business environment should be stable, meaning regulations and laws are not frequently changed
→ investors prefer certainty
 - Implementation of stabilization clauses for long-terms in investment contracts
- Transparency
 - Make all major investment agreements publicly available (currently only OT agreement is available along with a couple of LLAs)
 - Inclusion of local communities and public in discussions during negotiations

Follow-up 3: Conflict Resolution and Arbitration (2020)

- Mining disputes can be resolved through the domestic judicial system or international arbitration (investor-state dispute settlements (ISDS))
- The effectiveness of domestic courts as a mechanism for mining dispute resolutions lies in how well the country upholds the rule of law and ensures due processes.
- As contracts are the main mechanism through which interactions are managed in the mining sector, a country's ability to resolve issues pertaining to contracts and ensure their enforcement is vital.
- Within the scope of enforcing contracts, the Doing Business report scores over 180 countries out of 100 points on the following factors:
 - Time (days)
 - Cost (% of claim value)
 - Quality of Judicial Processes Index (QJPI)

Follow-up 3: Conflict Resolution and Arbitration (2020)

Quality of Judicial Processes

1. Court Structure and Proceedings
2. Case Management
3. Court Automation
4. Alternative dispute resolution

Year	Ease of doing business (0-100)		Enforcing contracts (0-100)		Time (days)		Cost (% of claim)		Quality of judicial processes index (0-18)	
	Mongolia	EAP Average	Mongolia	EAP Average	Mongolia	EAP Average	Mongolia	EAP Average	Mongolia	EAP Average
2016	65.3	61.5	58.5	52.7	374	553.8	30.6	48.8	5.5	7.6
2017	66.1	62.0	58.5	52.9	374	560.0	30.6	49.1	5.5	7.9
2018	67.4	62.7	58.5	53.1	374	565.7	30.6	47.3	5.5	7.9
2019	67.7	63.4	61.4	52.8	374	581.1	22.9	47.2	5.5	7.9
2020	67.8	63.3	61.4	53.0	374	581.1	22.9	47.2	5.5	8.1

Follow-up 3: Conflict Resolution and Arbitration (2020)

- Improvements in judicial quality (court structure, case management, court automation and alternative dispute resolution) are necessary.
 - For court structure, the creation of specialized commercial and small claims courts may be needed (research and data required)
 - For case management, the government should collect more data and implement more performance measures in order to promote and enforce better judicial performance standards
 - For court automation, further improvements require heavy government involvement to establish the necessary infrastructure needed (such as a fully electronic database to improve court automation), likely to be very costly
 - For ADR, better utilization of Mongolia's mediation system and more comprehensive training of mediators

Follow-up 3: Conflict Resolution and Arbitration (2020)

- Arbitration Law (2017)
 - More consistent with international best practices
- Arbitration allows investors to resolve contract disputes without relying on the domestic court system
 - Requires prior consent of parties involved (IIA, BIT, contracts)
- Mongolia has entered into 42 BITs (36 are in force) and 4 treaties
 - Prior consent is not an issue in Mongolia
- With more FDI and globalization, ISDS cases might be more common
 - Costly for government, best to improve the government's adherence to due processes to avoid unnecessary ISDS cases (eg. Khan Resources case)



Thank you