CHAPTER III

DEMOCRATISATION OF MONGOLIAN SOCIETY:
TRANSITION TO PLURAL POLITY AND MARKET ECONOMY.
A NOTE ON FOREIGN INVESTMENT LAW OF MONGOLIA AND THE CONSTITUTION OF 1992
Till 1990, Mongolia has witnessed monoparty system. Mongolian People’s Revolutionary Party (MPRP) is the only party rooted in Mongolian polity since its inception in 1921 along with the Mongolian revolution. It was communistic in theory structure and ideology, till 1990. About 32-35 per cent of the total MPRP members were workers, about 25 per cent from Mongolian Cooperative and the remaining 40 per cent were Mongolian intellectuals and officials. From 1990 MPRP has two wings, from 1992 it has three wings. The first wings is consisted of workers. It has communist workers, influenced by the Marxist-Leninist ideology. It has been viewed as conservative wing of MPRP because of its antagonism to changes that have swept the former Soviet Union and East Europe.

The second wing is Mongolian People’s Revival Party. Members of that wing were seeking to revive the first objectives of the MPRP before 1921. The MPRP had two groups before the revolution of 1921.

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**Group One** - Group of capital City Urga. It was named Urga group because of it being the capital of Mongolia before the 1921 Revolution. Capital Urga was changed to Ullan Baatar in 1924. Ullan Baatar means 'Red Hero'. Since 1924, Mongolia became the Mongolian People's Republic. The Second group was named Councillors (The Councillor group members). It is named so because the group members resided in a locality in Ullan Baater where the American and Russian consulates were located. These two groups had difference on the future of Mongolia.

The Urga group consisted, members from middle classes and feudal lords. Most of the leaders of the Urga group participated in the first Mongolian Revolution in 1911. By that time military leagues were formed. Khatang Baatar Magsarjav, Zorigt Baatar Togtah taij, Jalkhanz Khutagt Damdinbazar and Sukha Baatar were the prominent leaders who actively participated in the 1911 revolution. This group was traditional, nationalist in its perspective and approach, with Danzan as its leader. The group struggled for Bogd Khan's rule with some changes like democratisation of polity and, liberalised economy.

The Councillors consisted of administrative officials, teachers and progressive Buddhist monks. They were under the influence of Russian Communists. This group was more revolutionary in its outlook than the first group. It fought against Mongolian feudal lords and also for establishing Mongolian People's Republic. The Buddhist

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monk D. Badoo was the leader of the group and Chagdarjav was next in command. Since the group was being steered by Buddhist monks, the ideals, ideas and liberal views can be traced remotely.\textsuperscript{5} Besides their differences, the Urga group and the councillors had three basic similarities.

1. Both were opposing Chinese domination.
2. Both pledged for Mongolian independence.
3. Both were viewing a greater unification of Mongolia.

Both the groups declared that they would respect greater Mongolian tradition and religion. Now the second wing of the MPRP wants to continue some tradition of that view with necessary changes in the context of the modern times. This is because of the announcement by the MPRP to change, rather dropping the word 'Revolutionary' from its old name, to continue the old tradition and religion.\textsuperscript{6} It indicates a significant breakthrough in MPRP's ideology. The party it seems, has geared itself for major structural transformation in the changed milieu. It is also noticed that the change is a change for survival. It is a necessary initiative on the part of the new leadership of the old order.

The MPRP has said that its membership has touched the one hundred thousand mark. But the real figure is estimated to be around 80,000 in 1990.\textsuperscript{7} In 1991, the Councillors broke away from MPRP and formed a new party—the Party of Mongolian

\textsuperscript{5} See L. Batochir, Bodoo said (The Prime Minister Badoo), (Ulaan Baatar 1990), pp.6-8.

\textsuperscript{6} MAHN tūhēn zammalaas (From the history of the MPRP). \textit{Unen}. 20 February, 1992. no.18. (Ulaan Baatar).

\textsuperscript{7} \textit{Unen}. April 25, 1990.
Revival and Tradition. The party of Mongolian Revival and Tradition enlisted only 2,500 members, most of them being scholars, scientists and intellectuals. Thus, the group can be said to be largely composed of urban-based intelligentsia. From all these dimensions, the MPRP has been planning to change its programme, ideology and future course of action.

The MPRP programme was based on Russian Marxism the Marxist-Leninist ideology. The party’s supervision over other organisations was banned and these organisations were relatively liberalised. Some organisations were made apolitical. For example, lawyers in Mongolia are apolitical while the military, the police and the diplomats are non-political entities. All these reforms show a clear cut shift from the Marxism set-up to a liberal democratic life with leading and initiating reforms. Today Mongolia is a new western modelled Democracy. It is a significant and irreversible change, initiated by the new progressive, scientific and rational MPRP. The new MPRP-

The MPRP intends to continue

1. against women’s exploitation.
2. struggle for independence of the country.
3. struggle for common Mongolian interest.
4. materialistic dialectics.
5. follow Buddhist Centrist ideology preached by Acharya Nagarajuna. It will be adaptable.
6. pledged to respect traditional nomadic values of Mongolia.

The above mentioned objectives are a mixture of scientific views of Marxian ideology, anti-Marxian views of prominence to religion and respecting of traditional values as a part of the newly emerging society. The party showed keen interest in improving friendly relations with its traditional enemy China. It is continuing age-old ties with Russia and Central Asian Republics. Prior to 1964-87, the MPRP used to criticise China. The amicable relations with the former Soviet Union was at the cost of its ties with the People’s Republic of China.

ORGANISATIONAL SET UP

Before 1989, the members of MPRP virtually controlled all activities in Mongolia. This kind of unprecedented control over polity, economy and society by the party has been diminishing fast. The effective strength of MPRP may be around 30,000-40,000 only. Till 1990, a member should subscribe 2.5 percent of the total monthly salary/income to the party. Paying subscription is compulsory and should be paid every month. After the reforms the membership cost was reduced. The background of the political pluralism in Mongolia has been deeply rooted. The people have readily accepted the changing scenario. They in fact encouraged the movement and participated in the mass struggle.

Estimates of the number of people who attended each rally ranged from 250 to 1,000. The rallies were organised by unofficial organisations calling themselves as democratic associations. The demonstrators have pledged to work within the system

9. See MAHN-yn programme, durem (Rules and Programmes of the MPRP. (Ulaan Baatar 1980).
and the diplomats interviewed said they did not expect the kind of mass unrest or rebellion seen recently in Eastern Europe. The Mongolian press and broadcasting agencies gave extensive coverage to the demonstrations and the national labour union newspaper carried a supportive editorial. Statues of Stalin were removed.

The origins of discontent can be traced back to 1989. At the end of 1988 the first leaflets and proclamations of informal groups appeared in Ulaan Baatar calling for radical democratisation of the social and political situation in the country and revolutionary changes in all spheres of society's life. In December 1989 a new public political organisation announced itself - Mongolian Democratic Union (MDU). Its meeting in the Mongolian capital drew more than 30,000 people. By early 1990, other organisations like the Democratic Socialist Movement, the New Progressive Union and other informal organisations appeared. Today they have supporters in many institutions and mass media, and their branches function in a number of towns and aimags.10

The informal programmes, though different in their approach have common objectives. They are all agreed on the critical condition, the deep socio-economic, political and spiritual moral crisis Mongolia is passing through. These have involved the very basis of continuing, single party system, and question the forcible collectivisation under MPRP regime. They also reflect existing inequalities under the MPRP system.

Monoparty domination to plural party organisation of the 1,150 polled 1,064

were dissatisfied with their standard of living, 7 per cent did not trust the political leadership of the country. 73 per cent supported multiparty system. Over 90 per cent said that in Mongolia the right of an "arat" of own cattle must be as unconditional and unlimited as the right of the peasant to own land in other countries. Over three quarters of the respondents said that the principles of equality and justice are not in effect in MPRP and the present law as far from always conform to the provision of the Universal Declaration of Human Rights. The results of the poll quite well reflected the mood of Mongolian Urban Society. Since the rural areas are not so familiar with the process, the urban areas took the lead.

2. THE MONGOLIAN DEMOCRATIC PARTY

It is a new party in the political history of Mongolian polity. Several secret attempts were made to organise non-communist political organisations during 1964-1970. They were foiled by the Mongolian Secret police-Dotood yam. After the glasnost spell, winds were blown for a change. Several articles were published in support of plural polity and democratisation of Mongolian polity. The pioneers of democratisation urged for right to criticise the activities of MPRP, which is a hallmark of democracy. This kind of material in Mongolian Press is entirely unexpected and unprecedented. It gave boost to the democratic elements, encouraged the youth, students and scholars. They organised political movement-The-New Age-in 1989. The New Age was organised secretly as an underground political organisation.12

11. Ibid., p.3.
In a short period, the membership of the New Age rose sharply. On 10 December 1989, a mass meeting of this underground organisation was held. They pasted posters in Ulaan Baatar, demanding political freedom. Most of the participants in those secret meetings were young intellectuals. The Dotood Yam discovered the New Age, but surprisingly no action was taken against it. Losing no time, the New Age transformed into an open political platform and converted itself into the Mongolian Democratic Movement.

We can trace a number of reasons behind the silence of authorities against these movements. First of all East Europe was already swept away by perestroika and glasnost. Within the Soviet Union itself, they won irreversible reforms under Gorbachev. Secondly, the political milieu in the MPRP, has become favourable to changes. The Politburo of MPRP was divided into three distinct groups, each one secretly struggling for power against the other.

The three distinct groups were:

1. The Batmunkh-led General Secretary group,
2. The Second group, was under the guide lines of Molomjamtz, an old and influential person, next only to Tsedenbal in 1984, and
3. The third group was being headed by Namsarai a young advocate of reforms in Mongolia.

Thirdly, the same founders and leaders of the Democratic Movement are mostly related to the top echelons of MPRP leadership.

Fourthly, these young people mustered support from the common people.
The cumulative progressive forces rebelled because they did not stand a chance to contest, criticise or petition under the old system.

Group A is a combination of Mongolian top brass i.e. Politburo and Presidium. Group B, consists of the chairmen of higher organisations, members of the Communist Committees Ambassadors and Ministers. Group C is composed of academicians, intellectuals and higher officials. Lower stratum, labour, common people lower ruling officials etc.

The above pyramid is a classic analysis of the present Mongolian power structure. It is very difficult to cross the third layer which separates the common stratum from group A. There is no direct access between the first and second rungs. A commoner has to necessarily pass through all the process to reach the third rung with great difficulty. Ironically, the second layer i.e., the C group people, who are academicians, intellectuals and higher officials, seemed to be frustrated of the obsolete methods followed by the old order. The group B people, looked for quick prosperity. Naturally, there is a similar option between the two lower rungs, against the two upper layers. Significantly, progressive elements from the top rungs have either directly or indirectly supported the Democratic Movement. The democratic elements of all sections attended the Mongolian Democratic Movement, who were suppressed for a long time. The old Communist regime, terrorised, ideologically bankrupt, intellectually degraded, all these forces started springing in the wake of unexpected
winds from the spontaneous democratisation in Mongolia.

The reaction of the democratisation process from the mixed races is also more or less similar. These races mostly Chinese and inner Mongolian people were hard hit by the Tsendenbal regime. The Mongolian government started this kind of repressive and oppressive methods in 1964. A dual policy was deliberately adopted by then the Mongolian Government. The Soviet and East European people in Mongolia were accorded special privileges, while the Chinese and mixed races of Chinese were looked down. That is why the mixed races struggled hard prior to the reforms. Now suddenly they got an opportunity to spell their voice for the first time. The mixed races know well that they are left with two options. A victory to the democratic forces means a win to them also, otherwise they would be executed by the Dotood Yam. Most of these mixed races (Chinese Erdiiz) are from the lower stratum of the society.

They were branded as anti social elements. This kind of struggle paved the way for an organisation called Democratic Revolutionary Movements, like Mongolian Democratic Union. Inside this movement was founded the Mongolian Democratic party. The leader of that new party is E.Bat-Uul. Mr. E Bat-Uul the son of the famous Mongolian short story writer S. Erdene hails from Mongolian Buryat tribe. This tribe was repressed by the Mongolian state during 1930s-1940s. The Buryat tribe supported White Russian Army against Red Army in Russia. Most male Buryats were executed. Mr. Erdene saw the repression over Buryats. He is against Communist repression. Mr. E. Bat-Uul is a biologist. Bat-Uul was elected as Member of

Parliament. He worked in London as a scholar. He knows English and Russian and is presently lecturing in the Mongolian Political Academy.

THE SOCIAL DEMOCRATIC PARTY

In January 1990, the Mongolian Democratic Union organised an open meeting. The meeting was telecast live. The intelligentsia started rethinking and concluded that the time had come to extend their support to the Mongolian Democratic Union. On the same programme, the organisers announced a new political organisation, the Mongolian Democratic Socialist Movement. They pledged for defending democratic system and opposing Stalinism. This movement will fight against socialist and communist bureaucratic system in Mongolia. It means this movement came out openly against MPRP for waging war against it. A leader of that party is Mr. Batbayar.

Mongolia witnessed three mass open organisations, which fought against the ruling party and its regime. In March, 1990, the Mongolian Democratic Union officially announced political struggle against the ruling party and government. The protest started off with the launching of an indefinite hunger strike before the government palace. The government includes three different organs: Central Committee Office of the MPRP, the Mongolian Parliament and the Mongolian Government Building.

The indefinite hunger strike started on 7 March, 1990, the International Day of Women. The old and common people were initially antagonistic towards the hunger strike, because it was the first of its kind in Mongolian history. They were not against protest, but the process of mass protests and disenchantment of displeasure are new to the Mongolian society.

In Ulaan Baatar, large demonstrations were staged almost daily, thereby placing immense public pressure on the MPRP regime to concede to the demands of the democratic forces in the country. The demands enjoyed popular support throughout Mongolia including the 90,000 members of the MPRP. Leaders were forced to rule out the use of forces from the very beginning of the crisis that confronted them. This became a matter of public record in February, when the Minister of Dootod Yam (the Secret Police) General Jamsranjab said that under no circumstances would lethal weapons ever be used against peaceful demonstrations. The MPRP, which took the protests seriously, discussed the day to day happenings, though no unanimous decisions were arrived at the meetings. This was partly because of the invisible group rivalries in MPRP. Mr. Namsrai (a Politburo member) and his group wanted to support the democratic movement for their interests in the leading role of the Politburo of the MPRP Central Committee. Secretly this group extended its support to the Democratic Movement. But Namsrai group tried to use military or police force against the hunger strike. Mr. Namstrai, controlled the secret police at


that time. But the minister of secret police Dotood yam - did not support Namsrai and his group’s suggestions. Some high employees from the state prosecutor also did not agree to use force against the peaceful, unarmed hunger strikers and refused to quit the post and party to use force against the demonstrators.\textsuperscript{17}

The MPRP General Secretary Batmunkh, also a member of the Politburo hesitated to use force against the hunger strikers. But the other group in the Politburo headed by Dejid and his followers demanded to use governmental force against the demonstrations. The Politburo held several extraordinary meetings on 8 and 9 March for discussing the issue.

The Mongolian democratic forces demanded -

A. The resignation of the Politburo of MPRP.

B. The Mongolian government should allow political liberalisation to facilitate democratic process, including free press, and impartial official media.

C. The people should be given the right to elect an interim Parliament for organising free and fair elections.

The MPRP sent delegations to discuss with them about these problems. From 9 March the Politburo and government representatives initiated round table meetings with the representatives of the democratic movement. The representatives from the government side suggested -

1. We should not resign without the meeting of the MPRP Central Committee meeting.

\textsuperscript{17} Unen. 9 March, 1990.
2. We would not give assurance on the interim government, because it vests with the Great Hural and

3. Regarding liberalisation of polity, the final decision rests with MPRP.

Since the delegates from the government side expressed their incapability to accede to the democratic demands, the first round table meeting ended without any substantial results. The hunger strike continued with 16 people. As days passed, the condition of some of the strikers became critical. Then the intelligentsia started taking the hunger strike more seriously.

The democratic forces agreed for another meeting with the ruling party and government. Foreign journalists from different parts of the world were invited to cover the deliberations. On 9 March the Namsrai group refused to resign. General Secretary Batmunkh was vested with ultimate power to dissolve any body or organisation. It announced Central Committee meeting. The Mongolian Democratic Union and Mongolian Socialist Movement announced and organised public meetings and invited scholars, intellectuals, teachers etc. Concrete shapes of the organisations were prepared in these meetings. Young leaders like Zorig led Mongolian Democratic Union. Batbayar steered Mongolian Democratic Socialist Movement. Dr. Nugui, a well-known economist, who advised and assisted the old regime till 1980, was branded as Chinese agent and forced to resign. For a long time he was under state supervision. However, he was welcomed by the democratic forces. He was appointed as the official representative of Mongolian Democratic Union. The Mongolian Democratic Union was influenced by the democratic values of the Western Countries.
Though it blindly adopted democratic process it has its own bottle necks. In March 1990, other organisations emerged. The Mongolian National Progressive Party was one of them.

3. MONGOLIAN NATIONAL PROGRESSIVE PARTY

In the beginning of 1990 these new parties were by and large, organised by the academicians and economists. The Mongolian National Progressive Party was formed around the same time. The new party announced to continue progressive traditions and common man's interests. They are in search of a new path for the development of Mongolia. Before forming the new party, the founders actively participated in Mongolian Democratic Union. In February 1990, they announced the formation of the new political organisation, Mongolian National Progressive Union and then some of its members founded the Mongolian National Progress Party.

The programme shows that it stands for national independence. With leaders like D. Ganbold, Batsuh, L. Dashnyam in the forefront, it stressed for a new economic order. It also proved a new political platform for democratisation of Mongolian society. Children of top officials were included in this new party. Later many new groupings and parties were formed. By 1990, parties like Mongolian Free Labour Party (MFLP), Mongolian Party of Green (MPG), emerged on the political scene and today there are more than 100 mass organisations in the country.

The MPRP has also started changing. At its extraordinary Congress in May 1990 attended by 70 members, new programmes were suggested. The Congress discussed the proposals and accepted some of the suggestions. A separate wing was founded and formed separate group in that party. For the first time in July 1990,
elections were held on western democratic lines in which six political parties took part.

Before analysing the democratic polity, it is important to know the geographical and administrative structure of Mongolia. Siim is the sub-district with a population of 2000 to 6000. From each siim one Member of Parliament (MP) would be elected. The adult franchise is the hallmark with minimum age of 18 for voting. The entire Mongolia was divided into 18 aimag and 4 cities including Ulaan Baatar. Entire Mongolia was divided into 22 districts. As already mentioned each Siim possesses two to six thousand people, where the cities, M.P. constituency has more than 10,000 people.

The new parties were demanding for a change for possible equal representation to all segments. In 1990 elections, every voter was given two votes. One for electing an M.P. and the other for political party. The democratic movement is largely confined to cities only.

The government has funded the political parties. The new parties do not have a concrete organisational set-up all over the country. Some of the districts even went on to the extent of opposing democratisation. For example, UBS district, the motherland of Tsedenbal, has rejected the democratisation in Mongolia till the first free election in 1990.


COMPOSITION OF GREAT PEOPLE'S HURAL AFTER
FIRST FREE ELECTIONS HELD IN JUNE 1990

The members are called deputies

Total deputies 427

<table>
<thead>
<tr>
<th>Party</th>
<th>Total Seats</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>1. MPRP</td>
<td>360</td>
<td>84.4%</td>
</tr>
<tr>
<td>2. Mongolian Democratic Party</td>
<td>17</td>
<td>3.9%</td>
</tr>
<tr>
<td>3. Mongolian National Progress Party</td>
<td>5</td>
<td>1.2%</td>
</tr>
<tr>
<td>4. Mongolian Social Democratic Party</td>
<td>5</td>
<td>1.2%</td>
</tr>
<tr>
<td>5. Free Labour Party</td>
<td>1</td>
<td>0.5%</td>
</tr>
<tr>
<td>6. Independent</td>
<td>39</td>
<td>9.8%</td>
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</tbody>
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The above classification clearly shows that the MPRP has the lion's share. The independents, by securing almost 10 per cent of the total seats, dominated the political scenario. This trend can be explained by the unorganised nature of the newly-emerging small parties.

Moreover, MPRP secretly instructed that every party member should pursue at least two non-party persons to vote for MPRP candidates and the party. Even though it is a secret ballot, this kind of calculated pressure tactics, by MPRP on one hand and the unorganised helplessness of the rest of the parties on the other, ensured a thumping victory for the old party.\(^{20}\)

The Great Hural has a total strength of 427 members. Among them more than

80 per cent are from MPRP. In the Little Hural 62 per cent are from the MPRP, 24 per cent are from Mongolian Democratic Party. 7 per cent from Mongolian Social Democratic Party, 5 per cent from Mongolian National Democratic Party - the rest of the seats were shared by the Green Party and Mongolian Labour Party. The Little Hural consists fifty members plus one Chairman, Deputy Chairman and Secretary. Total fifty plus three. The Little Hural is being elected by the Great Hural.

The Chairman of the Little Hural is Gonchigdorj, from Mongolian Social Democratic Party. The Deputy is Mr. Zardyakhan, a Khazak Muslim, from the MPRP. He is a supporter of democratisation. Mr. Chimid the Secretary, is also from the MPRP. It is interesting to note that while the Little Hural is dominated by the pro-democratisation forces, the Great Hural is controlled by the conservative forces. It is precisely due to this reason that the recent elections can be called as changed and not democratic elections. In 1992, parliament elections out 76 MPs - 71 were from the Mongol Communist Party. Only five were elected from the opposition parties to the State Hural.

The country is yet to get ready for the peaceful change. Regarding parties the Mongolian Democratic Union is a loose but well organised coalition of intellectuals and workers headed by a 27 year old academic Mr. Zorig and is doubly difficult for authorities to suppress because it is backed by the great grand son of Communist Russian Mongolist Simakov, who was repressed and executed in 1930's by Stalinists in the USSR. 21

The political parties form the real essence of any democracy. A democratic country without political parties, is like a person without life. The historic elections, though articulated by the ruling MPRP is a significant step towards democratisation.

The plural polity witnessed cultural revival which is an inborn feature of the new scenario that emerged after 1990. The Mongolian Union of Believers (MUB) and the Mongolian Religious Democratic Party (MRDP) are, demanding measures to promote Buddhist faith in Mongolia.

Forming political parties became a fashion in Mongolia. A country of 2.2 million people is overburdened with more than 20 political parties and organised groups.

MARKET ECONOMY: ROLE OF INDIVIDUALS AND MULTI-NATIONAL CORPORATIONS

The transformation of economy from a centrally planned to a market economy started in September 1990. The government began to realise the state of economy and started the reforms with the approval of Great People's Hural (GPH) and Little Hural. The basic purpose of the new programme was to get over the economic crises that has arisen after the collapse of Eastern Europe and Soviet Union. The crises began by the substantial cuts from the Eastern Europe and Soviet Union. Mongolian foreign trade consists about 80 per cent with the former Soviet Union and the rest with East

European countries. More than 70 per cent of the total Mongolian budget was assisted by Soviet Union. With the disintegration of the Soviet Union and no country is in near future, able to substitute former Soviet Union in this regard.\textsuperscript{23}

Under the prevailing conditions, the plural polity and the free economic system were complementary. These two systems are more inter-channelled and incorporated by the democratic forces. The present chapter will be broadly divided into two heads. The first will analyse the features of marketisation within the state exclusively, with reference to domestic goods and services, the changes that have occurred under the changed environment, the role of nomads, the co-operatives, the live-stocks, its privatisation repercussions, etc.

Under the second head, the prospects of foreign capital and investment, collaborations, foreign aid, joint stock companies, arrival of stock exchange, State initiative in marketisation of economy will be discussed. It is surprising that Mongolia is still a live-stock economy. The Little Hural which started functioning as a major decision maker, is in favour of market economy. Various state committees, Council of Ministers, and the Little Hural, were given special responsibility to oversee the transition from a centrally planned to market economy from early 1991 onwards.\textsuperscript{24}

The general tenor of the reforms is privatisation and reliance on market economy. But greater state control is being exercised on maintaining the ecological balance and preventing environmental pollution.


In this crucial juncture the new government tried to control the economic crises. During the last one and half years, the new governmental programme could not stop the economic crisis. In this crucial juncture, the new government has tried desperately to control the economic crisis but in vain, at least in the past 18 months. Consumption of goods went down every time. A big shortage in goods and services, which depend heavily on petrol and power became scarce and the production of others were badly hit. The Government found it impossible to produce goods and services to meet the growing demands and the multiparty system demanded privatisation. The government had no other way but to opt for economic reforms. The Mongolian National Progressive Party took active role in privatisation. Today Mongolia possesses 565 small private firms and service organisations, like restaurants, hotels and shopping centres and cleaning firms.\(^{25}\)

In March 1990, the Presidium of the GPH passed a decree that removed all restrictions on the number of live-stock that an individual could privately own. It was the first step towards the marketisation of co-operative societies in the domestic affairs. An earlier decree passed at the very end of 1989, annulled the hated law on the obligatory procurement of meat, wool and milk at low state fixed prices from the owners of private live-stocks.\(^{26}\) The law on co-operatives adopted by the People’s Grea Hural at its June session and due to come into force January 1, 1991 will turn

\(^{25}\) Milivojevic Marko, op. cit, n.22, p.6.

the live-stock herders associations (negdel) into co-privatised individual bodies. It clearly indicates that the Mongol leaders were adopting more flexible and pragmatic solutions to the country's chronic social and economic problems particularly in housing and food supply.27

As an experiment, leasing and team contract were introduced in live-stock farming. Under the contract, the herdsmen receive ploughed land, hay fields, pastures, live-stock and equipment. There is a quota in the contract for growing young animals and over quota animals become the personal property of the herdsman. Under this over quota facility, the surplus output of milk and meat can be sold to the co-operative farm at procurement prices. Obviously, these reforms are expected to boost live-stock output and eliminate the stagnation; the experiments are reported to be successful.28

Restrictions as it mentioned, were removed on the private ownership of live-stock. Such leasing and contract systems have also been experimented in the services sector such as poll tax in Ulaan Baatar. Since agricultural sector is the primary sector, greater importance was invariably attributed to this sector. The Mongolian live-stock consists of five forms of animals - sheep, cows, goats, horses and camels. Till today the livestock has remained with nomads. They are called herdsmen. There are 2,00,000 herdsmen with families.


Mongolian railways, was constructed on 50-50 share by the former Soviet Union and Mongolia. The railways considered to be the life lines of Mongolian economy. Railways were used to export raw material to USSR and East European countries and to import finished goods. Air Mongolia has services from Ulaan Baatar to Moscow, Beijing. Every sub-district was connected by air service from Ulaan Baatar and by telephone and television. American and Soviet Television programmes can be seen through satellite service. Every sub-district has a state service centre. The state has 45 farms. Each state farm has a sum subdistrict. Mongolia has 70 state fodder plants. Each fodder plant has a sum. The sum has two basic purposes. One is administrative bloc and the other one is economic farm. Marketisation will have to start from sum.

Why the early attempts for introducing market reforms failed? One reason why 'Khazraschet' or the bankruptcy of legislation did not really work earlier was the obsession with market socialism. In this framework markets were introduced while retaining, socialism, so that real markets never come into being. In the initial stages, the privatisation of state property is being carried out under three main directions. They are taking into account the existing legislation and opinion of the people.

1. In the initial stages privatisation of agricultural co-operatives or 'negdel' property, faced many problems but people have begun to understand its significance. Consequently this process has begun at all negdels. It is proceeding well at negdels in Tov Govaltai and Bayan hongor provinces.²⁹

²⁹. Debroy Bibek op. cit, 26, pp.20-25.
2. Small privatisation started everywhere. In Ulaan Baatar alone more than 100 industrial and service enterprises have been sold to private citizens by Pink Vouchers. 30

3. Big privatisation began with the denationalisation of the porcelain and ceramic works in Ulaan Baatar. The kid skin processing factory, the carpet factory, the Gobi cashmere plant, the brewery and distillery, the Juulchin travel company, textile mill and leather goods factory in Ulaan Baatar await privatisation. Problems related to finances and loans have been straightened out.

Seventy years of Communist MPRP's misrule, has left Mongolia economically backward and stagnant, and the task will be harder to carry out than the political transition from dictatorship to plural polity. The political revolution that was completed in a remarkable six month period culminated in Mongolia's first free as changed elections in July 1990. But the restructuring of the economy, it seems would be a long and difficult process than the political restructuring. Transition from socialist economy to market economy has 'ups' and 'downs'. Perhaps, the Mongolian economy, which by-passed capitalism by taking a giant leap from feudalism to socialism, is tasting capitalism with a new dimension, with a new view. Surprisingly, after 70 years under socialism, the Mongolian economy is still a 'live-stock economy'. In old Mongolian society, the feudal lords possessed live-stocks, unlike the real immovable plus movable assets of the modern capitalist class.

The men who possess live-stocks, are not exploiting the poor. The concept of poor and rich in Mongolia is entirely different from the western sense. The removal of central controls put an end to central planning. But since state enterprises were sheltered from competition by the private sector or through international trade, the competition that would have characterised a market was lacking. The private sector was only allowed to enter the services sector, where it did not directly compete with state enterprises. The state found it difficult to close down monopolistic enterprises.

A market economy was not possible without permitting large scale private sector activities. It implies the elimination of restrictions on private economic activities, changing company laws so that new enterprises can be readily established, reducing the high marginal rates of tax and removing licensing and other bureaucratic restrictions on domestic investment. Competition requires not only free exit but free entry as well.

Under privatisation, the state enterprises which remain will have to accept the disciplines of the market such as the elimination of subsidies, cheap credits and tax concessions. Borrowing on the basis of state guarantees will have to cease. In the process, some state enterprises will go bankrupt and ultimately wind up. Others may have to be privatised. This is particularly important if the inefficiency has been managerial rather than technological in nature. State enterprises, are to be transformed into private corporations with transferable ownership shares. Privatisation also means merger with the private sector, including the external private sector through joint

31. Ibid.

ventures. Prior to the 1990 economic reforms, the reforms were within the system. It is precisely here that earlier reforms attempts had floundered because prices continued to be controlled and administered unlike in a market oriented economy where the prices are administered by the law of demand and supply.

The Price Policy in Mongolia

Since 1990 Mongolia has set out on the transition from a centrally planned economy to a market based economy. One of the most important issues pending solution at this stage is to change the rigid price formation system into a liberal price policy under which the state will not fix prices on products and commodities.33

The Mongolian government, which has taken a cautious move to secure the transition to free market economic relations with the liberalisation of prices and tariffs of a number of products and services, essentially created the conditions for the transition to free market prices. But liberalising prices invariably lead to inflation. The market works as an instrument of information because prices act as signals for efficient resource allocation. The prices of a regulated market would raise with the elimination of controls. The elimination of price subsidies means inflation and reforms attempts can be plagued by hyper-inflation. Only a small list of items are under government control. It freed the prices of 90 per cent of the products and services and the share of goods’ turnover under state control in terms of annual prices dropped to around twenty per cent.

33. Ibid.
Today prices are being fixed by the producers, depending on the durability and quality of the commodity. As the country is going over to free market prices, action has been taken to cut short subsides given by the state to make up for the losses of industrial and business enterprises. The prices of the products of the major economic branches as fuel, power and agriculture have almost come on a par with the world market prices. It resulted profound changes in the economy. Nevertheless, there is chronic shortage of goods and materials, and the togrog-dollar exchange rate remains unstable. Consequently, there are signs that inflation could go up which creates additional economic barriers to forming normal conditions for the market and this in turn exacerbates the irritation of the people.

By October 1991, retail prices flew on an average by 34.9 per cent after January 1991. In this connection the government has fixed the lowest ceiling of the subsistence level at 260 togrog in the urban areas and 150 togrog in the rural areas per family member. The government is also initiating some programmes to prevent impoverishment of the lower income groups, and introduced a state benefit system, for this purpose. The changes in prices and tariffs are being studied and price indexation is being introduced. The price mechanism, and its operations are in favour of a market economy. The government is also taking measures to introduce checks and balances on prices in view of the growing trend among industrial and economic enterprises to net more profit not by increasing their output but by raising the prices of their products and strengthening their monopoly rights.

34. Sanders, op. cit, n.23. p.22.
Under the privatisation process the state owned apartment houses in Ulaan Baatar, where 55 per cent of the city inhabitants live, will most probably be privatized by next year. According to city authorities this work will start in 1992.35 Not surprisingly a new yardstick to measure the economic forces emerged in Ulaan Baatar. Mongolia's first stock exchange, which opened formally in March 1991, aroused curiosity in the population. This was understandable as the Mongolian people until now did not have any exposure to such a financial institution. Until recent times the securities exchange was attributed as an evil product of capitalism. With the starting of the transition to free market and privatisation of State assets, the Mongols began to realise, and were even compelled to understand, that without an exchange a normal functioning market economy cannot be built. Today there are six exchanges in the country goods, raw material, agriculture and stock exchanges. However, the stock exchange in Ulaan Baatar is leading the rest.36

The staff and managerial persons have undergone a two-month training in exchange skills. Managers, brokers, firms, officials and executives of the exchange attended special courses of training, where experts from the Asian Development Bank and the Harvard University in the United States gave lectures. Almost 300 people attended the courses. It is a turning point in the marketisation of Mongolian economy. In the remodelled economy, tax payment is going to play a vital role. For this purpose, the Swedish tax administration was represented by Harse Hagberg of National Institute for Civil Services Training and Development and explained in a

workshop organised by the Institute of Management of Mongolia. It will facilitate the new tax system that prevailed since January 1991.

The Mongolian President, Punsualmaagiiny Ochirbat, believes that his country has the potential to match the dynamic growth rates of the Asian economic tigers—Hongkong, Taiwan, South Korea and Singapore but his Prime Minister Dashiyn Byambasuren acknowledges it could take 10 years. The hope of the President and the Prime Minister cannot be rejected. It will take a longer period than their imaginary estimation. The economy of Mongolia needs foreign collaboration in most of its industries. It needs, foreign capital, technology and man power. The three Ms (Money, Manpower and Manufacturing skills), it seems, are necessary.

Till 1989, Soviet Union was the biggest trade partner, accounting for 80 percent of Mongol trade. By 1989, the number of Soviet and other foreign specialists working in Mongolia were about 50,000 including family members but Soviet specialists are rapidly declining after liberalisation. The liberalisation of economy and democratisation of polity, have opened new vistas. A greater western aid, and collaboration, are coming fast. Active state cooperation in private business can be seen after 1990. Now Mongolia has several hundred private businessmen like Mr. Targalsaihan, Mr. Enhsaihan, Mr. Namjil and others. Ch. Dol was one of the first businessmen in Mongolia to start his own cooperative "Tsahim Oyun" (Electronic Brain) specializing in electronic goods. He then realised that the new private sector will not make progress without political backing. Together with his colleagues, he

37. Sanders, n.23, pp.22-23.
38. Milivojevic, op. cit, n.22. p.27.
founded the Free Labour Party in 1990 uniting mainly co-operators and businessmen. According to observers his party may merge with the Republican Party.

Any activity in a democratic polity will not go, without the political approval. Mr. Choidogin Dol recognised it. He was born in Ulaan Baatar in 1946. He was a graduate in glass making. He was a member of MPRP from 1979-89 and quit the party. He rejects the possibility of the existence of state sector in the economy.

Mr. Badamdorj was an economist by profession. He spent two decades with the State Committee for sports. He quit the civil service on two reasons and started his own business firm. He was not satisfied with the low salary, given by the state; secondly, he was gnawing at his nerves for it was boring. His efforts became fruitful, as the Mongols say 'A searching dog finds a bone'.

He was given a loan. He started a firm worth 900 thousand togrog and hired 30 workers. He invited experts from China to train designers. His firm is manufacturing children, ladies and gents' sports wear. It is only an example to quote. No doubt the state is cooperating in this venture.

Mongolia's law on foreign investment adopted in March 1989, encourages investment in any branch of the national economy, priority being given to projects which expand Mongolia's export potential, manufacture finished goods, develop the economic infrastructure of the country or expand tourism. The law also indicates that revenue tax will not exceed 40 per cent following three year tax exemption from the

date the project goes into operation. Revenue transferred abroad and salaries earned by foreign participants are tax free. Goods for the project are exempted from customs duty.

Bureaucratic obstacles were removed. The government is aiming at increasing self sufficiency in infrastructure i.e. power, transport and irrigation with a reasonable foreign export capacity. Privatisation of state property is a basic condition for abolishing the centrally planned economy and preparing for the transition to market economy, a government statement said. In December 1990 the legislature voted almost unanimously in favour of private ownership, including ownership of land by citizens and foreigners. It is a very encouraging law which facilitated foreign settlement by law for the first time in Mongolian history.

Japan, South Korea, China and other countries are showing keen interest to invest in Mongolia. Japan's interest in investing in Mongolia has continued to grow. Mitsubishi and other Japanese firms have signed a contract with the Mongolimpex trading company for the construction of a small steel scrap reduction works at Darhan in Northern Mongolia in 1990-93. Mongolia will build premises and Japan will provide the design and equipment and train Mongolian workers. With an estimated annual output of around 100,000 tonnes, 50 per cent of the products mostly structural components will be for domestic consumption 15 per cent for Japan and the rest 35 per cent for sale on the world market.41

41. Sanders, op. cit, n.23, pp.21-23.
Japan being a major economic power in the world has a major role to play in Mongolia. Japan's future role in Mongolia will no doubt be commensurable with its immense economic power in the region.\textsuperscript{42} Japan once eager to invade Mongolia, is today keenly observing for possible investment. Tokyo recently granted Mongolia, the most favoured nation status.

The visiting South Korean delegation has signed a memorandum on economic co-operation with Mongolia and established direct ties between the Chambers of Commerce. The South Koreans have offered Mongolia modern technology and are interested in joint ventures. Mongolia may receive credit from South Korean Economic Development Fund. A South Korean firm is to build a hypodermic syringe factory in Ulaan Baatar. The opportunity for strengthening trade relations between South Korea and Mongolia came when the Mongolian President paid an official visit to South Korea in December 1991. President Ochirbat and his South Korean counterpart Roh Tae Woo, agreed to further expand, economic co-operation.\textsuperscript{43}

Externally Mongolia's immediate economic prospects are bleak. Its entire economic infrastructure well over 90 per cent of its foreign trade (down by 60 per cent during the first quarter of 1991) is entirely dependent on the visibly collapsing Soviet Union, which is now both economically unable and politically unwilling to continue the indefinite financing of Mongolia's large trade deficit. In this regard Mongolia's

\textsuperscript{42} The Mongol Messenger, October 28, 1991.

\textsuperscript{43} Bangladesh Observer, 10 January 1990 (Dacca).
total debt to Soviet Union stood at 19 billion roubles. (around 15 billion US dollars at the official dollar rouble exchange rate) in 1990. On the other hand a new set of joint ventures between Russia and Mongolia are taking place. Moromebel is a typical example of joint ventures. The association of Mongolia and the "Pipera Association of Bucharest (Rumania)" have set up this joint venture basing on furniture factory in Ulaan Baatar. The company plans to produce 150 million togrog worth of furniture a year, the bulk of which will be exported.  

Mongolia hopes to use its new embassies in Seoul, Bangkok and other countries, to boost trade and will open trade representation in Hongkong and Singapore soon. Companies based in Hongkong, Singapore and South Korea are being invited to bid for construction in Mongolia of ware houses for consignment trade.  

A Mongolian - Chinese Hongkong joint sea freight company has been set up. Such an agreement was concluded by the Tuushin Company of Mongolia with the Joint Sea Freight Company of Tianjin and the Hilko Development Company of HongKong. The administration of the joint company will be based in Tianjin with offices in Mongolia, Hongkong and Japan. At the initial stage the crew of the vessel will be trained. The legal aspects of the company will be finalised by July 1992, a ship carrying Mongolian name and flag will plough the world seas and oceans with a 100 thousand tons of export goods and 50 tons of import goods. This is very small but the

44. Milivojevic op. cit, n.22, p.1.
45. Ibid., p.22.
joint company plans to transport international freights also.\textsuperscript{46} This shows the Mongols' enthusiasm for venturing in maritime navigation. But the ventures may not go very briskly due to non-viability of sea shores. A few other companies are testing the waters. A British company plans to start a joint venture for processing wool. An Austrian company has contracted to build a biogas plant.\textsuperscript{47} In February 1991, Mongolia became a member of the International Monetary Fund, the World Bank and the Asian Development Bank.

It is observed that manual labour is poor and their condition has not improved much. Businessmen have so far benefited more by the privatisation process than any body else. Mongolia is a country of two million people with not more than 20 millionaires. Before privatisation there were only 6 millionaires in Mongolia. The currency was devalued. The value of togrog was halved. The salaries of employees were doubled. But at the same time the prices of goods and services have shot-up steeply by more than 10 times. The black market is operating. One US dollar costs 250 togrog in black market, where the State Bank of Mongolia is offering 150 togros only. The state does not possess more dollars for a free transaction. The medium of exchange is dollar for foreign transactions.

The common people who were fed by the state subsidies and state operations under Communist regime, do not understand the present state conditions. The gulf is more between the capitalist aspirations of the state and the programme implementation. A slow and steady move needs to set the house in order. Any hasty

\textsuperscript{46} The Mongol Messenger, November 12-18, 1991.

\textsuperscript{47} See Unen, 10 December, 1991, (Ulaan Baatar).
steps on the government's part may lead to total collapse of the entire system. The most negative consequence of this flawed political legacy was a backward and stagnant economy. Following Gorbachev's example in the Soviet Union, Batmonh fondly imagined during 1988-89 that the country's economy could be improved without fundamental change. Yet such political change was the pre-requisite for any lasting economic turn around in Mongolia.48

The packing plant in the Mongolian capital is regarded one of the largest industrial complexes in the country. These plants are running under rough weather due to marketisation. Under the centralised planned economy, the management of the plant did not have any need to worry in regard to procurement of animals and selling of their produce,49 as 10 of the provinces had to bring their animals for slaughtering.

The state fixed prices of the products of the plant and had the monopoly on the right to its sales and distribution. But after the privatisation of co-operatives the market forces are dictating their own conditions on this plant, which finds it extremely difficult to accommodate itself in these conditions. The live-stock breeders, under the law of privatisation today, are beginning to own animals privately, refuse to procure their animals to the plant at state fixed prices. It is much more profitable for them to sell their animals in the market. Another hurdle in the privatisation process is the poor knowledge of market economy in new ventures, the managers, and the experts of enterprises. Most of them have no idea of what the strategic development plan of their companies will be; they are insensitive to changes in taxation and supply structure, and

handle matters very crudely. There are psychological difficulties in privatizing negdels as people are unable to grasp its significance, which is leading to stereo types. The distribution of property among the members is not proper.\(^{50}\)

A gloomy picture of Mongolian economy is predicted. The State Statistics Board of the Mongolian Government has reported about the country's socio-economic situation in the first nine months. The production of manufactured goods as compared to the corresponding period in 1990 dropped by 10.7 per cent. During this period the volume of construction, assembly and repair work and the total volume of goods transport decreased by 31 and 41 per cent respectively. Such a production slump is connected with the worsening situation of supplies to the national economy, when economic links have been disrupted, factories and plants are standing idle due to the non-availability of raw materials spare parts and equipment. This in its turn negatively affects the income of the workers.

The Budget has a deficit of 2512.2 million togrog or 35 per cent of the production of knitwears decreased by almost 33 per cent, shoes by 5 per cent. The production of the most necessary goods has also sunk. Meat production is less than 9 per cent. Dairy and confectionery products fall short by 5.20 per cent and 15 per cent respectively. At the same time alcohol production rose by 8 per cent than in the corresponding period in 1990. The recent liberalisation of retail price has hit the common life standard of people the hardest. Crime rate is up by 10.9 per cent corresponding to the year 1990. The Mongolian leaders face an uphill struggle in

\(^{50}\) Foreign Investment Law of Mongolia, 1993-6-1, no.86(586).
tackling the country's economic and social problems, including low productivity, a shortage of hard currency, the prospects of aid falling off in real terms as well as the raising prices and poor quality of imports from the former CMEA countries.

The Mongolians must tighten their belts for the next few years while the foundations of the free market are being laid. Their whole attitude towards property must change from disregard for public property to the encouragement of private ownership. In "The Mongol Messenger" of 3-9 December 1991 an advertisement appeared appealing the outside Mongols to co-operate in their efforts to secure maritime knowledge. A Mongol has to travel a thousand kilometers in order to see a sea. The geographical location of Mongolia is another barrier in its trade relations. Mongolia is the only nation (before Soviet Union's disintegration) which does not have any outlet to the seas having failed, over many years to receive their traditional accessibility to the seas.51

The system of market economy has its merits and demerits. In the short run, the lower stratum was affected. The common people lived more comfortably in socialist Mongolia than in the newly introduced market economy. From 1984 onwards there were changes till 1990 but these changes were within the socialist system. New parties emerged to safeguard their economic interests.

There was a sea change between old communist Mongolia before 1990 and new democratic Mongolia after 1990. The sweeping changes shaped a market oriented economy. Before 1980s, there were hardly any Japanese or Western investor in Mongolia. Mongolia, was being a satellite country of former Soviet Union, had many

51. Ibid. p.2.
joint ventures with obsolete technology with meager investment in a very few fields. The Foreign Investment Law is a landmark in Mongolia, which is still a communist country. Economically Mongolia is one of the poorest countries in the world. For its size, population is not an optimum quantum. It was due to lack of foreign investment and proper economic development, Mongolia remained the poorest country in Central Asia. Mongolia, after 1990, is slowly moving towards democracy and limited market oriented economy. Japan, though very near to Mongolia, when compared to any western country did not invest any substantial capital due to Mongols communist, state controlled economy till 1990.

Under the changed environment, Mongolia realised the necessity for foreign investment and technical know how. It has also visualised the benefactors if it goes for technology from the west in general and from Japan in particular. The foreign Investment Law can be said to be opened new avenues. Since the law was initiated none other the chairman of the State Great Hural of Mongolia. N. Bagabandi and Secretary General of the State Great Hural N. Rinchindorj. In this context, it is necessary to analyse the law for the present and future foreign investments in Mongolia. The law has come into force on July 1, 1993.

FOREIGN INVESTMENT LAW OF MONGOLIA

Avenues For Foreign Investment and Technology

Democratization of polity and marketization of economy, are two significant trend setters in Mongolia. Economy has been liberalised and a series of acts, are being initiated by the Mongolian State. Foreign Investment Law of Mongolia is one which has
paved a concrete path for viable foreign investment in Mongolia.\textsuperscript{52} Chapter one defines the general provisions of Foreign Investment Law. Article one says "the purpose of the present law shall be to encourage foreign investment to protect the rights and property of foreign investors in Mongolia and to regulate matters relating to the operations of business entities with foreign investment. It clearly manifests the Mongols states desire to attract more foreign investment. It also demonstrates the state role in protecting the rights and property of foreign investors in Mongolia." Legislation on foreign investment shall consists of the constitution, the present law and other laws and regulations in force which are consistent with the proceeding, moreover Article two says "if the International Treaties to which Mongolia is a signatory provide differently than the present law then the former shall prevail." Article two by providing upper hand to international treaties and obligations, guaranteed rights of foreign investments in Mongolia.\textsuperscript{53}

Foreign investment in a communist country explanation. Then what is foreign investment, in what areas, can the investors venture, is very important. Foreign investment has defined as every kind of tangible and intangible property which is invested in Mongolia by a foreign investment with in the territory of Mongolia or for the purpose of jointly operating with an existing business entity of Mongolia. Further it says "foreign investor means a foreign legal person or individual (foreign nationals and state less persons not residing permanently in Mongolia and citizens of Mongolia

\textsuperscript{52} Foreign Investment Law of Mongolia, 1993-6-1, no.86 (586).

\textsuperscript{53} Ibid., p.1.
permanent residing abroad) who invest in Mongolia. It further clarifies the definition of foreign investment by elaborating "Mongolian investor means a Mongolian legal person or individual (citizens of Mongols and foreign nationals and stateless persons permanently residing in Mongolia, who is making an investment."

Foreign investment may take place in all areas of production and services which are not prohibited by laws of Mongolia. "Foreign investment may take place in all parts of the territory of Mongolia where performing of productions and services is not prohibited by the Laws of Mongolia." According to the Law, a foreign investor may invest in the following

1) freely convertible currencies and reinvestment of tugriks yielded by an investment,

ii) movable and immovable property rights,

iii) intellectual and industrial property rights. 54

Various forms were given for implementing foreign investments, they are, establishing a wholly foreign-owned business entity or a local branch or subsidiary of a foreign enterprise; establishing a business entity jointly with a Mongolia in investor or foreign investment can also invest directly by accruing shares or other securities of an existing Mongolian business entity using freely countable currencies or tugriks yielded by an investment, including the purchasing of share or other securities which were sold for coupons under privatization Law of Mongolia.

Japan and other foreign countries are coming forward to invest in Mongolia,

because the fear of outright nationalization was erased by the foreign investment law. It reads that the foreign investment within the territory of Mongolia shall enjoy legal as guaranteed by the constitution, the present law, and other laws and regulations which are consistent with the proceeding and as guaranteed by international treaties to which Mongolia is a signatory. Moreover, the foreign investment within the territory of Mongolia shall not be nationalised or be subjected to unlawful expropriation. Foreign investment was further protected by another clause. It says that the investments of a foreign investor may be subjected to expropriation exclusively for public purpose or interest and only in accordance due process of law on a non-discriminatory basis and with against full compensation. Losses suffered by foreign investors due to a state of emergency or war in Mongolia, shall be treated equally with losses suffered by Mongolian investors. Article 9 of the law indicates that Mongolia shall accord to foreign investors no less favourable treatment regarding the possession, use and disposal of their investments than that accorded to Mongolia.

Foreign investors, enjoy the rights like "to possess use and dispose of their property, to manage, or to participate in managing the business entity with foreign investment, to transfer their rights and obligations to other persons, to transfer abroad promptly, share of profits and dividends, proceeds from the sales of their assets and securities and from the transfer of their property rights to other persons". It clearly manifests, and opens door to all multinationals to invest without any fear. Chapter three of the Foreign Investment Law of Mongolia, deals with the operation of business

55. A note on the protection of Foreign Investment, Article 8, pp.2-3.
Article 13, clause 4, clearly says, an application for foreign investment shall be considered and decided by the Minister of Trade and Industry within 60 days, from its receipt in the basis of assessment from specialized organizations. By incorporating this clause, Mongolia lessened the bureaucratic wrangels. Now it is just like any other capitalist society, where private property has been attained upper hand.

At the same time clause, 8 of the same article, provide certain provisions, which protect Mongolia from the free trade exploitation. It says "if the activities of a business entity with foreign investment are considered to be inconsistent with the requirements of law, environmental protection, health and sanitary standards, or technological standard, then the approval shall not be granted, provided that the reasons for refusal are given. Article 13, deals with the valuation of tangible and intangible property. Clause one, says 'the value of tangible and intangible property which will be contributed by investors to the registered capital of the business entity with foreign investment shall be mutually agreed to by the investors and estimated in freely convertible currency and in tugriks on the basis of a common principle of valuation. But the subsequent law is creating a sense of insecurity, it envisages "conversion of tugriks into freely convertible currency shall be made at the rate of exchange which is fixed by the Mongol banks and applicable at the time of valuation. Today, the official exchange rate of tugriks, to any foreign currency is much lessor than the open market/unofficial exchange rate.

56. Chapter three of the law, p.4.
57. Ibid., p.5-6.
Article 14, deals with the authority of the ministry of trade and Industry Relating to the implementation of foreign Investment policy. It supervises the implementation of foreign investment legislation, invites offers against tender projects involving foreign investment, select from the foreign investment projects, grant approval for or reject the establishment of a business entity with foreign investment etc. Article 15 envisages registration of business entitle with foreign investment. After granting the approval certificate by the Ministry of Trade and Industry, the general Department of State.58

Taxation shall register the business entity with foreign investment and make the registration public. Clause two quotes "upon the authorization by the Ministry of trade and Industry, the general Department of State Taxation shall register alternations to the registered capital and to the memorandum and articles of incorporation of business entity with foreign investment. Taxation for foreign investment, is more flexible when compared to the native capital investment. Article 18, clause 2, provides that, granting to foreign investors of business entities with foreign investment treatment which is more favourable than that provided for by the tax laws of Mongolia shall be governed by the present law and the laws and regulates in force which are consistent with the preceding.

Article 19, of the Foreign Investment Law of Mongolia is of more elaborative and incentive for foreign investment. "It grants exemption from customs duties and sales taxes. It says "Technological equipment and machinery which forms part of the registered capital of the business entity with foreign investment shall not be subject to

58. Ibid, p.5 of the Law.
customs duties and sales tax effective from the date of approval by the Ministry of Trade and Industry of the establishment of the business entity with foreign investment."

It further elaborates (Clause 2, Article 19) "all business entities with foreign investment, except those in trading and catering shall not be subject to customs duties for five years effective from the date of registration with the general Department of State Taxation, when bringing in raw materials, components spare parts and materials for production."

By providing some more, tax concessions and preferences, the Mongolian Foreign Investment Law opened new avenues for foreign investment. Article 20, has been a new chapter in this regard. Clause one envisages "power and thermal plants and their transmission networks, highways, railway, cargo, air cargo, and engineering construction and basic telecommunications networks shall receive ten years of tax exemption and 50% tax relief during the following five year period. Mining and processing of miserly resources (except precious metals), oil and coal, metallurgy, chemical production, machinery and electronic shall receive five years of tax exemption and 50% tax relief during the following five year period. It further gives; business entity with foreign investment, which is not referred to in paragraph 1 of the this Article, export more than 50% of its production, then it shall be entitled to tax exemption for 10 years and 50% tax relief in the following five year period.

Again, the law provides concessions like, a business entity with foreign investment which is not referred to in, may be granted tax preferences. Decisions in this matter shall be adopted by the State Great Hural on a case by case basis upon the

59. Tax exemptions lender the Law, p.6.
representation by the government of Mongolia. A foreign investor, has been given a free hand by providing, foreign investment which produced such income, then the taxable income of the concerned business entity shall be subject to a deduction equal to the amount of such reinvestment. If the activities of a business entity with foreign investment covers more than one of the areas, then the tax preferences to be granted to such business entity shall be in respect to the main area of activity.

All the foreign investment, is being covered by the insurance company, hence, in case of lose or damage, the investors will be on safe side Article 23 of the Foreign Investment envisages "a business entity with foreign investment may be insured by a Mongolia insurance agency in accordance with the laws of Mongolia." 60

Finally, there is a provision for settling disputes between the foreign investor and the government of Mongolia. Both the Constitution of Mongolia, as well as the Foreign Investment Law provide, protection to the property. Article 25 of the Foreign Investment Law says "disputes between a foreign investor and a Mongolian investor as well as between a foreign investor and Mongolian legal and natural person shall be resolved in the courts of Mongolia unless provided otherwise by International Treaties to which Mongolia is a signatory or by a contract between the parties to the dispute."

By analysing the Foreign Investment Law of Mongolia, one can feel that, there is good environment for investing foreign capital in Mongolia.

A written constitution, with clarity, enshriment of civil and human rights, guaranteed protection for life and property, supreme and constitutional courts for the protection of individual freedom, honouring international laws and treaties, have

60. Article 23 of the Law, p.10.
provided ample evidence for the foreign investors, to invest in Mongolia perior to
democratization, the Mongothic rule of Communists, a constitution, which is more or
less, a puppet in the hands MPRP bosses, secrete police, controlled economy,
hampered foreign investment. Japan which, interested in Mongolia, has found right
time to have its share in Mongolia's, development. Under these changed circumstances,
it is necessary to analyse the democratic, constitutional provisions, for the said
conditions. The new constitution was a brilliant work. A special constitutional
Assembly was covered, Mr. Justice P.N. Bhagavathi, the retired Chief Justice of India,
headed the proceedings. The constitution was adopted on 12 February 1992.

The preamble of the Mongol Constitution, adheres to "cherish human rights
freedoms.... respective civil and democratic society in the country." Article 5, clause
2, envisages "the state recognises all forms of both public and private property and
shall protect the rights of the owner by law". Clause three of the same Article says "the
owners rights shall be restricted exclusively by due process of law". The term due
process of law, has more meaning and competent than the word `procedure established
by law. While the former is a historical product of one of the Supreme Court judgments
of the United States of America, the latter is mentioned in Japanese Constitution under
due process of law, the legislature has no arbitrary power to change the constitution,
according to its wish. Where the term, `procedure established by law has given upper
hand to legislature over the Judiciary. The term `due process', provides Supremacy of
Constitution and Juciary's upper had over Legislature.\footnote{Explanation on due process of Law.}

Article 6, clause 5 specifies that the state may allow foreign nationals, legal
persons and state less persons to lease land for a specified period of time under conditions and procedures as provided by law, prior to democratization, foreign nationals, especially the west, with particular reference to Japan, were not allowed to accumulate, establish any kind of property in Mongolia.\textsuperscript{62}

"All persons lawfully residing within Mongolia are equal before the law and the courts. No person shall be discriminated on the basis of ethnic origin language, race, age, sex, social origin and status, property, occupation and post, religion, opinion and education, Every one shall be a person before the Law (Article 14). In case, the state acquires, property of individual, or firm, compensation should be paid. Article 16, clause four specifies the right to fair acquisition, possession and inheritance of movable and immovable property.\textsuperscript{63} Illegal confiscation and requisitioning of the private property of citizens shall be prohibited. If the state and its bodies appropriate private property on the basis of exclusive public need they shall do so with due compensation and payment.

The rights and duties of aliens residing in Mongolia shall be regulated by the Mongolian Law and by the treaties concluded with the state of the person concerned. Mongolia shall adhere to the principle of reciprocity in determining the rights and duties of foreign nationals in an international treaty being concluded with the country concerned. (Article 18).

\textsuperscript{62}. Article 16 of the Mongol constitution.

\textsuperscript{63}. Chapter IV and VI of the Mongol Constitution, pp.22,28,29.
Chapter four and six of the Mongolian constitution, provide elaborative description of the Supreme Court and the Constitutional Court. The constitutional court, is the final interpreter of the constitution.

By these constitutional guarantees, a well established legal system, Mongolia became attractive for more and more foreign investment.