



MONGOLIA
MINISTRY OF FOREIGN AFFAIRS

1 April 2008

Dear Mr Coop,

I would like to refer to your letter dated 24 January, 2008 regarding Mongolia's arbitration policies, practices and conditions in compliance with the article 26(3)(b)(ii) of the Energy Charter Treaty.

I am pleased to provide the Secretariat with attached statement concerning Mongolia's arbitration policies, practices and conditions in regard to Annex ID. If you will have any questions, please do not hesitate to contact us.

Yours sincerely,

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MONGOLIA

Arbitration policies, practices and conditions in compliance with Article 26(3)(b)(ii) of the Energy Charter Treaty

According to Article 13.3 of the Law on the Civil procedure and Article 25 of the Foreign Investment Law of Mongolia parties to the dispute shall resolve their disputes in the Courts of Mongolia.

For example, the Courts of Mongolia shall settle all the disputes between parties if the latter have not specifically agreed in their contracts to settle the dispute in the arbitration or through Intergovernmental agreements (*Article 13.3 of the Law on the Civil procedure*).

Disputes between foreign investors and investors of Mongolia as well as between foreign investors and Mongolian legal or natural persons on the matters relating to foreign investment and the operations of the business entities with foreign investment and a branch of a foreign legal entity, shall be resolved in the Courts of Mongolia unless provided otherwise by international treaties to which Mongolia is a party or by any contract between the parties to the dispute (*Article 25 of the Foreign Investment Law of Mongolia*).

Therefore, if parties have settled their dispute in the Supreme court, according to Art.50.2 of the Constitution of Mongolia this judgment is final and as Art. 65.1.6, 65.1.7 of the Law on Civil procedure states judges cannot accept any claims on the disputes previously decided by the courts.

Disputes resolved by Courts of Mongolia can not be resubmitted to the International Courts as national courts have already given a final judgment and that will contradict the Constitution of Mongolia and has a risk of having two judgments on the same dispute.

Therefore, policies, practices and conditions of Mongolia do not allow an investor to resubmit the same dispute to International arbitration.