

# International Principles and Local Legal Issues: Infrastructure Projects and Mongolian Law

Invest Mongolia Tokyo Conference

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# Land use rights, buildings and mortgages

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- Three types of land use rights
- Ownership, possession and use rights
- Restrictions on land rights and impact of security
- Work-arounds
- Different rules for buildings and structures

# Construction

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- General Principle under the Civil Code: "

*"3.3. ... , the provisions which shall prevail will be those that regulate the issue in greater detail, ..."*

- Construction:

1. Construction (General): Construction Law and the relevant regulations
2. Energy-related construction: Energy Law, Renewable Energy Law and the relevant regulations

# Construction

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Energy-Related Construction	Construction (General)
<p data-bbox="92 479 842 634">Energy Regulatory Commission, Ministry of Energy and the relevant committees:</p> <ol data-bbox="92 708 792 1036" style="list-style-type: none"><li data-bbox="92 708 676 811">1. Licence (Energy-related Construction);</li><li data-bbox="92 879 792 925">2. Construction permission; and</li><li data-bbox="92 993 591 1036">3. Admittance into use</li></ol>	<p data-bbox="979 479 1725 634">Ministry of Construction and Urban Development and the relevant committees:</p> <ol data-bbox="979 708 1678 979" style="list-style-type: none"><li data-bbox="979 708 1450 753">1. Licence (General);</li><li data-bbox="979 822 1678 868">2. Construction permission; and</li><li data-bbox="979 936 1477 979">3. Admittance into use</li></ol>

# Construction Risk

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- Transportation of equipment for land-locked country
- Third party importer requirement and Mongolian-controlled service provider
- Understanding of local warranties for construction
- Disputes with local authorities

# Legal Concepts of Contention and Administrative Challenges

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- Force majeure problem
- Waiver of sovereign immunity
- Convertible debt
  - Theoretically possible,
  - But complications.
- Forex guarantees essential for bankability: too many and too promiscuous?

# Other Issues

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- Termination agreements
- PPP concept and no down-side to government = inefficiency?
- Labor Quotas
- Adequate professional advisors

# Closing Comments

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- Need for Flagship Project
- Investment Law only an indication
- Japan's reputational value
- Time to ensure favourable treatment; tax stability cert and so forth



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