

## 1. Introduction

Mongolia is the shortest railway /total rail line – 1908 km/ corridor connecting Asia and Europe. Its railway history dates back to 1938 which the first steam train started running between Ulaanbaatar and Nalaikh in that year. Principal role of the railway connecting those two cities was to supply factories and peoples of Ulaanbaatar with coal. In the late 1930s, a railway connecting Ereentsav to Bayantumen for military purpose was built. It played a vital strategical role in Battles of Khalkhin Gol.

In 1947, a railway construction connecting Naushki, Russia to Ulaanbaatar began according to a Cooperation Agreement between Mongolia and Union of Soviet Socialist Republics. After 2 years, on 6 June, the “Ulan-Bator Railway” company (UBTZ) which is jointly owned by the governments of Mongolia (50%) and the Russian Federation (50%) was established.

The infrastructure of UBTZ consists of 1,815 kilometers (km) of broad (Russian) gauge lines in two main parts:

- The main line Sukhbaatar—Zamyn-Uud, connecting the northern (Russian Federation) and southern (People's Republic of China borders of Mongolia (1,110 km).
- The eastern line Ereentsav—Choibalsan, connecting the Dornod aimag (province) to the Russian Federation (238 km).

There are also several branch lines of the main line, including four connecting to the

major industrial areas of Erdenet (copper, 164 km), Baganuur (coal, 95 km), Bor-Undur (fluorspar, 60 km), and Zuunbayan (previously a major military unit, 50 km). UBTZ is both infrastructure manager and the only transporter (carrier) operating on this infrastructure. UBTZ employs 14,046 people nowadays.

The statistics of Mongolian railway:

Total length	1110 km
Line type	Single-track
Track gauge	1520 mm
Carrying capacity	25 mill. ton per year
Throughput capacity	14 couple trains per day
Rolling stocks	6577 wagons 182 locomotives
Maximum speed	90 km/hour for passenger train 80 km/hour for freight train

The Mongolian Railway Company (MTZ) is a joint-stock company 100% owned by the state. It acquired three locomotives using funds from the state budget and rents these to UBTZ. It plans to purchase more using a soft loan from the Government of the People’s Republic of China. The Government of Mongolia intends for MTZ

to become a transporter and eventually an infrastructure owner taking the government shares in new railways once concessions are terminated.

## 2. Legal framework of Railway Transport in Mongolia

### International regulation

Mongolia is a member country of the Organization for Cooperation of Railways /OSJD/ which was established in order to create and improve the coordination of International rail transport. Thereupon, railway transport regulations of Mongolia comply with the following agreements and rules:

- Agreement on the International Passenger Transport by Rail (SMPS);
- Agreement on the International Goods Transport by Rail (SMGS);
- Rules on use of Passenger Coaches – PPW;
- Rules on use of Freight Wagons – PGW;
- International Passenger Tariff – MPT;
- Uniform Transit Tariff – ETT.

As a landlocked country between Russia and China, Mongolia entered into following bilateral agreements:

- Minutes of the meeting of the Mongolian-Russian Railway Commission;
- Minutes of the meeting of the Mongolian-Chinese Border Railway Commission.

Technological time of train receiving procedure:

- at the Sukhbaatar station is 2 hours and 55 minutes /175 minutes/ and
- at the Naushki station is 3 hours and 55 minutes /235 minutes/, which takes longer for 1 hour.

### Domestic regulation

*The Railway Transportation Safety Law*, approved by Parliament in 1996, legalized the roles and obligations of public administration organizations in the railway transportation sector. This law was approved in order to regulate traffic safety however, this law was invalidated.

By approving the *Law of Mongolia on Railway Transport* on 5 July, 2007, the principals of the railway transport operation were determined and ensuring of railway traffic safety was regulated. The key principles governing rail transport, as stated in the Law, are to:

- ensure coordination of the railway transport under integrated regulations;
- ensure regular control and supervision;
- ensure access, quality and safety of railway transport services;
- ensure sustainable operations in the railway sector;
- create conditions for market competition in railway transport sector;
- coordinate railway transport with the other transport sectors.

This law encourages competition and accepts all forms of ownership, thereby enabling new approaches to the development of the sector. For example,

- Article 4 paragraph 4.1: “This law regulates all railway transportation

activities whatever the type and form of ownership.”

- Article 5 paragraph 5.1.5: “Create conditions for market competition.”

Also, it has important provisions concerning structure in the railway sector:

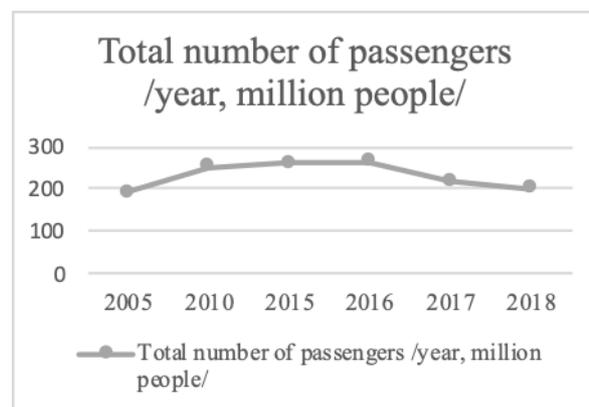
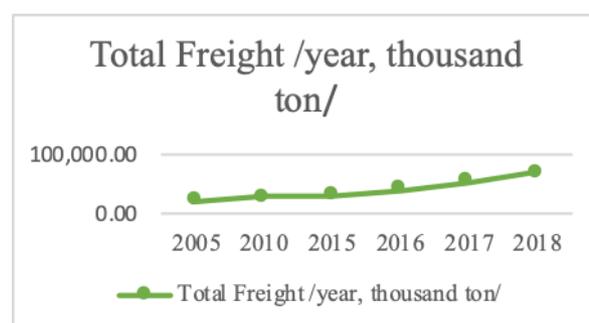
- a distinction between infrastructure managers (holder of rail infrastructure) and rail transporters (Articles 3.1.16–7); and
- the infrastructure manager to use the infrastructure itself or provide for its use by a rail transporter (Article 19.1.1). In brief, the infrastructure manager must provide access to other rail transporters but can also operate on the infrastructure itself.

In 2010, *State Policy on Railway Transportation* was adopted by the Parliament of Mongolia. The policy aims at intensifying the social and economic development of Mongolia and providing sustainable development. The key elements are to:

- improve the legal environment and structure of the sector through the introduction of competition;
- construct new lines which would either be majority state owned or under some form of concession (with ownership transferring back to the state after a certain period), their general alignment to be established by the state;
- upgrade the capacity and technology of the existing UBTZ main line.

### 3. Transportation of freight and passengers

UBTZ carries passengers which the most of them are carried over quite long distances (average of 339 km for domestic trips and 526 km for international trips). The railway organization (e.g. UBTZ) shall set the railway transportation service charges and tariffs related to the legal monopoly in accordance with the Law of Railway transport and the Law on Unfair Competition. While the international railway transportation tariffs must be set in consistency with Mongolian international agreements. Changes in tariffs are to be publicly announced 10 days prior to effectiveness.



In the latest update, 10204.69 thousand ton freight was exported while, 2975.1 thousand ton freight was imported in 2019. Also, 3893.09 thousand ton freight was transited through Mongolia. 222,000 passengers were transported in December, 2019.

#### **4. Types of License of Railway Transport Operation**

Three types of licenses related to the Railway Transport Operation are issued by Ministry of Road and Transport Development, including (a) license on construction and use of infrastructure; (b) license on manufacturing, assembling, and maintenance of infrastructure; and (c) license on conducting railway transport services.

#### **5. Rights and Obligations of the Parties to Transportation Operation**

Infrastructure manager, Transporter (Carrier), Organizations and Individuals are the parties to transportation operation.

##### Common rights of the parties

- to conduct railway transport operation in accordance with the decisions made to implement the Law on Railway Transportation;
- to approve and enforce the rules and procedures of technical and technological operation which is binding in domestic in order to implement legislations, general set of railway transportation rules, other regulations and standards;
- to determine and enforce fees and tariffs for railway transportation services in accordance with this law and other relevant laws, regarding sustainable economic development of the country and the interest of customers;
- other rights set out by law.

##### Common obligations of the parties

- to have a license and certificate;

- to have professional staffs required for conducting railway transportation operation;
- to comply with the law on Railway Transportation, common regulations of the railway transportation and other relevant regulations and standards;
- to ensure railway traffic safety and to comply with the orders relevant to the traffic control of the train of the Integrated Center for Traffic Regulation;
- to maintain the operation of the owned railway object regular and normal, and to keep records of them, and to inspect and provide services in accordance with established procedures and technologies;
- to allocate certain amount of operational incomes to ensure railway transportation safety;
- to submit a report about operation of the railway transportation to a competent authority in accordance with common rules of the railway transportation;
- other obligations set out by law.

##### Rights and obligations of the Infrastructure manager

The Infrastructure operator has following rights:

- to use the infrastructure itself or provide for its use by a rail transporter under an agreement;
- to charge the transporter for use of infrastructure, and for other maintenance and services stipulated in the contract;
- to approve infrastructure traffic plan in accordance with relevant

- regulations and make proposal to it;
- other rights set out by law.

The Infrastructure manager is undertaken following obligation:

- to ensure technical safety and to maintain normal operation of their infrastructure;
- to facilitate organization and management of railway traffic within the scope of its own infrastructure effectiveness in compliance with the integrated and infrastructure traffic plan;
- to make an agreement on use of infrastructure with carriers including its own national or with domestic investment carriers with same terms and conditions and provide with essential conditions for conducting transportation operation regarding the carrying capacity of infrastructure;
- to make an agreement with owners of the tracks for specific use and implement an action to organize railway traffic within the scope of infrastructure;
- other obligations set out by law.

*Rights and obligations of Transporters (Carriers)*

Transporters have the following rights:

- to use the infrastructure, tracks for specific use and mobile components under the terms and conditions of a contract;
- to carry out transportation on its own or through other transporters in accordance with agreements or orders;

- to receive fees settled by the agreements;
- other rights set out by law.

Transporters are undertaken following obligations:

- To not to provide preferential shipping conditions for consignors including an organization that is under the direct control of the carrier in order to prevent unfair competition;
- To ensure the technical and operational safety of the owned mobile components;
- Other obligations set out by law.

***For more information or any queries, please feel free to contact V.Bolormaa, Partner of Grata International Law Firm by [bvolodya@gratanet.com](mailto:bvolodya@gratanet.com) or 976 99085031.***