Law no 2003-30 dated 28 April 2003, promulgating the Mining Code(1)

At the name of the people,

The Deputies Chamber having adopted,

The President of the Republic promulgates the following law:

Article One: - The legal provisions related to the mineral prospecting, exploration and exploitation are promulgated under the present law with the title "Mining Code".

Article 2: - The provisions of the Mining Code apply to the mining titles awarded after its effective date.

The exploration permits and exploitation concessions granted prior to the effective date of the Mining Code are not implemented by the Mining Code provisions.

However, the Title Holders of said permits and concessions may benefit from the Code provisions, upon submitting an application to the Granting Authority within the time frame mentioned in article 4 of the present law.

Article 3: - The exploitation permits currently valid are governed, until their expiry date, by the legal provisions under which they were awarded.

However, upon the expiry date of such permits, the Title Holders may apply for their conversion into concessions in accordance with the Mining Code provisions.

Article 4: - Upon the effective date of the Mining Code, the Title Holders of the exploration permits currently valid and/or granted exploitation concessions have the option, for these permits and concessions, to apply for the provisions of the Mining Code.

Such option referred to in the first paragraph of this article has to be made by a notification signed by the Title Holder of the permit and/or of the exploitation concession or by its legal representative.

Each mining title has to be made by a notification each to be addressed by registered mail with acknowledgement of receipt to the Ministry

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(1) Preparatory works
Discussion and adoption by the Deputies Chamber at its meeting of 10 April 2003
Responsible for Mines or hand delivered to the Ministry departments with an acknowledgment of receipt, at the latest 6 (six) months from the effective date of the Mining Code.

Failing to exercise the option mentioned in the first paragraph of this article by the Holder of a Mining Title, said title will be governed, until its expiry date, by the legal provisions under which it was awarded.

**Article 5:** At the expiry of the 6 (six) months period mentioned in article 4 of the present law, the Minister Responsible for Mines, lists in a decree published in the Official Gazette of the Tunisian Republic, the permits and exploitation concessions for which the Title Holders have exercised their option to benefit from the provisions of the Mining Code.

**Article 6:** Subject to the provisional specifications mentioned in articles 3 and 4 of the present law, the following legal texts will be abrogated as of the effective date of the Mining Code:

1. The decree of 1st January 1953 on mines,
2. Article 20 of the Law n° 66-65 dated 4 July 1996 related to the personnel statutes of the mining companies.

**Article 7:** The activities for the prospecting, exploration and exploitation of mines are not governed by the provisions of articles 45 (new) and 46 (new) of the Forest Code promulgated by Law n° 88-20 dated 13 April 1988 as modified by Law n° 2001-28 dated 19 March 2001, related to the simplification of the administrative procedures in the agriculture and fishing fields.

**Article 8:** The Mining Code will be effective 6 (six) months following the publication of the present law in the Official Gazette of the Tunisian Republic.

The present law will be published in the Official Gazette of the Tunisian Republic and executed as State Law.

Tunis, 28 April 2003

Zine El Abidine Ben Ali
FIRST TITLE
GENERAL TERMS AND DEFINITIONS

FIRST ARTICLE:

The purpose of the present Code is the definition of the legal framework of Prospecting, Exploration and Exploitation Activities for Mineral Substances classified as "Mines", and defined in Article 5 of the present Code. The present Code also establishes the rights and obligations of operators conducting said activities.

Article 2

In the context of the present Code, the following meanings apply:

a. **Mineral Substances:**
   Naturally-occurring, solid or gaseous mineral substances as well as fossil organic substances.

b. **Prospecting Activities:**
   Preliminary work undertaken with the purpose of recognizing sites, sectors or zones of possible mining interest.

c. **Exploration Activities:**
   Studies and work, in particular geological, geochemical, geophysical and drilling as well as extraction and processing tests, in order to identify or to recognize deposits of Mineral Substances classified as "Mines" and to determine the dimensions, reserves, quality and possibilities of Exploitation and appreciation.

d. **Exploitation Activities:**
   All studies and extraction, processing, production and commercialization of Mineral Substances classified as "Mines".

e. **Mines:**
   The following are considered "Mines":
   - natural deposits of mineral or organic substances cited in Article 5 of the present Code that are exploited by open cast or by underground mining methods.
geothermal deposits capable of generating geothermal energy, notably by the intermediary of hot water and contained subterranean steam.

Other substances established by decree of the Minister Responsible for Mines, upon the approval of the Mining Consultative Committee, may also be considered "Mines" and may be governed by the terms of the present Code.

f. **Mining Operations:**
All studies or activities relating to mineral Prospecting, Exploration and Exploitation.

g. **Mineral Exploitation Surroundings:**
All installations, located within the area of exploitation, permanent or not, as well as all underground or surface workings belonging or linked to the mining activity.

h. **Maritime Space:**
Seas or portions of seas relevant to sovereignty or national jurisdiction.

i. **Mining Titles:**
Mining Titles are:
- Prospecting License
- Exploration Permit
- Exploitation Concession

Mining Titles confer the right to conduct Prospecting, Exploration or Exploitation works of Mineral Substances classified as "Mines".

j. **Granting Authority:**
The State of Tunisia represented by the Minister Responsible for Mines or any competent Administration contemplated by the present Code.

k. **Title Holder:**
The beneficiary of an Exploration Permit or Exploitation Concession.

In the case in which said Permit or said Concession is held jointly by several persons, said persons are collectively termed "Title Holder" and individually termed "Co-Title Holder".
1. **Labor or Services Companies:**
The company contracted by the Title Holder, with the agreement of the Granting Authority, fulfilling the role of sub-contractor for the execution of the exploration or exploitation works.

**Article 3:**

The terms of the present Code, with the exception of those exclusively governing the activities of the Title Holder, apply to all labor and/or service companies that act on behalf of the Title Holder in the execution of Exploration and Exploitation Activities.

**Article 4:**

Deposits of natural Mineral Substances are classified according to the terms of Articles 5 and 6 of the present Code as “Mines” or “Quarries”.

**Article 5:**

Deposits known to contain the following Mineral Substances are considered “Mines” and are classified into six (6) groups:

1\textsuperscript{st} GROUP:
Combustible solids such as: graphite, anthracite, peat, lignite and other combustible fossil materials.

2\textsuperscript{nd} GROUP:
Liquid and gaseous combustibles such as: bitumen, asphalt, oil and other liquid or gaseous hydrocarbons, helium and other rare gases and all high or medium-energy liquid or gaseous deposits of geothermal origin.

3\textsuperscript{rd} GROUP:
- Metallic and semi-metallic substances such as: iron, lead, zinc, copper, barium, fluorite, strontium, mercury, sulphur, manganese, antimony, aluminum, gold, silver, tin, bismuth, cadmium, chrome, cobalt, magnesium, molybdenum, nickel, tungsten, arsenic, etc.
- Radioactive substances such as uranium, thorium, and other radioactive elements.
1. **Labor or Services Companies:**
   The company contracted by the Title Holder, with the agreement of the Granting Authority, fulfilling the role of sub-contractor for the execution of the exploration or exploitation works.

**Article 3:**

The terms of the present Code, with the exception of those exclusively governing the activities of the Title Holder, apply to all labor and/or service companies that act on behalf of the Title Holder in the execution of Exploration and Exploitation Activities.

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**Article 5:**

Deposits known to contain the following Mineral Substances are considered "Mines" and are classified into six (6) groups:

1st GROUP:
Combustible solids such as: graphite, anthracite, peat, lignite and other combustible fossil materials.

2nd GROUP:
Liquid and gaseous combustibles such as: bitumen, asphalt, oil and other liquid or gaseous hydrocarbons, helium and other rare gases and all high or medium-energy liquid or gaseous deposits of geothermal origin.

3rd GROUP:
- Metallic and semi-metallic substances such as: iron, lead, zinc, copper, barium, fluorite, strontium, mercury, sulphur, manganese, antimony, aluminum, gold, silver, tin, bismuth, cadmium, chrome, cobalt, magnesium, molybdenum, nickel, tungsten, arsenic, etc.
- Radioactive substances such as uranium, thorium, and other radioactive elements.
- Precious stones such as: diamond and others.

**4th GROUP:**

Natural, solid or dissolved salts present as massive deposits or as natural brines such as chlorides (and including sea salt), bromides, iodides, borates, sulfates, nitrates and other associated salts in the same deposits.

**5th GROUP:**

Phosphates.

**6th GROUP:**

Predominantly mono-mineralic rocks, notably with industrial applications, and other than with civil applications such as kaolin, illites, smectites, attapulgite, calcite, dolomite, magnesite, silica, diatomites, quartz, feldspars, etc...

A joint decree of the Minister Responsible for Mines and the Minister Responsible for Quarries will establish, with the advice of the Mining Consultative Committee, the minimal quantititative limits of Mineral Substances belonging to the 6th Group.

**Article 6:**

Mineral Substances not classified as "Mines" are considered "Quarries" and are governed by the Quarry law.

Hydrocarbon Prospecting, Exploration and Exploitation Activities are governed by the Hydrocarbon Code.

**Article 7:**

Mineral Substances classified as "Mines" and located on the surface or in the sub-surface, within state territory or within Tunisian Maritime Space, constitute a part of the natural resources belonging with full rights to the public domain of the State of Tunisia.

**Article 8:**

Mineral Substances classified as "Mines" are considered to be real estate, are not subject to the terms of financial law relative to registrable property and cannot be mortgaged.
Mineral extracts are considered to be real estate as are the shares or interests in all companies conducting Exploitation Activities.

Article 9:

Mining Prospecting, Exploration and Exploitation rights can only by acquired by virtue of a Mining Title granted by the Minister Responsible for Mines.

An Exploration Permit and an Exploitation Concession are granted for all Mineral Substances of the same group.

Separate Exploration Permits and Exploitation Concessions can be granted to different applicants for the same area for different groups of Mineral Substances classified as “Mines” in the sense of the present Code.

Article 10:

All physical or moral persons fulfilling the necessary conditions to conduct Mining Prospecting, Exploration and Exploration activities can obtain one or more Mining Titles.

Article 11:

Mining Prospecting, Exploration and Exploitation activities may only be undertaken by:

a. The State of Tunisia under terms which will be established by decree for each specific case,

b. Physical or moral Tunisian or foreign persons that possess adequate financial resources and technical capacity to undertake said activities in an optimal way.

Article 12:

A Mining Consultative Committee is created and the advice of which is mandatory in all cases anticipated by the terms of the present Code. The Minister Responsible for Mines may request the advice of this Committee regarding all other questions related to Mines.
The composition and manner of operation of the Mining Consultative Committee are established by decree.

**Article 13:**

Exploration and Exploitation activities for Mineral Substances classified as "Mines" constitute commercial acts.

**TITLE TWO**

**PROSPECTING LICENSE**

**Article 14:**

A Prospecting License is granted in order to permit the applicants to conduct investigations necessary to prepare requests for Exploration Permits.

A Prospecting License Holder may conduct work and geological studies within the scope of producing evidence of sites or zones of mining interest in order to develop Exploration programs for Mineral Substances classified as "Mines". This license does not grant the right to conduct drilling or mining activities.

A Prospecting License is granted by a decision of the Minister Responsible for Mines for a maximum period of one year, renewable once for a period of the same duration. In the event the application for a Prospecting License is refused, the Ministry Responsible for Mines must inform the applicant within a period of one month from the date of the submission of the application.

**Article 15:**

A Prospecting License grants access to areas covered or not covered by an existing Mining Title. This authorization relates to Mineral Substances classified as "Mines" and belonging to one or more groups. However, a Prospecting License does not permit the Holder to explore, within the area of an existing Exploration Permit or Exploitation Concession, for mineral substances of the same group as those covered by the existing Exploration Permit or Exploitation Concession. A
Prospecting License may be issued to more than one applicant for the same area.

In all cases, the rights of the Title Holder remain fully intact and prevail over those of the Holder of a Prospecting License when the activities of the Holder of a Prospecting License have a direct and material impact upon the activities of the Title Holder.

**Article 16:**

It is not necessary to obtain a Prospecting License before obtaining an Exploration Permit. The existence of a Prospecting License does not prevent the Ministry Responsible for Mines from granting an Exploration Permit or Exploitation Concession within an area covered by that Prospecting License.

**Article 17:**

If the Holder of a Prospecting License conducts work other than that contemplated in Article 14 of the present Code, such license may be canceled, after the Holder has been heard.

**Article 18:**

Two months before the expiry date of a Prospecting License, the Holder must submit to the Ministry Responsible for Mines a report covering all studies undertaken and, if requested, details of the work conducted.

**Article 19:**

A Prospecting License is non-transferable.
TITLE THREE
EXPLORATION PERMITS

Section I

Terms and instruction for submission of applications

Article 20:

The method of submitting an application for an Exploration Permit and the instructions covering that application are established by decree of the Minister Responsible for Mines.

Article 21:

An applicant for an Exploration Permit must have an actual or designated domicile in Tunisia. Failing that, the applicant is obliged to nominate a representative resident in Tunisia.

All notifications and acts of procedure concerning the application of the present Code are directed to that address.

Article 22:

An application for an Exploration Permit must be made for an area comprising one or more contiguous elementary perimeters such as defined in Article 23 of the present Code.

However, a request for an Exploration Permit that is comprised of portions of elementary perimeters is acceptable if that permit is bounded by an international boundary.

A separate request must be made for each separate area comprised of a whole number of elementary perimeters in one block and for each group of Mineral Substances classified as "Mines".

After it is accepted, an application may not be modified with respect to the group of Mineral Substances or the area for which the application is made.
Article 23:

The elementary block contemplated in Article 22 of the present Code is a square with an area of 400 hectares, with the exception of elementary perimeters for Group 6 Mineral Substances of which the area is 100 hectares (one square kilometer).

The sides of these perimeters must be truly oriented North-South and East-West and constitute portions of parallels and meridians. Their summits are defined by geographic coordinates and by reference numbers established by decree.

The surface area of an Exploration Permit for Group 6 Mineral Substances is defined by the distance in meters of each of the sides from a single fixed reference point which must appear on a Tunisian topographic map of 1:25,000, 1:50,000 or 1:100,000 scale.

Article 24:

An Exploration Permit application or its renewal must be accompanied by a commitment which specifies the Exploration work that the applicant agrees to conduct within the limits of the area requested during the validity period of the permit.

This commitment must specify:
- the nature and plan of the anticipated exploration work,
- the minimum expenditure required to effect the proposed work,
- a description of the management group and those responsible for supervision of the work.

The Permit Title Holder must furnish the Ministry Responsible for Mines with an annual report describing the work undertaken.

Article 25:

During the review of an Exploration Permit application, the technical and financial capacity of the applicant as well as the nature of the proposed work will be taken into consideration.
In the case of concurrent applications for the same area, said applications are classified according to the criteria indicated in the first paragraph of the present Article.

Article 26:

In the event an application is rejected because it does not conform to the terms and instructions regarding Exploration Permit applications as defined by the decree contemplated in Article 20 of the present Code, the Ministry Responsible for Mines must notify an applicant of the rejection within one (1) month of the date on which the application was submitted.

Article 27:

In the event an application is rejected or a Permit is cancelled, the fixed fee paid to the Tunisian State at the time of application, as anticipated in Article 96 of the present Code, is not reimbursable.

Article 28:

Exploration Permits are granted subject to any rights legitimately acquired by third parties.

If the boundary of a requested Exploration Permit encroaches upon another valid Permit or Exploitation Concession for the same group of Mineral Substances, the Permit will be granted only for that portion of the area requested that falls outside the limits of these pre-existing titles.

If the encroachment becomes known only after the granting of the Exploration Permit, rectification of the limits of the Permit may be made by decree of the Minister Responsible for Mines or at the request of the interested parties.
Section II
Granting of Exploration Permits

Article 29:

An Exploration Permit is granted by decree of the Minister Responsible for Mines, with the approval of the Mining Consultative Committee, and is published in the Official Gazette of the Tunisian Republic.

Article 30:

An Exploration Permit is granted for an initial period of three (3) years dating from the day of publication of the decree in the Official Gazette of the Tunisian Republic. The Exploration Permit is renewable under the conditions anticipated by the present Code.

Article 31:

Subject to legislative terms in effect, the Title Holder of an Exploration Permit has the exclusive right to undertake reconnaissance, Exploration Activities, trenching and drilling, within the boundaries defined by decree, with the objective of discovering mineral deposits.

In addition, during the validity of the Exploration Permit and within the boundaries of the permit, the Title Holder has the exclusive right to obtain Exploitation Concessions under the conditions anticipated by the terms of the present Code.

Section III
Renewal of Exploration Permits

Article 32:

The Title Holder of an Exploration Permit has the right to renew its Permit for two (2) successive periods, each with a maximum period of three (3) years, provided that it has:

a. fulfilled all obligations, notably those relative to minimum required expenditures and work, within the area of the Permit and prior to the end of the validity period.
b. presented a renewal application of the Exploration Permit at least two (2) months prior to the expiry date of the Permit.

c. agreed to conduct, during the renewal period, a minimum program of exploration, the estimated cost of which equals the minimum expenditure commitment.

d. demonstrated sufficient technical and financial capacity to undertake, in the best manner possible, the work outlined in Paragraph c. of the present Article.

e. not committed any offences having serious consequences for the environment.

At the end of the second renewal period, and in the case of the discovery of a deposit that will justify an Exploitation Concession, the Title Holder will have the right to an exceptional renewal of its Exploration Permit in order to evaluate the deposit, conduct a techno-economic feasibility study, and to proceed to the eventual promotion of the project.

At the request of the Title Holder, the renewal may relate to all or a part of the surface area of the initial Permit.

If a work program has not been totally completed, without pertinent cause, the surface area of the renewed Permit may be reduced from the size of the initial Permit in proportion to the level of expenditure and amount of work undertaken, and taking into account the mining interests of the permit Holder.

At least seventy five percent (75%) of the exploration expenditures spent within the Exploration Permit must relate to the execution of effective work such as geological mapping, geophysics, geochemistry, trenching, drilling, underground exploration, geotechnical tests as well as mineral evaluation tests etc..

Article 33:

The method of application and instructions relating to the renewal application of the Exploration Permit are established by decree of the Minister Responsible for Mines.
Article 34:

The renewal of an Exploration Permit takes effect from the day of expiry of the previous validity period, is granted by decree of the Minister Responsible for Mines, upon the approval of the Mining Consultative Committee, and is published in the Official Gazette of the Tunisian Republic.

If the renewal is not enacted prior to the expiry of the normal validity period of the Permit, the Permit is automatically extended without other formalities until the decision of the Minister Responsible for Mines is declared.

Before this decision is issued, and following the expiry date of the normal validity period of the Permit, applications may be submitted for Exploration Permits covering the same area and for the same group of mineral substances. However, these applications are not registered, but instead, a deposit receipt is issued.

If the Permit is renewed, other applications for the same area are returned to the applicants.

If the Permit is not renewed, the other applications are classified in the order anticipated in Article 25 of the present Code.

Section IV

Miscellaneous Provisions

Article 35:

All applications for Exploration Permits or their renewal, may be subject to a site visit by the Ministry Responsible for Mines which, subject to the application rejection, the applicant is obliged to assist or has a representative attend.

If this site visit reveals an irregularity in the application and if, after formal notice addressed to the applicant by registered mail with acknowledgement of receipt, the applicant does not furnish satisfactory explanations within one month from the date of the formal notice, and does not make necessary modifications to its plans in order to conform with the terms of the present Title, the Minister Responsible for Mines,
upon the approval of the Mining Consultative Committee, rejects the request.

The applicant is notified of the rejection by registered mail with acknowledgment of receipt within a period of two (2) months from the expiry date of the formal notice and it is written in a counterfoil log book.

Article 36:

The Title Holder of an Exploration Permit has the right, within the area of its Permit, and in keeping with the terms of the present Code, to establish installations and to conduct useful Exploration Activities relating to reconnaissance and study of deposits, but may not undertake any Exploitation activity.

Article 37:

The Title Holder of an Exploration Permit may be authorized exceptionally by decree of the Minister Responsible for Mines to dispose of the products from its exploration in order to insure their quality and to proceed with their treatment test and disposal.

Article 38:

Exploration Permits are considered real estate. They cannot be divided and can be transferred upon death. The Minister Responsible for Mines must be notified of this transfer.

In the case of transfer because of death, transfer of the Exploration Permit into the name of the inheritors can only be granted if Exploration work has been conducted regularly and if the rightful owners agree in writing to continue same and to designate a person who will represent them with the Ministry Responsible for Mines.

In case of default of heirs, the Exploration Permit reverts to the State.

Exploration Permits cannot be transferred or leased, in whole or in part, except to a company that satisfies the conditions for the granting of Exploration Permits, and with the authorization of the Ministry Responsible for Mines.

During the validity periods of a Permit, an applicant has the right to transfer or lease said Permit, as anticipated in the present Article,
provided the applicant has performed the minimum of work imposed by the decree granting the Permit.

In all cases, said authorization is considered as granted if the Minister Responsible for Mines has not responded within a period of two (2) months from the date of the application submission.

The transfer will constitute a transfer agreement established between the transferor and transferee.

When an Exploration Permit has been granted to several Co-Title Holders, and subject to notification to the Granting Authority, the withdrawal of one or more of the Co-Title Holders does not lead to the cancellation of the Permit if the other Co-Title Holders assume the rights and obligations of those who withdraw. In that case, the withdrawal is considered as a renunciation of rights. In the event this option is exercised by the remaining Co-Title Holders, the transfer carries the rights and obligations for the remaining period of Permit validity.

In case of partial or total transfer, and from the effective date of said transfer, the transferee assumes all obligations of the transferor and benefits from all the rights relative to the whole or to that part of the Permit that has been transferred to it, that emanate from the provisions of the present Code and the regulations generated for its application.

For the partial or total transfer of rights and obligations deriving from an Exploration Permit, no duties, fees or taxes of whatever nature, whether existent or which will be created in the future, will be due.

In case of partial or total transfer of rights and obligations deriving from an Exploration Permit, the transferee may, in accordance with the provisions of the present Code, amortize the expenditures spent by the transferor and which have not been paid or amortized.

In all cases, the transfer must be authorized by the Minister Responsible for Mines in the form of a decree and upon the approval of the Mining Consultative Committee. The decree is published in the Official Gazette of the Tunisian Republic.

**Article 39:**

The methods and instructions relating to the application for a transfer of an Exploration Permit are established by decree of the Minister Responsible for Mines.
Article 40:

The Title Holder of an Exploration Permit may, at any time, abandon its Permit, wholly or in part, by virtue of a written declaration to that effect, and, subject to having fulfilled its minimum work obligations and expenditure for the validity period preceding the abandonment.

The Minister Responsible for Mines announces, by decree to be published in the Official Gazette of the Tunisian Republic, the total or partial cancellation of said Permit and establishes the date from which new exploration rights may be acquired covering those deposits which have been abandoned.

In case of abandonment, without pertinent reason, the Title Holder loses his right to obtain mining titles, for a period of one (1) year from the date the Exploration Permit has expired.

Article 41:

The Title Holder of an Exploration Permit that has expired or has been cancelled may not reacquire mineral rights, directly or indirectly, in whole or in part, within the same area covered by said Permit, for a period of one (1) year from the date of expiry or cancellation.

However, these terms do not apply if the renewal application was rejected by virtue of not having been made within the period of time anticipated in Article 32 of the present Code, and if the Permit is renewable by the terms of the same Article.

The Minister Responsible for Mines may, at the request of the Title Holder, and upon the approval of the Mining Consultative Committee, reduce the period contemplated in the first paragraph of the present Article as long as it is not less than six (6) months.

Article 42:

The Title Holder is obliged to commence work within twelve (12) months following the date on which the Permit is granted or renewed and to pursue this work regularly during the course of each validity period of the Permit.
Article 43:

An Exploration Permit may be cancelled in the following cases:

a. if the Title Holder does not fulfill the financial and technical obligations pertaining to the granting of Permits that are defined in Article 11 of the present Code,

b. if it turns out that Title Holder has knowingly given inaccurate information for the purpose of obtaining an Exploration Permit,

c. if the Title Holder does not fulfill the commitments which it has undertaken in accordance with Article 24 of the present Code,

d. if the Title Holder does not adhere to obligations anticipated by Articles 42 and 73 of the present Code,

e. if the Title Holder refuses to assume responsibility for the rights and obligations of one or more Co-Title Holders of a Permit in the case in which they withdraw without transferring their rights and obligations as anticipated in Article 38 of the present Code,

f. if the Title Holder refuses to transmit information and documents required in accordance with the terms of Article 76 of the present Code,

g. if the Title Holder refuses to adhere to measures stipulated by the Ministry Responsible for Mines within the terms defined in Articles 116 and 117 of the present Code.

If compliance is not obtained within two (2) months following formal notice addressed to the Title Holder by registered letter with acknowledgement of receipt, the cancellation is announced in the same manner as the granting of an Exploration Permit.
FOURTH TITLE
EXPLOITATION CONCESSIONS

Section I

Conditions for Granting an Exploitation Concession

Article 44:

Every Exploitation Concession must be entirely contained within the surface area of the Exploration Permit on the basis of which the Exploitation Concession is requested.

The Exploitation Concession covers only the group of substances covered by said Permit.

An Exploitation Concession is granted only if the following conditions are fulfilled:

a. if the work conducted by the applicant for the Exploitation Concession has demonstrated the existence, within the limits of the area requested, of a deposit of known economic viability,

b. if the applicant has accepted the general terms and conditions of a memorandum of obligations relative to production, amount of Exploration work, and quantities of equipment for which the Title Holder will be held accountable.

The memorandum of obligations will be established in accordance with the terms of the present Code and will be approved by decree.

The memorandum of obligations will notably establish the manner of settlement of litigation and will stipulate that the rights and obligations of the Title Holder are those deriving from the terms of the present Code and the regulations written for its application that are existent at the time of signature of the memorandum of obligations,

b. if the applicant has demonstrated that its technical and financial capabilities will allow it to fulfill its obligations,

c. if the applicant has presented a plan of development as defined in Article 45 of the present Code.
Article 45:

In the framework of the Memorandum of Obligations contemplated in Article 44 of the present Code, the applicant for an Exploitation Concession must adhere to the main conditions for development, Exploitation, Exploration, environment protection and restoration of sites at the termination of the Exploitation.

Moreover, the applicant for an Exploitation Concession must present a plan of development which contains the following elements:

a/ A geological study, an estimate of the reserves in place and of proven recoverable reserves,

b/ A plan of Exploitation adapted to the conditions of the deposit,

c/ An appropriate scheme for mineral treatment,

d/ An economic study with a detailed estimate of the development and Exploitation costs that establishes the economic significance of the discovery,

e/ A study of personnel requirements accompanied by a plan of recruitment and training of local personnel,

f/ A timetable for development works,

g/ A program of Exploration and replacement of reserves,

h/ An environmental impact study in conformity with existing legislation.

Section II

Terms and Instruction for submission of applications

Article 46:

The method of submission and instructions relating to the application for an Exploration Concession are established by decree of the Minister Responsible for Mines.
Article 47:

The application for a Concession may be rejected if not submitted at least two (2) months prior the expiry date of the Exploration Permit on the basis of which the Exploitation Concession is requested.

If not, the Granting Authority may require that the Title Holder transfers the discovery to such Authority without any indemnity.

Article 48:

An application for an Exploitation Concession must be for the area containing the discovery, comprised of a whole number of contiguous elementary perimeters in accordance with the terms of Article 23 of the present Code.

However, an application for an Exploitation Concession that is made up of portions of elementary perimeters is acceptable if said Concession is delimited by an international boundary.

Article 49:

The Ministry Responsible for Mines registers an application for an Exploitation Concession on the date it is submitted and issues a receipt to the applicant.

Registration is refused if proof of payment of the fixed fee anticipated in the 1st item of Article 96 of the present Code is not provided.

If the application is not acted upon within the validity period of the Permit on the basis of which the application is submitted, this Permit will be implicitly extended without further formality until the Minister Responsible for Mines announces his decision.

Article 50:

If the application contains irregularities, and if the applicant does not furnish justifications for these irregularities, or does not modify the application so as to conform with the terms of the present Title within a period of one (1) month after having received the request by registered mail with acknowledgement of receipt, the Minister Responsible for Mines may reject the application. The applicant will be notified in writing of this rejection.
Section III
Granting of an Exploitation Concession

Article 51:

An Exploitation Concession is granted by decree of the Minister Responsible for Mines upon the approval of the Mining Consultative Committee. This decree is published in the Official Gazette of the Tunisian Republic.

Article 52:

An Exploitation Concession is granted for a period consistent with the quantity of exploitable reserves.

The Exploitation Concession can be extended as many times as necessary to be consistent with the additional reserves discovered.

An application for the extension of an Exploitation Concession must be addressed to the Ministry Responsible for Mines at least two (2) years before the expiry of said Concession. A receipt is issued upon acceptance of the application.

Article 53:

The institution of an Exploitation Concession leads automatically to the cancellation of the Exploration Permit from which it was derived.

However, the cancellation pertains only to those elementary perimeters that contain, in whole or in part, the requested Exploitation Concession and leaves, if the case arises, other elementary perimeters which have not yet expired.

The institution of an Exploitation Concession does not prejudice rights acquired by Title Holders and pertaining, in whole or in part, to the same area and for the same group of Mineral Substances.

Interested parties may at any time request that the Minister Responsible for Mines rectify the limits of an Exploitation Concession if, after the institution of an Exploitation Concession, it is recognized that the boundary of said Concession encroaches upon areas for which mining rights are still in effect.
The Exploration Permit or Exploitation Concession will then be granted with full rights to the Title Holder.

However, if another Title Holder of a valid Exploitation Concession claims this substance by virtue of a pre-existing Exploitation Concession, said substance must be surrendered to said Title Holder in return for just compensation.

Article 59:

The Title Holder of an Exploitation Concession may dispose of substances not covered by the Permit and extracted during the operations only for the Mine and its Surroundings.

If the case arises, the landowner may claim, in exchange for just compensation, those substances that are not used by the operator and that are not classified as "Mines".

However, the operator may freely dispose of those substances that arise from the mechanical treatment of ore.

Section IV

Miscellaneous Provisions

Article 60:

An Exploitation Concession is considered to be real estate and is indivisible. Transfer and leasing, in part or in whole, of an Exploitation Concession is subject to the terms defined in Article 61 of the present Code.

Article 61:

An Exploitation Concession may not be transferred or leased, in part or in whole, except with the authorization granted by decree of the Minister Responsible for Mines and with the approval of the Mining Consultative Committee. This decree is published in the Official Gazette of the Tunisian Republic.
This authorization may be refused under the same conditions and in the same manner as a request for an Exploitation Concession as anticipated in Article 44 of the present Code. A memorandum of obligations may not be imposed upon the new applicant in anticipation of greater liabilities than those of the preceding Concession Holder.

Transfers between affiliated companies are, however, an exception to this authorization following prior notification to the Granting Authority.

Article 62:

In the case of total or partial transfer of an Exploitation Concession, the transferee assumes the obligations and benefits from the transferor's rights relative to the entire Concession or to that part which is transferred to it and which are derived from the terms of the present Code and the regulations generated for its application.

For the total or partial transfer of rights and obligations derived from an Exploitation Concession, no duties, fees or taxes, of whatever nature, whether existent or which will be created in the future, will be due.

In case of total or partial transfer of rights and obligations derived from an Exploitation Concession, the transferee may, in accordance with the provisions of the present Code, amortize the expenditures spent by the transferor and which have not been paid or amortized.

Article 63:

The manner of submission and instructions related to the application for authorization to transfer an Exploitation Concession are established by decree of the Minister Responsible for Mines.

Article 64:

An Exploitation Concession may be cancelled in the following cases:

a. If the Title Holder no longer possesses the technical and financial capabilities that would allow it to fulfill its obligations.

b. If he has not paid the royalty proportional to production that is anticipated by the present Code,
c. If he has refused to assume the rights and obligations of an associate that has withdrawn under conditions anticipated by the present Code,

d. If he has refused to transmit, in conformity with terms of Article 76 of the present Code, information and documents relating to Exploitation,

e. If he has refused to conform to measures stipulated by the Ministry Responsible for Mines under conditions defined by the present Code.

Article 65:

If compliance is not obtained within three (3) months of formal notification addressed to the Title Holder by registered letter with acknowledgement of receipt, the cancellation is announced in the same fashion as the granting of an Exploitation Concession.

Article 66:

Upon expiry of an Exploitation Concession, the Concession is returned to the Granting Authority free and clear of all obligations or charges, without having the Title Holder relieved of its obligations, notably those anticipated in Article 73 of the present Code.

Buildings, installations and goods related to mining Exploitation are liquidated in the following manner:

- remaining mineral reserves, domainial lands, traffic and communication routes, hydraulic resources and installations as well as goods and materials necessary for the security and access to the mine, are returned to the Granting Authority,

- private lands and buildings as well as material used for Exploitation are returned to their owners.

Article 67:

In the case of cancellation, total relinquishment or abandonment of the Exploration Concession, without a pertinent reason, the Granting
Authority reserves the right to pursue Exploitation of the Mine, either directly or through an appointee.

In this case, all the buildings, structures, installations, goods and material remain dedicated to the continuation of the exploitation.

In the absence of an arrangement between the owner and the Granting Authority or the new acquirer, these goods revert to the Granting Authority after a period of one (1) year from the date of the cancellation, relinquishment or abandonment.

Article 68:

In the case of abandonment, without a pertinent reason, the Title Holder loses the right to obtain Mineral Titles for a period of three (3) years from the date the concession has expired.

Article 69:

When, without a legitimate cause, the Title Holder of an Exploitation Concession fails to exploit the Mine in conformity with the obligations he agreed to undertake in the context of Articles 44 and 61 of the present Code, the Title Holder may, after having had an opportunity to present its case, be formally notified to resume work or to fulfill its obligations within a period not exceeding six (6) months.

The term "legitimate cause of non-exploitation" means a duly recognized temporary inability to pursue Exploitation under economically viable conditions.

The Ministry Responsible for Mines notifies the Title Holder or its representative formally by registered mail with acknowledgement of receipt.

However, during the period of formal notice, the Granting Authority reserves the right to pursue Exploitation of the Mine directly or through an appointed agent.

The expiration of an Exploitation Concession is declared following the procedures anticipated in Article 65 of the present Code if the Title Holder of the Concession does not resume work within the time limit anticipated in the first paragraph of the present article.
TITLE FIVE

COMMON OBLIGATIONS OF THE TITLE HOLDERS AND ASSOCIATED RIGHTS

Section I

Common Obligations of the Title Holders

Article 70:

With respect to the conservation and use of water discovered in the course of mining, the Title Holder is obliged to adhere to current legislation concerning the conservation and use of water within the public domain, with the following qualifications:

1. The extraction of mine drainage water does not fall under the system of simple authorization anticipated in the Water Code, but, the Minister Responsible for Water must be notified. Within a three (3) month period from the date of this notification, the Minister may oblige the permit Holder to submit a request for authorization and to impose upon it, if the case arises, appropriate measures for the conservation of water-bearing strata.

This authorization may only be refused if the Title Holder refuses to adopt appropriate measures to ensure the conservation of water-bearing strata.

In any case, the extraction of mine drainage water cannot give rise to an obligation to pay a royalty except if this water is exploited for uses other than those necessary for the needs of the Mine and its Surroundings.

2. The Minister Responsible for Water must be notified of the use of mine drainage water for the service of the Mine, its Surroundings and personnel.

The request for a water Exploitation Concession is obligatory only if required by the Minister Responsible for Water within a period of three (3) months following the notification described in the first paragraph of Point 2 of the present Article.

With respect to the uses of water enumerated in the first paragraph of Point 2 of the present Article, a Concession may be
refused only if such authorized use of water would be to the irreparable detriment of prior use or projected use of water at the time of notification.

Article 71:

The Title Holder of an Exploration Permit and/or an Exploitation Concession is obliged to conduct its Exploration and/or Exploitation Activities in accordance with existing legislation and regulations, notably with respect to technology, health and professional safety, protection of the environment and agricultural lands, forests and water within the public hydraulic domain.

In the absence of applicable regulations, the Title Holder will adhere to rules, standards and sound practices used in a work environment similar to that of the mining industry.

The Title Holder is also obliged:

a. to undertake a Mining Exploitation environmental impact study consistent with existing rules and legislation, and to obtain preliminary approval of this study,

b. to take all measures to protect the environment and to honor the commitments undertaken in the impact study and as approved by the Competent Authority,

c. due to its activities, to obtain civil liability insurance against risks to other parties’ assets and to third parties.

d. in case of extraordinary circumstances due to a natural phenomenon or to the Title Holder’s own activities, to take immediate necessary measures for the protection of human life and the environment.

If the Title Holder fails to act, competent authorities may take the aforementioned measures on behalf and in place of the Title Holder, who will be responsible for all expenses incurred to this end,

e. to take necessary and adequate measures for the protection of workers against work-related risks and to maintain on site sufficient quantities of medicines and first-aid services to attend to the immediate needs of accident victims, as well as the necessary equipment to ensure their security.
Article 72:

Notwithstanding terms governing notification of work-related accidents and illnesses, the Title Holder is obligated to inform immediately the Ministry Responsible for Mines of all incidents and serious accidents that occur within the Mine or its Surroundings.

Article 73:

Upon expiry of an Exploration Permit, that is, at the termination of its validity period or in case of abandonment or cancellation, or when the Title Holder of an Exploitation Concession anticipates a termination of its Exploitation Activities in the context of the terms of Article 66 of the present Code, said Title Holder is obliged to return the exploited area to the state in such a condition so as not to present a risk to the health and safety of third-parties, to the environment and to the resources.

The Title Holder remains liable for a period of five (5) years for all damages known to arise from its Exploitation of the Mine. Said period does not apply to damages resulting from work-related accidents and illnesses which remain governed by existing legislation.

Article 74:

The Title Holder is obliged to present an abandonment plan describing the conditions of abandonment and the restoration of the site. This plan must be approved jointly by the authorities responsible for Mines and the Environment.

Article 75:

The Title Holder is obliged, consistent with effective execution of its activities, to give priority to the employment of Tunisian persons. In the event that a Tunisian person is not available to fill a required specialized position, the Ministry Responsible for Employment, following the advice of the Granting Authority may, consistent with existing legislation, authorize the Title Holder to temporarily employ foreign nationals.

The Title Holder is also obliged to ensure the training of Tunisian personnel in all the specialized occupations required by its activities consistent with a training plan previously approved by the relevant services of the Ministry Responsible for Professional Training and following the advice of the Granting Authority.
The Title Holder is obliged to give priority to the use of Tunisian goods or materials produced in Tunisia, business services and sub-contractors, provided the cost, quality and time of delivery are competitive with foreign offers.

**Article 76:**

The Title Holder of an Exploitation Concession must submit to the Ministry Responsible for Mines, on a monthly basis, all statistical information for the preceding month relating to personnel employed, products recovered and sold, production, and the use of its fleet of mining equipment.

During the first quarter of each year, the Title Holder will remit a copy of work plans completed during the previous year, along with an annual report documenting activities and expenditures undertaken within the programs and annual budgets transmitted to the Granting Authority.

The Title Holder of an Exploration Permit or an Exploitation Concession is obliged to transmit to the Ministry Responsible for Mines all available geological, geophysical, hydrological mining and economic information.

With the exception of information relating to global statistics and documents relating to general geology and the inventory of hydraulic resources, this information may not be made public nor transmitted to any third parties by the Administration without the prior and written consent of the Title Holder.

However, this consent is not necessary for information pertaining to zones of Permits and/or Concessions that have been returned to the Granting Authority.

The agents of the Ministry Responsible for Mines may, on the occasion of their visits, verify plans and records of the mining activity.

If the plans of work progress are not current, the Minister Responsible for Mines may decree that they be updated at the expense of the Title Holder.

The Title Holder is obliged to inform the relevant Administration of any site for archeological and historic monuments encountered during its exploration or exploitation work, and to safeguard them in keeping with existing legislation.
Article 77:

The Title Holder is obliged to mark out the perimeter of its Permit or Concession at the first request of the Administration. If the Title Holder fails to comply, the Ministry Responsible for Mines may undertake this work at the expense of the Title Holder.

In the case of contiguous Exploration Permits and/or Concessions, the expense of marking the boundary will be shared by the Title Holders concerned.

The land owners may not interfere with the operation of marking the boundary, subject to compensation for any damages.

Article 78:

The Title Holder has to right to request a postponement in the execution of its obligations during the period in which it would be partially or wholly prevented from fulfilling said obligations due to force majeure.

Section II

Associated Rights to Mining Prospecting, Exploration and Exploitation

Article 79:

A Mining Title gives the right to occupy land for Prospecting, Exploration or Mine Exploitation only provided that written agreement has been obtained from the landowner.

However, in the absence of an amicable agreement and after the landowner has had an opportunity to present its case, the Title Holder may be authorized by decree of the Minister Responsible for Mines to occupy the land necessary for Mining Exploration or Exploitation.

The Title Holder informs the landowner of the decree of authorization by extra-judicial means, and the authorization becomes immediately effective thereafter.

However, the occupation of any walled parcel of land or equivalent building requires the obligatory written authorization of its owner.
The terms of the present article apply without distinction to lands within and beyond the boundaries of a Concession.

Article 80:

In the case of occupation of land as anticipated in Article 79 of the present Code, the landowner has the right to an indemnity, payable in advance, which, in the absence of an amicable agreement, is fixed for the period of occupation, on the basis of a sum equal to twice the annual rental value of the occupied lands at the time of their occupation.

Any disagreements relative to the amount of this indemnity are deferred to a tribunal whose judgments are always pronounced "exécutoires par provision" and not subject to appeal. Occupation may take place only after payment of the indemnity or its consignment to the General Treasury of the Tunisian Republic.

In addition, the Title Holder is obliged to repair all damage caused by its activities on the property.

Article 81:

If the occupation of land prevents the land owners from using their land for a period exceeding three (3) years, the land owners may oblige the Title Holder to acquire said lands, in conformity with the existing regulations.

The purchase price is fixed, in all cases, at twice the market value of the land at the time of occupation.

Any disagreements relative to this price are deferred to a tribunal whose judgments are pronounced "exécutoires par provision" and are not subject to appeal. Occupation of the land may take place only after payment of said indemnity or its consignment to the General Treasury of the Tunisian Republic.

Article 82:

If, upon completion of the work program, it appears that the occupied land has been damaged or degraded and is no longer suitable for its original use, the Title Holder is obliged to repair the damage or to pay the land owner an indemnity to cover the loss resulting from this damage.
This indemnity may not exceed twice the market value of the said land at the time of occupation.

All disagreements relative to the amount of this indemnity are deferred to a tribunal.

Article 83:

No drilling, boring or extraction, either surface or underground, may be undertaken without consent of the owner for private property, or of the Ministry Responsible for management of the public domain, within a distance of less than 50 meters from walled or otherwise enclosed property, villages, groups of houses, tourist and archeological sites, religious buildings, cemeteries, communication routes, natural protected spaces, and generally all works of public utility or works of art.

Mining works which may cause damages to hydraulic installations in the protected areas of surface hydraulic installations (dams, lakes, conduits and others) and in the areas surrounding the wells, are forbidden except with the agreement, prior to commencing the works, from the Ministry Responsible for Hydraulic Public Domain.

Article 84:

The Title Holder may occupy public or private State lands or lands belonging to local associations, or erect installations there only with prior authorization from the authority owning or managing the land.

Regardless, no Prospecting, Exploration or Exploitation activity for Mineral Substances classified as “Mines” may be undertaken within the public or private military domain without previous authorization of the Minister Responsible for National Defense. This authorization establishes the special rules to be observed during the execution of this work.

Article 85:

The State of Tunisia reserves the right to use, for its public services, all the roads and tracks made by the Title Holder for its activities.
Article 86:

The Title Holder is obliged to repair all damages incurred to public or private property that might arise as a result of its activities. The Title Holder’s liability extends only to the material value of the damage caused.

In the event of failure to reach an amicable understanding, this liability is to be established by a competent tribunal on the basis of ordered expert advice.

Article 87:

If the execution of public or private work results in the eradication or modification of Mine installations or leads to damage or disturbance in the Exploitation operations, the Title Holder is entitled to a compensation equal to the simple value of the damage which, in the event of failure to reach an amicable agreement, is fixed by a competent tribunal on the basis of ordered expert advice.

Article 88:

The Ministry Responsible for Mines may require the Title Holder to leave a barrier between its Mine and others that exist or may exist in the vicinity, or to protect public or private works or installations.

A similar barrier may be required along a national frontier.

The Title Holder may cross or remove such a barrier only with the prior authorization from the Ministry Responsible for Mines.

Article 89:

In the event of superposition of two Exploitation Concessions for Mineral Substances of different groups, and in the absence of an amicable agreement between the Title Holders, the Ministry Responsible for Mines may establish, after having consulted the parties concerned, and upon the approval of the Mining Consultative Committee, the manner in which the work on these Concessions is to be conducted in order to prevent as much as possible reciprocal damage.
Article 90:

When the Exploitation of a Mine causes material damage to the Exploitation of a neighboring or superimposed Mine, for any reason whatsoever, but notably with respect to water penetrating the mining works in quantities greater than can be ascribed to natural flow, the Title Holder who causes the disturbance must repair the damages caused.

When the same work leads to the drainage of all or part of the water in another Mine by machine or mine working, the wronged Title Holder has the right to an indemnity of which the amount, in the absence of an amicable agreement, is established by a competent tribunal on the basis of an ordered expert advice.

Article 91:

In the case in which it is deemed necessary to conduct work with the objective of linking the underground workings of two Mines for the purpose of ventilation and drainage of water or to open ventilation, drainage, or safety-ways designed to benefit the operation of a neighboring mining operation, the Title Holder is obliged to facilitate the execution of this work and to share the expenses in proportion to its interests.

In the absence of an amicable agreement, this work will be ordered, and the Title Holder heard, by decree of the Minister Responsible for Mines.

In case of emergency, this work may be undertaken on the orders of the Ministry Responsible for Mines by means of an official courier.

Article 92:

The Title Holder of an Exploitation Concession may, in case of necessity, be authorized by decree of the Minister Responsible for Mines, to use tracks, roads, rail lines and installations established by another neighboring or superimposed Title Holder or operator, or to use haulage ways, ventilation or exhaust ways from a neighboring or superimposed Concession in exchange for compensation for such usage to the right-holders.

In the absence of an amicable agreement, this compensation is established by a competent tribunal on the basis of an ordered expert advice.
Article 93:

Title Holders benefit from access to generally available data of a geological or mineral exploitation nature and from access to national data base of this nature.

Article 94:

The State of Tunisia assumes responsibility for the employer’s contribution to the social security and legal system for salaries paid to Tunisian employees for a period of five (5) years from the date of commencement of activity.

TITLE SIX

FISCAL, CUSTOMS AND FOREIGN COMMERCE AND EXCHANGE REGIME

Section 1

Fiscal Regime

Article 95:

The Title Holder and all contractors and sub-contractors which the Title Holder employs either directly by contract or indirectly by sub-contract are subject by virtue of their Exploration or Mining Exploitation Activities to the following duties, fees and taxes as stipulated by common law in effect at the time of the levy of these taxes:

- Fixed-fee registration of all contracts and supplies markets, work and services relating to the Exploration, Exploitation, production, transportation, storage, and marketing Activities, as well as acts relating to increases or reductions in the joint stock of the Title Holder, mergers and dissolutions;

- Stamp tax,
- Duties, taxes and royalties due as the result of direct or indirect use by the Title Holder of routes, public networks or services,

- Tax on industrial, commercial or professional establishments to the benefit of local associations,

- Tax on fixed structures,

- Custom service duties (R.P.D.) and the royalty on the automatic processing of information relating to import and export activities.

All amounts paid, for customs service duties (R.P.D.), starting the sixth (6th) year as of the commencement date of the effective Exploitation for the export of mineral products produced by the Title Holder or on its behalf, are considered as installments on income taxes payable by the Title Holder on the basis of its current year of activity in the course of which said sums are paid, or alternatively, with respect to future years,

- Duties, fees and taxes charged by the suppliers of services, goods, equipment, materials, products and consumable raw materials that are normally included in the purchase price, with the exception of the value added tax,

- transport and road tax,

- unique tax on insurance.

Article 96:

The Title Holder is liable for the following duties, fees and taxes for its Mining Exploration and Exploitation activities in Tunisia:

- a fixed fee per elementary block as defined in Article 23 of the present Code, for any instituting or renewal application of Mineral Titles with the exception of a Prospecting License.

This fixed fee paid is definitely acquired by the State regardless of the outcome of the application.
A joint decree by the Ministers Responsible for Finance and Mines establishes the amount of the fixed fee per Mineral Title,

- a fixed tax per hectare of land contained within an Exploitation Concession equal to the guaranteed minimum wage of forty eight (48) hours of work per week in the non-agricultural sectors regulated by the Work Code. This tax is payable annually prior to June 30.

For inactive or non-exploited Concessions, this tax is equal to five (5) times the guaranteed minimum wage in the non-agricultural sectors governed by the Work Code.

The settlement of said tax is established by decree of the Minister Responsible for Mines.

Late payment of said tax results in penalties applicable to income and business taxes.

Prior to the end of the first quarter of each year, the Title Holder of an Exploitation Concession is obliged to supply an annual declaration containing all the information for the preceding year on extraction, production, sale of mineral products, and expenses for Exploration, Exploitation and equipment as anticipated in the memorandum of obligations, as well as the program for the current year,

- a mining royalty equal to one per cent (1%) of gross revenue from ore extracted ("minerais carreau mine").
  the payment of said royalty is made semi-annually and is to be made during the two (2) months following the previous quarter.

- income tax at the rate of twenty five percent (25%) of annual income.

The payment of income tax is made in the period anticipated for the payment of business tax in accordance with the terms of the Tax Code on personal and business income.

However, the Title Holder is exempt from payment of income tax for the first five (5) years from the commencement of effective exploitation.
Article 97:

Taxable income is calculated separately for each Exploitation Concession in accordance with the terms of the Tax Code on personal and business income. However, the income derived from all the Exploitation Concessions held by the Title Holder may be consolidated for the purpose of calculating taxable income.

The taxable income is calculated after deducting:

- the mining royalty effectively paid,

- interest charges on loans relating to investment in development necessary to put the deposit into production, for a loan amount not exceeding seventy percent (70%) of said investments,

- amortization of expenses treated as capital, up to a level not to exceed twenty percent (20%) per year, for all expenses incurred by the Title Holder. Expenditures for studies, Prospecting and Exploration programs, may be treated, at the election of the Title Holder, either as deductible expenses for the fiscal period in which they were made, or as capital expenses amortizable over a period of five (5) years,

- a provision for ore replacement (P.R.G.) to a limit of fifty percent (50%) of taxable income. This provision must be used before the end of the third (3rd) year from the date of its constitution, for the execution of a program approved by the Ministry Responsible for Mines and relating notably to:

1. exploration on targets not falling within the granted Exploitation Concession,

2. the evaluation of new deposits of Mineral Substances,

3. retraining projects for personnel involved in mining activity.

The unused amount from each provision is reintegrated into the fiscal results for the period following that for which said provision has expired.

Article 98:
For each income period, the calculation of deficits and amortization will be effected in the following order:

1. previous deficits
2. deferred amortization
3. amortization for the period under consideration

Article 99:

For the determination of taxable income, the activities subject to income tax of each Title Holder are considered separately from its other activities in Tunisia.

To this end, the Title Holder must maintain accounts, in Tunisia, consistent with business accounting legislation relating to activities subject to income tax.

Article 100:

Terms anticipated by current fiscal legislation relative to obligations, controls, sanctions, disagreements and remedies are applicable to duties, fees and taxes contemplated by article 95 of the present Code.

Terms applicable to personal and business income tax relative to obligations, controls, sanctions and disagreements are applicable to the mining royalties and income tax anticipated by Article 96 of the present Code.

Omissions, errors, “dissimulations constatées dans l’assiette”, the rate or settlement of income tax and mining royalties may be remedied for up to fifteen (15) years following the year during which the income or gross revenues were realized.

Article 101:

For its Mining Exploration and Exploration Activities, the Title Holder is exempt from all duties, taxes and fees, direct or indirect, that exist or may be instituted by the State of Tunisia or by all organizations or local associations, other than those anticipated by Articles 95 and 96 of the present Code.

Modifications to the rate and tariffs of duties, fees and taxes anticipated in Article 95 of the present Code are applicable to Mining Exploration
and Exploitation Activities only if they are applied equally to other categories of activities in Tunisia.

Article 102:

The Title Holder is liable for expenses incurred by the Administration for work conducted in application of the terms of Title Seven (7) of the present Code.

These expenses are regulated by decree of the Minister Responsible for Mines.

The Title Holder is also liable for the costs of stamp tax and registration of decrees issued in the execution of the present Code.

Section II

Special Import and Export System

Article 103:

The Title Holder of an Exploration and/or Exploitation Concession whose program of investment is accepted by the Ministry Responsible for Mines may benefit from the advantages enumerated in the present Code.

Article 104:

The Title Holder and all contractors and sub-contractors used by the Title Holder either directly by contract or indirectly by sub-contract are authorized to import, exempt of customs duties and all fees and taxes imposed on the importation of merchandise, including the value added tax, with the single exception of the customs service royalties (R.P.D.) and the royalty on the automatic processing of information:

- all machines, tools, equipment, motors and materials intended to be actually used for Mining Exploration and Exploitation Activities,
- service vehicles necessary for their transport operations.
The provisions anticipated in the first paragraph of the present Article are not applicable to goods and merchandize that may possibly be obtained in Tunisia provided they are of an adequate type and of a quality and price comparable to the delivered price of imported goods and merchandize.

In this case, the local suppliers benefit from a reimbursement of duties and taxes on goods and merchandize that would have been exempted had the goods and merchandize been imported. The reimbursement is made in accordance with existing regulations.

Article 105:

If a Title Holder or its sub-contractor decides to sell the goods and merchandize imported or purchased on the local market, following the system anticipated in Article 104 of the present Code, it must:

a. make a declaration of transfer to the customs services in the case in which this transfer is made to a transferee entitled to the same system of duty exemption as the transferor,

b. Fulfill, prior to the transfer, the formalities of foreign commerce and pay the duties and taxes due upon importation on the basis of the value of said goods and merchandize at the time of transfer, in the case in which the transfer is made to a transferee other than that contemplated in point a. of the present Article.

Article 106:

The Title Holder of an Exploitation Concession has the right to dispose of mineral products extracted from its Concession, notably for exportation, subject to the fulfillment of its obligations.

This exportation may be effected free of all export duties and taxes with the exception of the customs service royalty [R.P.D.] and the royalty on the automatic processing of information, subject to any restrictive measures that may be dictated by the State of Tunisia in case of force majeure.
Section III

Terms Applicable to Foreign Nationality Personnel

Article 107:

Notwithstanding the terms of Article 75 of the present Code, the Title Holder may, for its Prospecting, Exploration and Exploitation activities, freely recruit foreign senior personnel, subject to informing in advance the relevant services of the Ministry Responsible for Employment in accordance with the procedures in effect.

Article 108:

Foreign personnel who are non-residents prior to their recruitment or to their secondment to Tunisia and assigned to Prospecting, Exploration or Exploitation Activities, may:

1. elect a social security system other than the Tunisian social security system. In that case, the employee and employer are not obliged to make contributions to the Tunisian social security system,

2. benefit from an exemption on personal income tax for salaries and wages paid. As a counterpart, he is obliged to make a lump-sum fiscal contribution fixed at twenty percent (20%) of the gross amount of his remuneration and fringe benefits,

3. benefit from a temporary exemption from import duties and taxes on his personal effects and on one private vehicle.

The transfer of the imported vehicle or personal effects to a resident is subject to the formalities of foreign commerce and to the payment of duties and taxes in effect at the time of transfer, calculated on the basis of the value of the vehicle and/or effects on that date.
Section IV

Foreign exchange and commerce Regime

Article 109:

The Title Holder may be a resident or a non-resident.

A Title Holder operating under Tunisian business law is considered to be a non-resident when the joint stock of said business is held by non-resident Tunisians or by foreigners and was formed by means of importation of convertible foreign currency equal to at least sixty six percent (66%) of its capital.

The participation by residents in the capital of a non-resident Title Holder must be done in accordance with existing exchange regulations.

Establishments created in Tunisia by moral persons having their registered office abroad are considered to be non-residents with respect to exchange regulations. The headquarters endowment of these establishments must be financed by means of importation of convertible foreign currency.

Article 110:

A non-resident Title Holder is not obliged to repatriate the product generated by its exportation of ore.

However, the Title Holder must make payments due to the State and all other payments for local expenses using foreign currency or convertible dinars accounts.

A non-resident Title Holder is authorized to dispose of its production on the local market. Sales on the local market of which the settlement must be effected in foreign currency, are conducted in accordance with existing regulations governing foreign commerce and exchange.

Article 111:

Resident Title Holders of an Exploitation Concession are obliged to repatriate the products of their exportation in accordance with regulations governing foreign commerce and exchange.
These enterprises may effect the transfer of dividends due to non-resident partners as well as all transfers relating to their Exploration and Exploitation Activities in accordance with regulations governing foreign commerce and exchange.

**Article 112:**

The Title Holder and all contractors or sub-contractors that the Title Holder uses, either directly by contract or indirectly by sub-contract, are authorized to import without fulfilling formalities of foreign commerce:

- all machines, tools, equipment, material and vehicles intended to be effectively used for Exploration and Exploitation Activities;

- service vehicles necessary for their transport operations.

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**TITLE SEVEN**

**CONTROL OF THE ADMINISTRATION ON PROSPECTING, EXPLORATION AND EXPLOITATION ACTIVITIES**

**Article 113:**

Besides the controls exercised by the competent administrative services and anticipated by existing legal and regulatory arrangements, the Activities of Prospecting, Exploration and Exploitation of Mines, offices and sites where these activities are carried out, as well as their surroundings, are subject to the control of competent administrative services with respect to technical regulations, conservation of deposits, security of personnel, installations, inhabitants and buildings.

**Article 114:**

The officials and agents of the Ministry Responsible for Mines have, at any time, access to the offices, sites and surrounding areas of the Title
Holder, in accordance with a mission order. The Title Holder is obliged to supply them with all available information and documents on site relating to its activities, and to provide them access to all facilities for the accomplishment of their mission. The Title Holder is obliged to ensure that these officials and service agents are accompanied during their visits by those responsible for work whose cooperation will be necessary and who will be conscripted to that end.

Article 115:

All work undertaken in contravention of the terms of the present Code and regulations drawn up for its application, may be forbidden by the Granting Authority, without prejudice for repair of damages and sanctions anticipated in Article 122 of the present Code.

Article 116:

The Granting Authority may, without prejudice of lawsuits and sanctions contemplated by the terms of the present Code and by existing legislation and regulations, order the immediate cessation of work in case of serious infractions that endanger the health and safety of personnel or third parties, and/or the environment, and/or resources and notably those associated with measures of protection of the environment prescribed by the impact study as approved by the competent authority.

Article 117:

The Title Holder is obliged to adhere to measures and prescriptions ordered by the Ministry Responsible for Mines in application of the present Code and regulations drawn up for its application.

In case of emergency or in case of refusal by the Title Holder to conform to the injunctions from the Ministry Responsible for Mines, necessary measures may be taken by said Ministry at the expense of the party concerned.

In case of imminent danger, agents of the Ministry Responsible for Mines may take immediately necessary measures to end the danger. They may, if so needed, request from the local authorities to proceed without delay to all necessary requests.

Article 118:
Apart from the cases anticipated in Article 87 of the present Code, no compensation is due to beneficiaries of Mining Titles for any damage resulting from the execution of measures ordered by the Administration in accordance with the terms of the present Code and the regulations drawn up for its application.

TITLE EIGHT

IDENTIFICATION OF INFRACTIONS AND SANCTIONS

Article 119:

Any violation of the terms of the present Code is noted in minutes established in accordance with the terms of the Code of Penal Procedures, by judiciary police officers, agents of the Ministry Responsible for Mines, or other officers duly authorized for this purpose.

The agents of the Ministry Responsible for Mines and the other agents authorized to note the infractions to the provisions of the present Code, are designated among the public agents who belong, for five (5) years at least, to the staff of engineers and technicians and who have enough experience in the mineral exploration and exploitation.

Article 120:

Failure of a Title Holder to declare a serious accident on its sites, to provide the means to supply first aid to work-accident victims, or to provide the means to combat pollution and fire, in accordance with the terms of Article 71 of the present Code, is punishable by a fine which amounts to three hundred (300) to three thousand (3,000) dinars.

Article 121:

Refusal of a Title Holder to transmit a copy of work-related documents to the Ministry Responsible for Mines or non-compliance of the delays set for that transmission, in accordance with the terms of Article 76 of the present Code, is punishable by a fine which amounts to four hundred (400) to four thousand (4,000) dinars.
Article 122:

The following offences are punishable by sixteen (16) days to three (3) months imprisonment and/or a fine which amounts to five hundred (500) to five thousand (5,000) dinars:

- Conducting Prospecting, Exploration or Exploitation work for Mineral Substances classified as "Mines" without obtaining beforehand a Mining Title. In this case, the tribunal will order the cessation of this work.

- Or failure to maintain regularly plans and records up to date,

- Or knowingly providing inaccurate information for the purpose of obtaining a Mining Title,

- Or destruction, displacement or modification of Exploration Permit or Exploitation Concession boundary markers as they were set in accordance with the terms of Article 77 of the present Code.

Article 123:

Unlawful interference with the execution of work ordered by the Administration in application of Article 117 of the present Code is punishable by three (3) months to one (1) year imprisonment and a fine which amounts to one thousand (1,000) to ten thousand (10,000) dinars.

Article 124:

Anyone who repeats an infraction anticipated in the present Title within twelve (12) months of having committed the same offence, counting from the day on which the sentence is passed, is subject to the maximum penalties allowed.

Article 125:

Persons who have been sentenced to imprisonment for one of the offences in the present Code may not obtain Mineral Titles for a period of three (3) years, counting from the day on which the sentence is passed.