

APPENDIX

GRANTING MINERAL RIGHTS

COUNTRY SPECIFIC REGULATIONS

2010

APPENDIX

COUNTRY SPECIFIC REGULATIONS

COUNTRY: ALGERIA GRANTING OF MINERAL RIGHTS

ADMINISTRATION ISSUES

State agency: Ministry of Energy and Mines through its Mining Patrimony National Agency or through the Mining General Directorate during transitional periods.

Process/procedure:

Mining titles are granted under provisions of the Mining Act, Law 01-10, 2001.

The mining titles may be granted, after prior administrative review, on first-come, first-served or auctioning bases. In cases where the deposit/site subject of the application has not been surveyed by public funds, applications are handled in the order in which they are received as certified by registration date and hour.

Applications for mining titles on a first-come, first-served basis can be awarded in the form of:

- A Prospecting authorization, for defining the area to explore and,
- An Exploration Permit, for delimiting the mineral deposit and obtaining the automatic right to an exploitation permit or,
- An Exploitation Permit (mining concession), or small to medium-scale mining exploitation permit, or artisanal mining licence

In cases where the deposit has been surveyed with public funds or the exploitation area has been released, the Ministry of Energy and Mines publishes notices periodically, inviting investors to participate in bidding rounds for mining titles. The Mining Patrimony National Agency holds regular, transparent auctions of mine sites that are open to all investors.

Applications for mining titles following a bidding process can be awarded in the form of:

- An Exploration Permit for confirming the existence of the mineral deposit and obtaining the automatic right to an Exploitation Permit.
- An Exploitation Permit (mining concession), or small to medium-scale mining exploitation permit, or artisanal mining licence, when the deposit is already known and surveyed or when the Exploitation is an open area.³

The duration of processing of the approval of requests is:

- for Prospecting Authorizations – 1 (one) month
- for Exploration Permits – 3 (three) months
- For Exploitation Permits – 5 (five) months

In Algeria, the exercise of mining activities is open to any operator, irrespective of status or nationality, according to the provisions of the Act and its statutory texts, as long as there is a licence held for the activity. Mining activities are precluded from sites protected by law and/or international treaties.

According to section IX of the Act, any breach of the provisions of this Act and its regulations in respect to the exercising of rights of licence holders and their obligations, attracts penalties in form of payment of fines, imprisonment, sanctions etc.

Reconnaissance Licence: Not mentioned

- Reconnaissance fee
- Maximum size (ha):
- Duration (months):
- Renewal (months):
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement:
- Reporting requirement:
- Rights of holder:

Prospecting Authorization

- Prospecting application fee: Fee for issuing this licence is AD 10,000 and renewal or modification fee is AD 20,000.
- Maximum size (ha): Not specified
- Duration (months): valid for an initial period of 1 Year.
- Renewal (months): 2 renewal periods of six (6) months Each is allowable.
- Relinquish areas: Not specified but stated that perimeter may be modified on renewal
- Minimum spending: Fixed annual obligatory investment is stipulated. It may be reviewed in cases of an adverse economic cycle or an appreciable depreciation of the prices of the granted mineral substances.
- Work to programme: Yes. General programme and plans of projected prospecting operation must be complied with.
- Environmental plan: Not specified
- Social requirement: Not specified

- Reporting requirement: Yes. Reports must be submitted to the Minister in compliance with Investment Code (Decree of October 5, 1993)¹ and any other prescribed manner.
- Rights of holder:
This Authorization confers on its holder the rights to carry out on area covered by licence, the topographical, geological and geophysical surveys, site inspection and other preliminary research of surface minerals in order to define the ground mineralogic attributes and geological characteristics. The Authorization is a personal property, which can be transferred and assigned.

He is also entitled to:

- a. carry out prospecting activity covering one or more mineral substances, on a perimeter exclusively granted to a sole operator.
- b. not carry out works likely to prejudice the rights of the land owner, the chattels, real holder, recipient or their beneficiaries.

The licence holder is obligated to:

- a. submit half-yearly, to the Mining Estate National Agency, a detailed report of works carried out;
- b. file copies of the documents summing up the works performed, at the latest three (3) months from the expiry of his mining claim, to the national geological service.²

Other information:

Any corporate entity of private law may apply for a Prospecting Authorization. The documents to be provided for application of this licence include:

- Company's Article of Associations;
- Map at 1:50 000 or 1:200 000 scale showing the requested area and its location;
- General programme of projected works.³

Exploration licence (Exploration Permit)

- Exploration fee: Fee for issuing this licence is AD 20,000 and renewal or transfer or assignment fee is AD 40,000. It is also subject to pay an annual surface tax.
- Maximum size (ha): Not specified
- Duration (months): valid for an initial period of 3 years (36 months)
- Renewal (months): 2 renewal periods of two (2) years each is allowed, with possibility of a grace period of 2 years in the case of an unfavourable situations.
- Relinquish areas: On the application for a renewal, the holder may ask for a modification in the surface of the exploration area.

- Minimum spending: fixed annual obligatory investment. It may be reviewed in cases of an adverse economic cycle or an appreciable depreciation of the prices of the granted mineral substances
- Work to programme: Yes. General programme and plans of projected exploration operation must be complied with (although not clearly specified)
- Environmental plan: Yes. Environmental impact assessment must be carried out and Environmental impact statement, mitigation and rehabilitation plans must be submitted.
- Social requirement: Not specified
- Reporting requirement: Yes. Reports must be submitted to the Minister in compliance with Investment Code (Decree of October 5, 1993)¹ and any other prescribed manner. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with, probably JORC code)
- Rights of holder:
The permit holder is entitled on the area covered by the licence, to carry-out of geological and geophysical studies concerning the structures and the underground geology; appraisal work through digging, boring and drilling; analysis of mineral physical and chemical proprieties and the economic feasibility study of the proposed development. The permit is a personal property, which can be transferred and assigned.³

During the exploration works, if mineral deposits are discovered, the permit holder is entitled automatically to acquire a right to exploitation. This follows an application for exploitation, and the holder of the exploration permit is required to legally deposit its geological report(s) within a maximum of three (3) months as specified in Article 114 of the Act. Where no discoveries are made, the permit holder is required to make the legal deposit of all documents and samples concerning the results of works carried out, at latest, six (6) months before the expiry of this permit. This condition also applies for any discovery that is not followed by an application for exploitation.

He is also entitled to:

- a. carry out exploration activities covering other mineral substances not specified in the permit, on the same perimeter granted and/or on perimeter outside the granted area, only after the receipt of a permit extending the claim to these substances, and/or the integration of adjoining areas to the initial perimeter;
- b. to the collection of a surface tax;
- c. rights of occupancy of land and connected benefits as regards carrying out of construction works and facilities for housing of staff and infrastructure necessary for the performance of operations relating in particular to the transportation of material, equipment and extracted products etc.;
- d. access, passage and aqueduct incumbrances;
- e. availability, acquisition of land by transfer or expropriation;
- f. Carry out drilling and works required for all kinds of procurement.²

Other information:

Any corporate entity of private law who is a holder of a valid Prospecting authorization or the successful bidder, can apply for an Exploration Permit. The documents to be provided for application of this licence include:

- Company's Article of Associations;
- Documents proving the financial and technical capacities;
- Map at 1:25 000 or 1:50 000 scale showing the perimeter boundaries;
- According to the case, a copy of the Prospecting Authorization or the awarding act;
- Environmental impact assessment.³

Exploitation Permit (Mining Concession)

- Mining fee: Fee for issuing this licence is AD 50,000. The renewal, modification, transfer or assignment fee is AD 100,000. It is also subject to pay an annual surface tax.
- Maximum size (ha): Not specified
- Duration (years): valid for an initial period of 30 Years
- Renewal: Renewal is according to the estimated life of Deposit Reserves
- Minimum spending: fixed annual obligatory investment. It may be reviewed in cases of an adverse economic cycle or an appreciable depreciation of the prices of the granted mineral substances.
- Work to programme: Compliance with submitted development programme and plans of operations, is expected
- Environmental plan: Environmental Impact Statement and Management Plan
- Social requirement: Yes. As stipulated in Article 152, activities under this licence must be in compliance with Regulatory requirements enacted with respect to: Explosives, transportation, storage and utilization, Safety and hygiene, protection of animals and plants, protection of historic and archeological sites and monuments, scheduling water flow and drinking water supply, irrigation or industrial requirements of protection perimeters, Training of engineering students in mining fields and others according to schemes fixed with Universities, Schools and Institutes for staff training.²
- Reporting requirement: Yes. Annual reports must be compliant with set decree of the Minister in charge of mines and with provisions of Investment Code (Decree of October 5, 1993)¹. Report on the Prospecting and Exploration results must be presented (although it is not prescriptive on the international Code to comply with, probably JORC code).
- Rights of holder:
The concession holder is entitled to perform activities consisting of development preparatory works, mineral substances extraction and/or concentration, and the first transformation of extracted mineral substances.

The licence is a real property, which can be transferred, assigned, leased or mortgaged.³

He is also entitled to:

- a. rights of occupancy of land and connected benefits as regards carrying out of construction works and facilities for housing of staff and infrastructure necessary for the performance of operations relating in particular to the transportation of material, equipment and extracted products etc.;
- b. access, passage and aqueduct incumbrances;
- c. availability, acquisition of land by transfer or expropriation;
- d. Carry out drilling and works required for all kinds of procurement.²

The licence holder is required to commence works at the latest one (1) year after the granting of the licence and pursue them steadily in accordance with the good engineering practice.²

Other information:

Any corporate entity of private law holding an Exploration Permit or the successful bidder (in the respective order), is liable to the grant of an Exploitation Permit. The documents to be provided for application of this licence include:

- Previous exploration Permit or the awarding act;
- Documents proving the financial and technical capacities;
- Report on the general development programme, planning of the intended works, and the financial amount to be invested;
- Map at the 1: 25,000 or 1: 50,000 scale showing the perimeter boundaries, the corners coordinates and the reference points;
- Report on the Prospecting and Exploration results;
- The feasibility study;
- Development plan of exploitation (1: 1,000 or 1: 5,000 scale);
- Environmental impact assessment.³

Exploitation Permit for Small to Medium-scale mining

- Exploration fee: Fee for issuing this licence is AD 25,000. The renewal, modification, transfer or assignment fee is AD 50,000. It is also subject to pay an annual surface tax.
- Maximum size (ha): Not specified
- Duration (years): valid for an initial period of 10 Years
- Renewal (years): Renewal is according to the estimated life of Deposit Reserves.
- Minimum spending: fixed annual obligatory investment. It may be reviewed in cases of an adverse economic cycle or an appreciable depreciation of the prices of the granted mineral substances

- Work to programme: Yes. Compliance with submitted development programme and plans of operations, is expected
- Environmental plan: Yes. Environmental impact assessment must be carried out and Environmental impact statement submitted
- Social requirement: Yes. As stipulated in Article 152, activities under this licence must be in compliance with Regulatory requirements enacted with respect to: Explosives, transportation, storage and utilization, Safety and hygiene, protection of animals and plants, protection of historic and archeological sites and monuments, scheduling water flow and drinking water supply, irrigation or industrial requirements of protection perimeters, Training of engineer students in mining fields and others according to schemes fixed with Universities, Schools and Institutes for staff training****
- Reporting requirement: Yes. Annual reports must be compliant with set decree of the Minister in charge of mines and with provisions of Investment Code (Decree of October 5, 1993)¹. Report on the Prospecting and Exploration results must be presented (although it is not prescriptive on the international Code to comply with, probably JORC code).
- Rights of holder:

The licence holder is entitled to perform activities, on a small- to medium-scale basis, consisting of development preparatory works, mineral substances extraction and/or concentration, and the first transformation of extracted mineral substances. The licence is a real property, which can be transferred, assigned, leased or mortgaged.

He is also entitled to:

- a. rights of occupancy of land and connected benefits as regards carrying out of construction works and facilities for housing of staff and infrastructure necessary for the performance of operations relating in particular to the transportation of material, equipment and extracted products etc.;
- b. access, passage and aqueduct incumbrances;
- c. availability, acquisition of land by transfer or expropriation,
- d. Carry out drilling and works required for all kinds of procurement²

Other information:

Any corporate entity of private law holding an Exploration Permit or the successful bidder (in the respective order), is liable to the grant of an Exploitation Permit. The documents to be provided for application of this licence include:

- Previous exploration Permit or the awarding act;
- Documents proving the financial and technical capacities;
- Report on the general development programme, planning of the intended works, and the financial amount to be invested;
- Map at the 1:25,000 or 1:50,000 scale showing the perimeter boundaries, the corners coordinates and the reference points;

- Report on the Prospecting and Exploration results;
- The feasibility study;
- Development plan of exploitation (1:1,000 or 1:5,000 scale);
- Environmental impact assessment.³

Artisanal mining licence

- Artisanal mining fee: payment of a duty for drawing-up this licence. Also subject to pay an annual surface tax.
- Maximum size (ha): Not specified
- Duration (years): valid for an initial period of five (5) years
- Renewal (years): Renewal is according to the estimated life of Deposit Reserves.
- Minimum spending: fixed annual obligatory investment. It may be reviewed in cases of an adverse economic cycle or an appreciable depreciation of the prices of the granted mineral substances.
- Work to programme: Yes. Compliance with general programme and plans of projected operations, is expected (although not clearly specified)
- Environmental plan: Yes. Environmental impact study and mitigating actions must be presented
- Social requirement: Yes. As stipulated in Article 152, activities under this licence must be in compliance with Regulatory requirements enacted with respect to: Explosives, transportation, storage and utilization, Safety and hygiene, protection of animals and plants, protection of historic and archeological sites and monuments, scheduling water flow and drinking water supply, irrigation or industrial requirements of protection perimeters, Training of engineer students in mining fields and others according to schemes fixed with Universities, Schools and Institutes for staff training*****
- Reporting requirement: Yes. Annual reports must be compliant with set decree of the Minister in charge of mines and with provisions of Investment Code (Decree of October 5, 1993)¹. Report on the Prospecting and Exploration results must be presented (although it is not prescriptive on the international Code to comply with, probably JORC code).
- Rights of holder:
The licence holder is entitled to perform activities, on an artisanal basis, consisting of development preparatory works, mineral substances extraction and/or concentration, and the first transformation of extracted mineral substances.

He is also entitled to:

- a. rights of occupancy of land and connected benefits as regards carrying out of construction works and facilities for housing of staff and infrastructure necessary for the performance of operations relating in particular to the transportation of material, equipment and extracted products etc.;
- b. access, passage and aqueduct incumbrances;
- c. availability, acquisition of land by transfer or expropriation;

d. Carry out drilling and works required for all kinds of procurement²

Other information:

Any corporate or natural entity holding an Exploration Permit, or a Prospecting authorization, or the successful bidder (in the respective order), is liable to the grant of an Exploitation Permit. The documents to be provided for application of this licence include

1. Previous Prospecting Authorization or Exploration Title or awarding act;
2. Prospecting or exploration results;
3. Information on financial capacities;
4. Full names, titles and addresses of the persons in charge of carrying out the works
5. Delimitation of the site at the map 1:25,000 or 1:50,000 scale;
6. Description of the Exploitation method on the map at 1:5,000 or 1:10,000 scale;
7. Mineral substance for which the request is being filed;
8. Forecasted production and estimated cost produced unit;
9. Environmental impact study and mitigating actions.³

Authorization for a non-industrial mining exploitation

- Non-industrial mining fee: fee for issuing this licence is AD 15,000. The renewal, modification, transfer or assignment fee is AD 30,000. Also subject to pay an annual surface tax.
- Maximum size (ha): Not specified
- Duration (years): The initial grant period is five (5) years
- Renewal (years): Renewal is according to the estimated life of Deposit Reserves.
- Minimum spending: fixed annual obligatory investment. It may be reviewed in cases of an adverse economic cycle or an appreciable depreciation of the prices of the granted mineral substances.
- Work to programme: Yes. Compliance with general programme and plans of projected operations, is expected (although not clearly specified)
- Environmental plan: Yes. Environmental impact study and mitigating actions must be presented
- Social requirement: Yes. As stipulated in Article 152, activities under this license must be in compliance with Regulatory requirements enacted with respect to: Explosives, transportation, storage and utilization, Safety and hygiene, protection of animals and plants, protection of historic and archeological sites and monuments, scheduling water flow and drinking water supply, irrigation or industrial requirements of protection perimeters, Training

of engineer students in mining fields and others according to schemes fixed with Universities, Schools and Institutes for staff training****

- Reporting requirement: Yes. Annual reports must be compliant with set decree of the Minister in charge of mines and with provisions of Investment Code (Decree of October 5, 1993)¹. Report on the Prospecting and Exploration results must be presented (although it is not prescriptive on the Code to comply with)****
- Rights of holder:
The licence holder is entitled to perform exploitation activities, for non-industrial purpose, within area specified in the licence.

He is also entitled to:

- a. rights of occupancy of land and connected benefits as regards carrying out of construction works and facilities for housing of staff and infrastructure necessary for the performance of operations relating in particular to the transportation of material, equipment and extracted products etc.;
- b. access, passage and aqueduct incumbrances;
- c. availability, acquisition of land by transfer or expropriation;
- d. Carry out drilling and works required for all kinds of procurement.²

He is required to commence works at the latest one year after the granting of the licence and pursue them with due diligence in accordance with the good engineering practice.²

Other information:

This authorization shall be granted to the first applicant who is either a corporate or natural entity, holding an Exploration Permit, or a Prospecting authorization, or any other applicant (in the respective order), on the perimeter applied for.

Pick-up Authorization

- Pick-up fee: fee for issuing this licence is AD 10,000.
- Maximum size (ha): defined in Regulations, according to Article 131
- Duration (years): defined in Regulations
- Renewal (years): defined in Regulations.
- Minimum spending: fixed annual obligatory investment.
- Work to programme: Not mentioned
- Environmental plan: Not mentioned
- Social requirement: Not mentioned
- Reporting requirement: Yes. defined in Regulations
- Rights of holder:
One single person is entitled to claim a single authorization during the same period.

Other information:

The grant of this authorization is reserved to Algerian natural or legal persons. The regulations also define, for each mineral substance, in particular:

- a. The regions of the country where this type of mining activity is authorized;
- b. The maximum surface areas authorized for the performance of such mining activity;
- c. The periods of the year during which such mining activity could be exercised;
- d. The rules applicable to the submission of application for authorization and procedures relating thereto;
- e. The scale of the fee levied on pickup shall be set forth by the annual finance law
- f. One single person may claim only one single authorization during the same period.²

Authorization of Exploitation of Quarries and Sand Pits

- Exploitation of Quarries and Sand Pits fee: payment of duty levied on drawing—up this license and annual surface tax are set forth by the annual finance law.
- Maximum size (ha): defined by regulatory process as stated in Article 132 of the Act.
- Duration (years): defined by regulatory process.
- Renewal (years): defined by regulatory process.
- Minimum spending: fixed annual obligatory investment.
- Work to programme: Not mentioned
- Environmental plan: Not mentioned
- Social requirement: Not mentioned
- Reporting requirement: Yes. Defined by regulatory process.
- Rights of holder:
The rights, terms and provisions of enforcement of this licence shall be set forth by regulatory process.

Authorization for Offshore Activities of Research and Exploitation of Mineral substances.

- Application fee: payment of duty levied on drawing—up this licence.
- Maximum size (ha): a safety zone can be established extending over five hundred (500) metres measured from each point of the outer edge of such facilities and machinery.
- Duration (years): duration is dependent on type of licence held- research (prospecting, exploration) or exploitation
- Renewal: Renewal is according to the estimated life of Deposit Reserves
- Minimum spending: fixed annual obligatory investment as applicable to mineral rights on land. It may be reviewed in cases of an adverse economic

cycle or an appreciable depreciation of the prices of the granted mineral substances.

- Work to programme: Compliance with submitted development programme and plans of operations, is expected
- Environmental plan: Environmental Impact Statement and Management Plan
- Social requirement: Yes. Activities under this license must be in compliance with Regulatory requirements enacted with respect to: installations, machineries, transportation, storage and utilization, safeguard of human life in the sea, Training of engineer students in mining fields and others according to schemes fixed with Universities, Schools and Institutes for staff training etc.²
- Reporting requirement: Yes. Annual reports must be compliant with set decree of the Minister in charge of mines and with provisions of Investment Code (Decree of October 5, 1993)¹. Report on the Prospecting and Exploration results must be presented (although it is not prescriptive on the Code to comply with)^{****}
- Rights of holder:
The licence holder is entitled to perform research and exploitation activities of mineral or fossil substances, within the maritime regions under Algerian jurisdiction. The Algerian State exercises sovereign rights on the whole of the maritime regions specified in Article 2, for the purposes of and exploitation of mineral or fossil substances².

References

1. Algeria: A supplement to Mining Journal: http://www.mem-algeria.org/actu/comn/pubt/Algeria_Supplement_Mining_Journal.pdf
2. Ministry of Energy and Mining, Mining Act, Law 01-10 of July, 3rd, 2001: http://www.mem-algeria.org/fr/legis/mining_act_2001.pdf
3. Mining Law N°01-10: <http://www.mem-algeria.org/opportunities/mining.htm>

COUNTRY: CHILE
GRANTING OF MINERAL RIGHTS

ADMINISTRATION ISSUES

State agency: Mineral rights are granted by the State but issued by civil courts or a professional administrative official as delegated by the Minister of Mining, under the provisions of the Chilean Mining Code (Law number 18248), 1983. The Administrative process of mining activities is handled by the National Service of Geology and Mining.

Process/procedure:

In Chile, mining ventures can be fully owned by foreign entities i.e. 100% foreign ownership is possible.¹

The acquisition of mineral concessions in Chile is either through the filing of an application to the courts or through purchase agreements of an existing mining concession. The courts issue concessions either on a first-come, first-served or auction bases. The legal procedure for application for and the granting of a new mining concession is specified in detail in Mining Code². Overlapping or superimposing concessions are prohibited.

Exploration and exploitation concessions are obtained and maintained by:

- i. obtaining water rights over surface, underground or marine waters, since about 98% of mining in Chile takes place in desert or semi-desert areas;
- ii. meeting the annual obligation of timely payment in full of the applicable amount of what is called, in Chile, the “patente”.³

Exploration and exploitation concessions share the following characteristics:

- a. “They entitle concession holders to property rights that are different to those held by owners of the surface lot of land. Thus, two owners of a given tract of land may exist (one in the case of the surface lot of land and the other in the case of the mining concession);
- b. They entitle concession grantees to an easement in the surface land in order to permit prospecting and mining activities in connection with the concession, as well as the operation of facilities for processing minerals;
- c. They are subject to a licensing system, payable to the national Treasury. Failure to comply with this obligation may entail loss of the concession;
- d. They grant the right to hold title to any waters found during the mining activities provided that these are necessary for the performance of such activities; and
- e. They can be waived, notwithstanding the right of third parties to oppose such action to the extent that they are affected by it”.⁴

Chilean mining legislation does not include special causes for the cancellation of concessions, like the failure to comply with an investment plan and abandonment but for cases where the application fees are not paid or annual mining licence fees are in arrears, as private property rights are protected by the Constitution. If the annual mining concession fees are in arrears, the designated Court can, after the 1st of June of the same year and at some date proposed by the Chilean Treasury and approved by the designated Court, put up the mining concession for auction.

Reconnaissance Licence: Not mentioned

- Reconnaissance fee
- Maximum size (ha):
- Duration (months):
- Renewal (months):
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement:
- Reporting requirement
- Rights of holder:

Retention licence: Not mentioned

- Exploration fee
- Maximum size (ha)
- Duration (months)
- Renewal (months)
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement
- Reporting requirement
- Rights of holder

Exploration Concession

- Exploration fee:
 - a) US\$0.34 per ha. Surfaces up to 300 ha.
 - b) US\$1.38 per ha. Surfaces between 300 and 1.500 ha.
 - c) US\$ 2.07 per ha. Surfaces between 1.500 and 3.000 ha.

d) US\$ 2.76 per ha. Surfaces over 3.000 ha.

It is also subject to payment of Annual taxes of 1/50 UTM per ha (Universal Transversal Mercator (UTM) coordinates are used to define the property using points which are very exact and restrictive).¹

- Maximum size (ha): information not found as at time of compilation
- Duration (months): The initial grant of the licence is limited to two years
- Renewal (months): It can be renewed for another period of two years
- Relinquish areas: 50% of the initial area is abandoned on renewal
- Minimum spending: US \$10,000 under Foreign Exchange Regulations and US \$5 million under Foreign Investment Statute^{1****}
- Work to programme: No. "Work requirements have been eliminated in Chile".³
- Environmental plan: Yes. Exploration activities must be subject to evaluation of the Environmental Impact Assessment System.
- Social requirement: Yes. There is requirement for creation of employment; at least 85% of a single workforce must be Chilean.
- Reporting requirement: No information on reporting of exploration results was obtained as at the time of compilation of this report.
- Rights of holder:
The licence confers on its holder the legal rights to explore for mineral substances in a specified area. The concession is private property which is transferable, transmittable, and liable to mortgage and in general, be subject to the same civil laws applying to real property.⁵

The holder also has the exclusive right to:

- i. make trial boreholes and generally undertake prospecting activities;
- ii. initiate the procedure for obtaining a mining concession within the boundaries and during the time period of the exploration concession, as it deemed as a legal continuity to the process for filing for a mining concession;
- iii. use the minerals that are the subject of the concession for the purposes of exploration and investigation;
- iv. be indemnified in the event of an expropriation; and
- v. oppose mining activities that third parties may attempt to conduct within the boundaries of the concession.⁴

Other information:

Filing an application for an exploration concession is considered as part of the process for filing for a Mining Concession. Its filing involves less work and fewer stages of filing, No surveying or field work is required. The initial filing date for the exploration concession is also applied as the initial filing date for the mining concession. In granting the exploration concession, the first to file has priority, with no prior review of the technical and/or financial qualifications of applicants.

Mining Concession

- Mining fee:

- a) US\$0.69 per ha for surfaces up to 100 ha.
- b) US\$1.38 per ha for surfaces between 100 and 300 ha.
- c) US\$2.76 per ha for surfaces between 300 and 600 ha.
- d) US\$3.45 per ha for surfaces over 600 ha.

It is also subject to payment of Annual taxes of 1/10 UTM per ha (Universal Transversal Mercator (UTM) coordinates are used to define the property using points which are very exact and restrictive).¹

- Maximum size (ha): The area is limited to a maximum of 1,000 hectares.
- Duration (years): It is granted for an unlimited duration.
- Renewal: Not Applicable
- Minimum spending: US \$10,000 under Foreign Exchange Regulations and US \$5 million under Foreign Investment Statute¹
- Work to programme: No. "Work requirements have been eliminated in Chile".^{3****}
- Environmental plan: Yes. Mining activities must be to evaluation of the Environmental Impact Assessment System.
- Social requirement: Yes. There is requirement for creation of employment; at least 85 per cent of a single workforce must be Chilean.
- Reporting requirement: A thorough Titles report regarding the mining rights in respect of financial deals must be performed.¹ No information on reporting of exploration results was obtained as at the time of compilation of this report.
- Rights of holder:

The licence confers on its holder the legal rights to explore and extract mineral substances that are the subject of the concession. A mining concession is a real property right which is transferable, transmittable to another eligible holder without the prior written consent of the granting authority, and defensible against the State or whatever individual and in general is subject to the same civil laws applying to real property. The concession can also be used as collateral to secure loans taken to finance the project.

Its holder is entitled to:

- i. hold title to all extracted mineral substances that are the subject of the concession; and
- ii. be indemnified in the event of an expropriation.⁴

- iii. request for mining easements for access over surface real estates, which can be either negotiated and agreed with the surface land's owner or granted by the judicial courts in case of lack of understanding between parties, for the full term of the mining project.

Other information:

The process of applying for a Mining Concession requires an exhaustive and technically demanding survey¹, but it is not required that the existence of a commercial deposit is proved. Also, no prior review by the state of the applicant's technical and financial qualifications is required.³

In Chile, for mining rights granted under a concession, the investor usually enters a stabilization agreement with the government represented by the Foreign Investment Committee. This agreement allows the investor to operate in a stabilized legal and fiscal environment relating to the investment. Specified taxes, customs and foreign exchange provisions for the payment of costs and the repatriation of profits and capital, are kept unwavering for terms of up to 20 years⁶. Stabilization agreements are prepared in standard, non-negotiable modes which do not imply any form of special treatment and contain no tax incentives or absolution from obligatory requirements of mining concessions.⁷

The current Mining Royalty Tax regime is mandatory charged based on annual operational income of mining activity with annual sales above 12,000 metric tons of fine copper. For annual sales above the value of 50,000 metric tons of fine copper, a 5% flat tax rate is paid. For annual sales of value between 12,000 and 50,000 metric tons of fine copper, the tax at progressive rates ranging between 0.5% and 4.5% is paid. The average value of fine copper at the London Metal Exchange is used to calculate the value of a metric ton of fine copper in Chile.¹

References

1. Mining – Chile by Antonio Ortuzar Jr and Maria Paz Pulgar:
<http://www.latinlawyer.com/reference/article/40658/mining/>
2. Mineral Property Summary (An excerpt taken from the MRB 20-F):
[http://www.wikinvest.com/stock/Metallica_Resources_\(MRB\)/Mineral_Property_Summary](http://www.wikinvest.com/stock/Metallica_Resources_(MRB)/Mineral_Property_Summary)
3. Undermining mineral rights: An international comparison by Johan Biermann:
<http://www.freemarketfoundation.com/htmupload/PUBDoc805.doc>
4. Energy & Natural Resources – Chile, Legal Framework for Mining Activities:
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http://findarticles.com/p/articles/mi_m1052/is_v7/ai_3167681/
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COUNTRY: DEMOCRATIC REPUBLIC OF CONGO (DRC) GRANTING OF MINERAL RIGHTS

ADMINISTRATION ISSUES

State agency: Ministry of Mines, vests the Minister of Mines with the authority for the granting, refusal, suspension and termination of mineral rights

According to Article 25 the Act, persons or entities can apply as Authorized mining and quarry agents. They possess the role of representing the Ministry of Mines in relation to matters of providing advice and/or assistance to any person interested in the granting and the exercise of mining and quarry rights as well as providing litigation assistance. They are approved in advance by the Ministry for their integrity, ethics, competence and in-depth knowledge of the mining legislation or the management of mines or quarries and compliance with the related conditions set forth in the Mining Regulations. Once approved, they are listed and published by the Mine Authority. This list is updated every year.¹

Process/procedure:

There exist a number of mining/ quarry rights that can be obtained in the DRC. They include Prospecting Certificate, Exploration Licence, Mining Licence, Small-scale mining Licence, Artisanal Miners card, Licence for Exploitation of Tailings, Licence for Exploitation of Quarry products, Permanent and Temporary Exploitation Licence for Quarry products. These activities amongst other things have formal requirements for Environment Impact Assessment in terms of Mitigation and Rehabilitation Plan in relation to the prospecting and exploration operations for mineral substances classified as mines and quarries and Environmental Impact Study (EIS) and the Environmental Management Plan of the Project (EMPP) in relation to mining or quarry exploitation rights.

Conditions of eligibility are provided in Article 23 and stated as follows:

- a) Any individual of age who is a Congolese national, as well as any legal entity incorporated pursuant to Congolese law and which has its registered administrative office in the National Territory and whose corporate purpose is mining activities.
- b) Any individual of age of foreign nationality, as well as any legal entity incorporated pursuant to foreign law of the present article. Such a person or entity is required to elect domicile with an authorized mining and quarry agent located in the National Territory, and to act through his intermediary;
- c) Any entity carrying out scientific activities.

If the foreign entities are incorporated pursuant to foreign law, they are only eligible for mineral and/or quarry prospecting rights. The prescribed format of the file for mining/ quarrying right applications to be submitted to the Mining Registry must include the following:

- a) The application form, duly completed and signed;

- b) The applicant's identity, nationality, the domicile and the coordinates of the applicant and/or of his agent if the application is submitted by the latter.
- c) In the case of a legal entity, the name of the firm, its nationality, the registered headquarters and, if applicable, the location where exploitation takes place and/or the identity of its agent if the application is submitted by the latter;
- d) The professional and legal status of the applicant and the address of the registered headquarters of the legal entity, if applicable;
- e) The type of mining or quarry right applied for;
- f) indication of the mineral substances for which the mining or quarry right is being applied for;
- g) The geographical location of the Perimeter applied for;
- h) The number of quadrangles making up the surface area of the Perimeter applied for;
- i) The identity of the applicant's affiliated companies;
- j) The nature, number and surface area of the Perimeters of the mining or quarry rights already held by the applicant and its affiliated companies.
- k) Any other documents required according to the type of right applied for.
- l) proof of payment of the filing costs.¹

The processing of the application begins with the technical and environmental evaluation of all supporting documents and plans by the registrar. This will facilitate or not the grant of the rights that is applied for. Once a favorable opinion is given, the competent authority makes its decision regarding the granting of the rights and sends it to the Mining Registry within a maximum of 10 working days as of the date of filing of the application to render a decision for each type of application for mining or quarry rights. Mining Registry sends the application file, together with the technical and environmental opinion of the Directorate of Mines, to the Minister within a maximum period of 5 working days.²

If the right is granted, the Mining Registry proceeds to register it, notify the applicant of the grant decision and displays it in accordance to the provisions of the Mining Regulations. If unfavourable decision is made in regards to the refusal of the rights, the Mining Registry must also proceed to register the decision, notify the applicant of the decision and to display it in accordance to the provisions of the Mining Regulations. Without prejudice to the provisions of article 46 of the present Code, Renewals are also to be registered by the Mining Registry within a period of five working days, from the date the renewal is assumed to have been granted.

In cases relating to a deposit which has been studied, documented or possibly worked on by the State or its entities and which is considered as an asset with considerable known value, the Minister may openly or by invitation offer for bidding the application for mining and quarry rights. The reservation of the mining rights by the Minister relating to the deposit offered to tender must be confirmed by the President of the Republic within thirty (30) days following the entry into force of the Ministerial Decree relating to its reservation. The invitation to bid must be concluded within a period of one (1) year from the date of entry into

force of the Decree relating to the reservation of the deposit in question. The invitation to tender is published in the Official Gazette and/ or in the specialized local and international newspapers. The terms and conditions for the bids as well as the date on which and the address to which the tenders must be submitted are to be published. The selection of the best bid by an Inter-ministerial Commission, made in compliance with the generally accepted procedures or recognized international mining practice, is on the basis of assessing:

- a) Plan of work proposed and financial costs relating thereto;
- b) Available financial and technical capacity of the bidder;
- c) Previous experience of the bidder in carrying out the operations proposed;
- d) Various other socio-economic advantages for the State, the province and the surrounding community, including the signature bonus offered.¹

The result of the selection and the removal of the reservation are published by the Minister.

If the competent authority does not send its decision in prescribed manner, the Mining Registry shall immediately erase the registration of the Perimeter on the registry survey map. The applicant must be notified of the fact that the registration has been erased.¹

Reconnaissance Licence: **Not mentioned**

- Reconnaissance fee
- Maximum size (ha):
- Duration (months):
- Renewal (months):
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan:
- Social requirement:
- Reporting requirement
- Rights of holder:

Retention licence: Not mentioned

- Exploration fee
- Maximum size (ha)
- Duration (months)
- Renewal (months)
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement

- Reporting requirement
- Rights of holder

Prospecting Certificate

- Prospecting fee: A fee is charged when filing applications as specified in Article 37
- Maximum size (ha): Not specified but the Perimeter of a mineral exploration right may overlap with the Perimeter of a quarry exploration right or a temporary quarry exploitation right.
- Duration (months): granted for a period of two years
- Renewal (months): cannot be renewed
- Relinquish areas: Not mentioned
- Minimum spending: Not mentioned
- Work to programme: Not mentioned
- Environmental plan: A Mitigation and Rehabilitation Plan must be submitted which would undergo technical evaluation as specified in Article 15b
- Social requirement: Not clearly specified
- Reporting requirement: Reporting must be compliant to Mining Code (2002) and its Regulations
- Rights of holder:

The holder of a Prospecting certificate has rights to freely carry out prospecting operations which do not noticeably affect the local topography within the extent of an administrative territorial unit specified on its Prospecting Certificate, as well as taking of samples for analysis in the laboratory of his choice. However, the quantity and the volume of the samples to be taken by a holder of a Prospecting Certificate are prescribed in the Mining Regulations. The Certificate holder may freely send the samples which he has taken in the plot of land specified on his Prospecting Certificate for assaying outside the DRC, provided he has submitted a duplicate sample and a description, stating the number of samples, their volume and weight to the Geology Directorate of the Ministry of Mines or the local office of the latter, and has obtained consent from this office on a copy of the description. The given consent from the Geology Directorate on a copy of the description of the samples indicates that the holder has acquired the ownership of the samples in question while the samples submitted (to the Geology Directorate) are the property of the State.

The Prospecting certificate holder is also required to inform the local authority of his arrival in and his departure from each administrative district where he is carrying out his Prospecting work; not to carry out any exploration or exploitation.

The Prospecting Certificate is not exclusive nor does it indicate a mineral or mining right or confer any priority for the obtaining of a mining or quarry right. A prospecting certificate holder is entitled to obtain successive Prospecting Certificates for the same plot of land. If a case arises where the Mining

Register fails to issue a Prospecting Certificate within the deadline provided in Article 18, the receipt for the declaration of prospecting will be deemed as a Prospecting Certificate.

Other information:

Mineral prospecting may be carried out over the entire Territory of the DRC but it is precluded from Protected areas and natural reserves of flora and fauna, as well as in the protected areas governed by special laws; Areas declared to be prohibited areas according to Article 6 of the Mining Code; Restricted and restricted access areas according to articles 279 and 282 of the Code; Perimeters of existing mining and/or quarry rights.¹

Mineral Exploration Licence (Exploration Certificate)

- Exploration fee: A fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year and pays the annual surface area fees per quadrangle in the amount of Congolese Francs equivalent to 0.03 USD per hectare for the first two years of the first term of validity; the amount in Congolese Francs equivalent to 0.31 USD per hectare for the remaining years of the first term of validity; the amount in Congolese Francs equivalent to 0.51 USD per hectare for the second period of validity; and, the amount in Congolese Francs equivalent to 1.46 USD per hectare for the third period of validity of his title.¹
- Maximum size (ha): cannot exceed a maximum of 400 km². An entity and its affiliated companies cannot hold more than fifty Exploration Licences. In any event, the surface area granted to them may not exceed 20,000 Km² on the entire National Territory.¹
- Duration (years): granted for Four years for precious stones; Five years, for other mineral substances.
- Renewal (years): renewable twice for a period of two years each, for precious stones; renewable twice for a period of five years each renewal, for other mineral substances. Application for renewal must be made at least three months before the expiry date of the licence. If the Minister does not reply to the renewal application which has been submitted in the appropriate manner within thirty (30) days from the date of filing, the renewal applied for can be taken as granted.¹
- Relinquish areas: 50% of the Perimeter covered by his licence is relinquished automatically on renewal.

- Minimum spending: The minimum financial capacity required is equal to ten times the total amount of the annual surface rights fees payable for the last year of the first period of validity of the exploration licence applied for.¹
- Work to programme: Yes
- Environmental plan: Strict requirement of a Mitigation and Rehabilitation Plan before any exploration work can commence. The plan is prescriptive of environmental quality standards for water quality, air pollution and noise.²
- Social requirement: Not mentioned
- Reporting requirement: Exploration work reports are to be prepared and submitted in compliance with Mining Code and its Regulations. Results (mineral resources and ore reserves) are to be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:

The holder has exclusive right, within the Perimeter indicated on the License and for the term of its validity, to carry out mineral exploration work for mineral substances for which the licence has been granted, and associated substances if the holder applies for the licence to be extended to include these substances; to take samples of the mineral substances within the Perimeter indicated on his Licence in order to carry out analyses or industrial assays in the laboratory of his choice. The right is conveyable and transferable. As in the case of a prospecting Certificate, if the holder of an Exploration Licence wishes to send the samples outside the DRC for assaying, he must submit a duplicate sample of all of the samples or samples batches and a description, stating the number, volume and weight, to the Geology Directorate of the Ministry of Mines, and obtain a consent on a copy of the description. The given consent indicates the licence for the samples taken.

If the holder discovers a deposit which can be economically exploited, he is entitled, at any time before expiry of his License, to apply for an Exploitation Licence or a Small-scale Mining Exploitation License, of for all or part of the mineral substances indicated in the Mineral Exploration Licence, and the associated substances within the area covered by the Mineral Exploration Licence. The following documents should be attached to the application:

 - a) A copy of the valid Exploration Certificate;
 - b) The report on the outcome of exploration work with regard to the nature, the quality, the volume and the geographical situation of the mineral resources identified;
 - c) The feasibility study for the exploitation of the deposit;
 - d) The technical framework plan for the development, construction and exploitation work for the mine;
 - e) The EIS and EMPP for the project;
 - f) The report on the consultations with the authorities of the local administrative entities and with the representatives of the surrounding communities;

- g) The plan as to how the project will contribute to the development of the surrounding communities;
- h) The financing plan identifying the planned sources of financing;
- i) The proof of payment of the filing costs.¹

The holder of an Exploration Licence also has the rights to request the transformation of his original Exploration Licence into multiple Exploration Licences on the part of the Perimeter which is not transformed into an Exploitation Licence or into a Small-scale Mining Exploitation License. He may at any time, in whole or in part, relinquish the right covering his Perimeter and this comes to effect on the day the Minister makes acknowledgement of it, or within three months as of the date the declaration is submitted.

The Exploration Licence holder is required to commence the exploration works within a period of six months as of the issue date of the right.¹

Other information:

Exploration activities are to be carried out, without noticeably affecting the interests of lawful occupants of land and surface rights holders including their customary rights. If any disturbance occurs, the License holder must make fair compensation payments to the lawful occupants and surface rights holders.³

Mining licence (Exploitation Certificate)

- Mining fee: A fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year and pays for the annual surface per quadrangle in the amount of Congolese Francs equivalent to 5.00 USD per hectare regardless of the term of validity of his title.¹
- Maximum size (ha): Not specified. The Perimeter of the surface area covered by this Licence is that of or part of the Perimeter covered by the Exploration Licence from which it originates. An Exploitation Certificate holder cannot have in possession more than fifty Exploitation Licences.¹
- Duration (years): granted for an initial period of 30 years
- Renewal: renewable for successive periods of fifteen years.
- Minimum spending: Not specified although a financing plan identifying the planned sources of financing must be submitted
- Work to programme: Yes. The technical framework plan for the development, construction and exploitation work for the mine.²
- Environmental plan: The Environmental Impact Study (EIS) and the Environmental Management Plan of the Project (EMPP) must be submitted,

which must comply with prescribed measures for safety, health and environmental quality standards for water quality, air pollution and noise. Areas designated by the President as Prohibited Areas, on account of their environmental sensitivity are precluded from mining activities.²

- Social requirement: A Social-Agriculture plan showing how the project will contribute: to distribution and production of genetically modified seed, artisanal fisher; surrounding community development such as health, rehabilitation of rural tracks and roads, education, water and sanitation; and social protection of vulnerable people such as the aged, women and AIDS orphans.²
- Reporting requirement: Reports of activities are to be prepared and submitted in compliance with the Mining Code and its Regulations. Mineral resources and ore reserves are to be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
Its holder has exclusive right to carry out, within the Perimeter over which it has been granted, and during its term of validity, exploration, development, construction and extraction of the mineral substances for which the licence has been granted provided they can be economically exploited, and associated substances if he has applied for an extension. The right is conveyable, transferable and can be leased, in accordance with the provisions of the present Code.
In addition, the holder is entitled, without restriction, to:
 - a) "Enter the exploitation Perimeter to conduct mining operations;
 - b) Build the installations and infrastructures required for mining exploitation; Use the water and wood within the mining Perimeter for the requirements of the mining exploitation, complying with the requirements set forth in the EIS and the EMPP;
 - c) use, transport and freely sell his products originating from within the exploitation Perimeter;
 - d) proceed with concentration, metallurgical or technical treatment operations, as well as the transformation of the mineral substances extracted from the deposit within the exploitation Perimeter;
 - e) Proceed to carry out works to extend the mine.¹

The License holder may proceed, at his own cost, within two months after the date of issue of the license, to survey his Perimeter.

The licence holder is required to commence development and mine construction in compliance with specific rules relating to, among others, protection of the environment, cultural heritage, health and safety, construction and infrastructure planning within three years of the grant of the Licence. The breach of this may lead to forfeiture or payment of penalties.

The holder may at any time, in whole or in part, relinquish the right covering his Perimeter by making a declaration addressed to the Minister. It comes into effect on the day the Minister records it or within three months as of the day the declaration is submitted.¹

Mining activities are to be carried out, without noticeably affecting the interests of lawful occupants of land and surface rights holders including their customary rights. If any disturbance occurs, the License holder must make fair compensation payments to the lawful occupants and surface rights holders.

Other information:

A stability agreement of 10 years exists in favour of a Mining Licence holder which ensures that existing tax, customs, exchange and benefits applicable to mining activities are guaranteed to remain unchanged in the event that amendment of the Mining Code results in less favourable payment obligations.³

Licence for the Exploitation of Tailings

- Exploitation of Tailings fee: A fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year and pays for the annual surface area fees per quadrangle in the amount of Congolese Francs equivalent to 8.00 USD per hectare, regardless of the term of validity of his title.¹
- Maximum size (ha): Not specified but the Perimeter of surface area covered by the Licence must comply with the provisions of Article 28 of the Code.
- Duration (years): granted for five years.
- Renewal (years): renewable several times for the duration of 5 years
- Minimum spending: Not specified although a financing plan identifying the planned sources of financing must be submitted.
- Work to programme: Yes. The technical framework plan for the development, construction and exploitation work for the mine.²
- Environmental plan: The Environmental Impact Study (EIS) and the Environmental Management Plan of the Project (EMPP) must be submitted, which must comply with prescribed measures for safety, health and environmental quality standards for water quality, air pollution and noise. Areas designated by the President as Prohibited Areas, on account of their environmental sensitivity are precluded from mining activities.
- Social requirement: A Social-Agriculture plan showing how the project will contribute: to distribution and production of genetically modified seed, artisanal fisher; surrounding community development such as health,

rehabilitation of rural tracks and roads, education, water and sanitation; and social protection of vulnerable people such as the aged, women and AIDS orphans.²

- Reporting requirement: Reports of activities must be prepared and submitted in compliance with the Mining Code and its Regulations. mineral resources and ore reserves are to be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
The holder of the Licence for the Exploitation of Tailings has exclusive rights to exploit artificial deposits located on the surface of the Mining Perimeter covered by the permit and does not extend in depth. The Licence for the Exploitation of Tailings is a real property, which is conveyable, transferable and can be leased, in accordance with the provisions of the present Code. If the Exploitation Licence does not expressly exclude the exploitation of artificial deposits, the holder of an Exploitation Licence may transfer the right to exploit artificial deposits located within his mining Perimeter to a third party, while retaining his underground rights. This implies that he requests the partial transformation of his Exploitation Licence into a Licence for the Exploitation of Tailings, as well as the transfer of this Licence to the transferee.
The holder of an Exploitation Licence for Tailings is required to commence the development and construction work within a period of one year, from the issue date of the licence.
The holder may at any time, either in whole or in part, relinquish the right covering his Perimeter which is the subject of his Licence, in accordance with the provisions of Article 79 of the Code.¹

Small-scale Mining Exploitation License (Certificate of Small-Scale Mining)

- Exploration fee: A fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year and pays for the annual surface area fees per quadrangle in the amount of Congolese Francs equivalent to 2.30 USD per hectare, regardless of the term of validity of his title.¹
- Maximum size (ha): Not specified but the Perimeter of the surface area in which the small-scale mining deposit exists should coincide with that of the Exploration Licence from which it originates or should be part of the Perimeter of the Exploration Licence which was transformed into a Small-Scale Mining Exploitation Licence. Its form and the localization must comply with the provisions of Articles 28 and 29 of the Code.
- Duration (years): the grant period is variable, but it may not exceed ten years. Its term may be extended by the Minister, depending on the circumstances, and for the substances whose exploitation exceeds ten years.

- Renewal (years): renewals are variable but it may not exceed ten years.
- Minimum spending: Not specified although a financing plan identifying the planned sources of financing must be submitted.
- Work to programme: Yes. The technical framework plan for the development, construction and exploitation work for the mine.²
- Environmental plan: The Environmental Impact Study (EIS) and the Environmental Management Plan of the Project (EMPP) must be submitted, which must comply with the prescribed measures for safety, health and environmental quality standards for water quality, air pollution and noise. Areas designated by the President as Prohibited Areas, on account of their environmental sensitivity are precluded from mining activities.
- Social requirement: A Social-Agriculture plan showing how the project will contribute: to distribution and production of genetically modified seed, artisanal fisher; surrounding community development such as health, rehabilitation of rural tracks and roads, education, water and sanitation; and social protection of vulnerable people such as the aged, women and AIDS orphans². Any foreign company set up pursuant to Congolese law must be in association with one or more persons of Congolese nationality whose participation in the capital of the company cannot be less than 25%.¹
- Reporting requirement: Reports of activities must be prepared and submitted in compliance with the Mining Code and its Regulations. Mineral resources and ore reserves may be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
The Small-Scale Mining Exploitation Licence holder is exclusively entitled to extract the mineral substances for which it has been specially granted and for which the Holder has identified and demonstrated the existence of a deposit its holder. The Small-Scale Mining Exploitation Licence is a real property, which is conveyable, transferable and can be leased, in accordance with the provisions of the Code. This right can be transformed into an Exploitation Licence if the technical conditions of exploitation justify/warrant it and may be extended to associated or non-associated substances.
The holder of a Small-scale Mining Exploitation Licence is required to commence the development and construction work within a period of one year, as of the issue date of the licence.¹

Artisanal Mining Licence (Artisanal miners card)

- Artisanal Mining fee: A fixed fee is charged every time a card is issued; the amount is determined by the regulations.

- Maximum size (ha): Not specified as an artisanal mining area is created pursuant to an order issued by the Minister.
- Duration (months): granted for 12 months (one year)
- Renewal (months): renewable for the period of one year, without restriction
- Relinquish areas: Not specified
- Minimum spending: Not specified
- Work to programme: Not specified
- Environmental plan: Article 53 requires that an Environmental Impact Notice, rather than an ESIS must be submitted for small projects which may not have a significant impact on the environment². The Notice must comply with the regulations regarding public safety, public health, use of water and the protection of the environment which apply to his mining activity.
- Social requirement: Not specified except that he must provide compensation to farmers for any damage caused by his activity.
- Reporting requirement: Reports of activities must be prepared and submitted in compliance with the Mining Code and its Regulations. Mineral resources and ore reserves may be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
The holder of artisanal miners card has rights to to extract gold, diamonds or any other mineral substance which can be mined artisanally, within the valid area of concern.
The artisanal miners card does not entitle its holder to transform the products resulting from artisanal mining except with prior authorization granted by the Minister.¹

Other information:

The eligibility for artisanal mining, without prejudice to the provisions of Article 27 is reserved to only individuals of age who are Congolese nationals.

A Mining Perimeter covered by a valid mining licence is precluded from being transformed into and expressly excluded an artisanal mining area created in accordance with the provisions of the Code. The Mining Registry is notified of the closure of an artisanal mining area and informs the Artisanal Miners who are obliged to free the artisanal mining area within sixty days as of the date the notification of the decision to close.¹

Exploration Licence of quarry products (Certificate of Exploration of Quarry Products)

- Quarry Exploration fee: A fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year and pays for the annual surface area fees per quadrangle in the amount in Congolese Francs equivalent to.005 USD per hectare, upon issuance of his title and upon renewal thereof, if applicable.¹

- Maximum size (ha): The size must not exceed a maximum of 4 square kilometres. The Perimeter for this licence must not overlap with a surface area which is already covered by an Exploitation Licence but it can coincide with the Perimeter for mineral exploration. A holder of this certificate cannot possess more than ten authorizations for exploration of quarry products.¹
- Duration (months): granted for 12 months (one year)
- Renewal (months): renewable once for the same period of one year. Renewal application must be submitted at least sixty days, and not more than ninety days, before the date of expiry of this Licence. The applicant must be notified within thirty days of outcome of the application. If the application is not refused but the applicant has not been notified in prescribed manner, the renewal is deemed to have been granted.
- Relinquish areas: 50% of the Perimeter covered by his licence is relinquished automatically on renewal***
- Minimum spending: is equal to five times the total amount of the annual surface area fees per square payable for the term of validity of the Exploration Licence of Quarry Products applied for.
- Work to programme: Yes
- Environmental plan: Strict requirement for the submission of a Mitigation and Rehabilitation Plan before any exploration work can commence. This plan must comply with the measures for safety, health and environmental quality standards for water quality, air pollution and noise.²
- Social requirement: Not mentioned
- Reporting requirement: prepare and submit the exploration work reports compliant with Mining Code and its Regulations. Results (mineral resources and ore reserves) may be reported (although it is not prescriptive on the Code to comply with).
- Rights of holder:
Its holder is entitled to obtain an authorization for quarry exploitation for all or some of the mineral substances covered under the Exploration Licence within the area covered by the Exploration Licence, if he discovers an economically viable deposit thereof. The Exploration Licence of Quarry Products is a real property, which exclusive, non-transferable, non-transmissible and cannot be leased. A holder cannot be in possession of more than ten authorizations for exploration of quarry products.

The Head of the Provincial Mines Division is responsible for granting or refusing the Exploration Licence of Quarry Products, and is expected to do so within a period not exceeding twenty working days as of the date of receipt of the file, without prejudice to the provisions of article 46 of the Code.¹

Permanent Quarry Exploitation licence (Certificate of Permanent Quarry Exploitation)

- Quarry Exploitation fee: A fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year and pays for the annual surface area fees per quadrangle in the amount in Congolese Francs equivalent to 2.00 USD per hectare, regardless of the term of validity of his title.¹
- Maximum size (ha): The size must not exceed a maximum of four square kilometers. Its Perimeter cannot overlap a surface area which is the subject of an Authorization for Quarry Exploration, nor a mining exploitation right held by a third party who has not given his consent in writing. It can coincide with the Perimeter for mineral exploration on the same site.
- Duration (years): granted for five years
- Renewal (years): renewable several times for the period of five years. The application for renewal must be submitted at the earliest twelve months, and at the latest, within six months before the date of expiry.
- Minimum spending: Yes but amount not specified
- Work to programme: Yes. Technical plan for the development, construction and exploitation work of the quarry.
- Environmental plan: The Environmental Impact Study (EIS) and the Environmental Management Plan of the Project (EMPP) must be submitted, which must comply with prescribed measures for safety, health and environmental quality standards for water quality, air pollution and noise. Areas designated by the President as Prohibited Areas, on account of their environmental sensitivity are precluded from mining activities.
- Social requirement: A Social-Agriculture plan showing how the project will contribute: to distribution and production of genetically modified seed, artisanal fisher; surrounding community development such as health, rehabilitation of rural tracks and roads, education, water and sanitation; and social protection of vulnerable people such as the aged, women and AIDS orphans.²
- Reporting requirement: Reports of activities must be prepared and submitted in compliance with the Mining Code and its Regulations. Mineral resources and ore reserves may be reported (although it is not prescriptive on the Code to comply with).
- Rights of holder:

The holder has quarry authorization which relate to the quarry substances which may be found on surface or in the subsoil, within the area covered by the Exploration license of which it originates. This License is exclusive, transferable, transmissible and can be leased.

If the surface area which is the subject of the application is located within the Perimeter of his property of a surface right holder, the Permanent Quarry

Exploitation Licence holder must obtain consent to carryout any activities within the area. Failure to obtain the consent and/or any disturbances posed to the surface right owner or any lawful occupant requires payment of fair compensation by the Licence holder.

The holder of a Permanent Quarry Exploitation License is required to commence the work within a period of six months from the issue date of the Licence.¹

Temporary Quarry Exploitation Licence

- Temporary Quarry Exploitation fee: **A** fee is charged when filing applications as specified in Article 37. At the time of issue of licence, holder pays for the surface area fees for the first year.
- Maximum size (ha): Not specified
- Duration (months): granted for one year
- Renewal (months): it cannot be renewed
- Relinquish areas: Not mentioned
- Minimum spending: Yes but amount not specified
- Work to programme: Yes, a technical plan for the exploitation work must be submitted.
- Environmental plan: According to Article 42, a Mitigation and Rehabilitation plan which is subject to the prescribed measures for safety, health and protection, must be submitted.
- Social requirement: Not specified
- Reporting requirement: Report of activities must be prepared and submitted in compliance with the Mining Code and its Regulations.
- Rights of holder:

The holder is only entitled to the quantity of the substances to be extracted which is specified by the Mining Regulations for this Licence. The duties to be paid, the conditions for occupation of the sites necessary for assaying of samples and related activities as well as the rehabilitation of the site after the sampling has been carried, are specified for this Licence. If at any time, the quantity of substances extracted exceeds the volume determined by the Exploitation Licence, they can be impounded or may be subject to additional taxes. Temporary Quarry Exploitation Licence is exclusive, transferable, transmissible and can be leased.

The Perimeter covered by a Temporary Quarry Exploitation Licence is precluded from being granted to any other quarry authorization. The holder however may, before his authorization expires, apply for the transformation of the temporary authorization into a permanent authorization.¹

Other information:

If the surface area which is the subject of the application is located within the Perimeter of his property of a surface right holder, the Temporary Quarry Exploitation Licence holder must obtain consent to carryout any activities within the area. Failure to obtain the consent and/or any disturbances posed to the surface right owner or any lawful occupant requires payment of fair compensation by the Licence holder.

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COUNTRY: GHANA
GRANTING OF MINERAL RIGHTS

ADMINISTRATION ISSUES

State agency:

Ministry of Mines and Energy. Granted by the Minister acting on behalf of the President and on the recommendations of the Minerals Commission to applicants who demonstrate adequate technical, financial and managerial capability to engage in mining activities.³

Section 5 of the Minerals and Mining Act, 2006 authorizes the Minister for Mines to exercise, within defined limits, powers relating to the negotiating, grant of mineral rights, the duration of the grant, the size of the concessions, eligibility criteria for the grantee, the procedure for application as well as transfer, amendment, renewal, cancellation and surrender of mineral rights. Minerals Commission (MINCOM) has the authority under the Constitution to regulate and manage the utilization of mineral resources and co-ordinate policies in relation to minerals.

Process/procedure:

A mineral right shall be granted to any person only in accordance with the provisions of the Minerals and Mining Act, 2006.

An application for a license shall be made in writing to the Minister in the prescribed manner. The prescribed manner requires all applications to be submitted to the Minerals Commission for processing. Each application must be accompanied with a statement providing:

1. particulars of the financial and technical resources available to the applicant for the proposed mineral operations,
2. an estimate of the amount of money proposed to be spent on the operations,
3. particulars of the programme of proposed mineral operations (e.g. their mining plans)
4. detailed environmental and social impact assessments (ESIA) and environmental and social management plans (ESMP)
5. Particulars of the applicant's proposals with respect to the employment and training in the mining industry of Ghanaians.

These plans will not be evaluated as part of the granting procedure, but they will be transferred to the mining inspectorate and other entities responsible for the authorization and, later, control of the mining activity. However, the development and initiation of mining operations should be conditional on a proper ESIA and ESMP (including a closure plan). The disapproval of such plans does not necessarily imply the loss of the mineral rights, but it indicates that the holder will always have the right to revise them, or, if he estimates that the mining would not

be profitable under more stringent conditions, to recover its exploration investment by transferring the mineral property to another holder.⁴

The Commission shall, unless delay occurs because of a request for further information from an applicant or a delay is caused by the applicant, submit its recommendation on an application for a mineral right to the Minister within ninety (90) days of receipt of the application. The Minister, on the recommendation of the Commission may issue the licence in the form and on conditions determined by the Minister. Mineral licences are generally allocated on a first-come, first served basis.

Mineral rights are granted subject to the fulfillment of a number of conditions, including:

1. the applicant being a body incorporated under the Companies Code 1963 (Act 179), under the Incorporated Private Partnerships Act 1962 (Act 152) or under an enactment in force;
2. the mining company has in place a qualified and experienced manager to take charge of the mineral operations;
3. possession of the necessary permits and approvals from the Forestry Commission and the Environmental Protection Agency (EPA) and its enabling Environmental Assessment Regulations, which have been in force since 1994 and 1999 respectively, for the protection of natural resources, public health and the environment;
4. Agreement to pay the prescribed royalties upon commencement of mining;
5. Respect for the surface rights of occupants of the land covered by the mining lease. The agreement also states that mining companies must pay compensation to owners of private lands or anyone who lawfully occupies land affected by the granting of the mineral right.²

The Minister shall within sixty (60) days on receipt of recommendation from the Commission make a decision and notify the applicant in writing of the decision on the application and where the application is approved. The notice shall include details of the area, the period and the mineral subject to the mineral right. The Minister shall, not less than forty-five (45) days prior to making a decision under section 13(1) of the Minerals and Mining Act, 2006, give a notice in writing of a pending application for the grant of a mineral right in respect of the land to a chief or allodial owner and the relevant District Assembly.¹

A notice given under section 13 (2) of the Act shall state the proposed boundaries of the land in relation to which the mineral right is applied for, and be published in a manner customarily acceptable to the areas concerned, and the Gazette and exhibited at the offices of the District Assembly within whose district, a part of the area is situated.¹

The applicant shall within sixty (60) days of receipt of notification of approval, notify the Minister in writing of acceptance of the offer of the grant. The Minister

shall upon receipt of the notification of acceptance of the offer, grant the mineral right to the applicant. An approved application shall lapse if the applicant fails to notify the Minister of an acceptance in accordance with subsection 13(4) of the Act.¹

Conditions under which mineral rights can be cancelled are stated as follows if the holder:

1. fails to make payments under the Mining Law when due;
2. is in breach of any provisions of the Mining Law or the conditions of the mineral right or the provisions of any other enactment relating to mines and minerals (e.g. including obstructing the government from exercising its pre-emption right and conducting mining, prospecting or related activities otherwise than in accordance with the Mining Law). Breaches of the Mining Law constitute offences punishable by fine or imprisonment. The maximum fine is 500,000 cedis (at the current exchange rate, equivalent to approximately \$50) and the maximum term of imprisonment is two years;
3. becomes insolvent or bankrupt;
4. makes a statement to the Minister of Mines in relation to the mineral right which he knows, or ought to have known to be false;
5. or for any reason becomes ineligible to apply for a mineral right under the provision of the Mining Law.⁹

The Minister may on the recommendation of the Commission suspend or cancel a mining lease or a restricted mining lease if the holder is in breach of the condition(s) of the mineral right. Before suspending or canceling a mineral right, the Minister shall notify the holder and in the notice require the holder to remedy a breach of the condition(s) of the mineral right within a reasonable period, being not less than one hundred and twenty (120) days in the case of a mining lease or restricted mining lease or sixty (60) days in the case of another mineral right. The holder must show cause to the reasonable satisfaction of the Minister, which/why any breach cannot be remedied, so as to prevent the mineral right from being suspended or cancelled. On cancellation of a mineral right, the rights of the holder shall cease but without prejudice to the liabilities or obligations incurred by another person in relation to the mineral right prior to the date of the cancellation.

A mineral right granted may not be transferred, assigned, tradable or otherwise dealt with in any other manner without the prior written approval of the Minister of Mines. Prior notification to the Minister of Mines is also required for ceasing, suspending or curtailing production. Subject to sections 73 and 74, any mineral right held is sufficient authority for the holder over the land and entitles the holder to enter the land in respect of which the right is granted. The holder of a mineral right is precluded from removing or destroying a mineral obtained by the holder in the course of mineral operations without the permission in writing of the head of the Inspectorate Division of the Commission.

A holder may apply for an enlargement of the mining area, which, subject to the Mining Law, the Minister of Mines may grant if satisfied that such approval is in the national interest. The Minister is also empowered, by Executive Instrument to declare a land which is not the subject of a mineral right, to be reserved from becoming the subject of an application for a mineral right for a mineral, or becoming the subject of an application for a mineral right in respect of specified minerals or of all minerals except specified minerals.¹

Reconnaissance Licence:

- Reconnaissance fee: An applicant for a mineral right shall pay a fee as may be prescribed. Also, annual ground rent and annual mineral right fee shall be paid as prescribed. Payments of annual ground rent shall be made to the owner of the land or successors and assigns of the owner except in the case of annual ground rent in respect of mineral rights over stool lands, which shall be paid to the Office of the Administrator of Stool Lands, for application in accordance with the Office of the Administrator of Stool Lands Act 1994 (Act 481). Payment of the annual mineral right fee shall be made to the Commission.¹
- Maximum size (ha): The area of land in respect of which a reconnaissance licence may be granted shall be a block or any number not more than five thousand contiguous blocks each having a side in common with at least one other block the subject of the application.¹
- Duration (months): granted for up to 12 months (1 year)
- Renewal (months): It may be renewed by the Minister for periods up to 12 months (1 year) at a time upon application by the holder. The application for renewal must be made at least three months before the expiration of the licence⁵. Renewal of any mineral right is subject to a power of disallowance, exercisable within 30 days of such grant.
- Relinquish areas: Not specified as Section 33 (6b) allows that a reconnaissance license holder may apply for extension of land with respect to the extension of activities to be conducted under the license.
- Minimum spending: Not clearly specified, probably negotiable per Reconnaissance licence
- Work to programme: Yes although not clearly specified in the Act
- Environmental plan: Yes. In applying for reconnaissance license, the necessary approvals and permits required from the Forestry Commission and the Environmental Protection Agency for the protection of natural resources, public health and the environment, must be obtained.⁹
- Social requirement: Yes although not clearly specified in the Act
- Reporting requirement: Not specified***
- Rights of holder:
The exclusive right conferred by Law 153 Mineral Rights allows for carrying out of reconnaissance in search of a specific mineral (or commodity) to which

the licence relates within the reconnaissance area and to conduct other ancillary or incidental activity. The recon can be carried out by geochemical and photo-geological surveys or other remote sensing techniques. For purposes of ancillary activities relating to the reconnaissance operations, the requisite approvals or licences under the Water Resources Commission Act 1996 (Act 552) must be acquired by the holder of a reconnaissance licence in order to obtain, divert, impound, convey and use water from a river, stream, underground reservoir or watercourse within the land the subject of the licence.⁹

Section 32(1) of Mineral Act 2006 confers rights on the holder of the reconnaissance licence to enter the reconnaissance area and erect camps or temporary buildings but is not authorized for drilling, excavation or other sub-surface techniques.

A reconnaissance licence holder may apply for and be granted a prospecting licence over all or part of the land and for a mineral the subject of the reconnaissance license within sixty days of the application by the Minister, if the holder has materially complied with the obligations imposed by this Act with respect to the holding of the licence, and obtaining the permits and other obligations required by law for this application.

A reconnaissance licence holder is also entitled, prior to the expiration of the licence, to apply for one or more mining leases in respect of all or any of the minerals the subject of the licence and in respect of all or any one or more of the blocks which constitutes the reconnaissance area, upon the presentation of an acceptable feasibility study which incorporates environmental impact studies.

Retention license: Not mentioned

- Exploration fee
- Maximum size (ha)
- Duration (months)
- Renewal (months)
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement
- Reporting requirement
- Rights of holder

Prospecting licence:

- Prospecting fee: An applicant for a mineral right shall pay a fee as may be prescribed. Also, annual ground rent and annual mineral right fee shall be

paid as prescribed. Payments of annual ground rent shall be made to the owner of the land or successors and assigns of the owner except in the case of annual ground rent in respect of mineral rights over stool lands, which shall be paid to the Office of the Administrator of Stool Lands, for application in accordance with the Office of the Administrator of Stool Lands Act 1994 (Act 481). Payment of the annual mineral right fee shall be made to the Commission.¹

- Maximum size (ha): A block or a number not exceeding 750 contiguous blocks each having a side in common with at least one other block the subject of the application (or a maximum area of 150 km² - 15000hectares). These limits may, at the direction of the President of the Republic, be exceeded in any particular grant whenever the President considers it to be in the national interest so to do.⁵
- Duration (months): The initial grant of the licence is limited to 36 months (3 years)
- Renewal (months): It may be renewed for a maximum of two terms or for a further period not more than three years⁹. According to section 35(1), the application for renewal must be made in respect of all or any number of blocks relating to the prospecting license, subject to section 38(3), in the form that may be prescribed to the Minister at any time but not later than three months before the expiration of the initial term of the license. Renewal of any mineral right is subject to a power of disallowance, exercisable within 30 days of such grant.
- Relinquish areas: At each renewal, half the licence area is required to be relinquished by the holder. If more than one prospecting licence is held, they may be treated as one area for purposes of shed-off.⁵
- Minimum spending: Specified under subsection 37(2h) of Act, per prospecting licence
- Work to programme: Yes. The proposed programme of prospecting operations must be submitted with the application. Its suitability in the Minister's reasonable opinion would facilitate the grant of the prospecting licence.
- Environmental plan: Yes. In applying for prospecting license, the necessary approvals and permits required from the Forestry Commission and the Environmental Protection Agency for the protection of natural resources, public health and the environment, must be obtained.⁹
- Social requirement: Yes although not clearly specified in the Act.
- Reporting requirement: Yes. All reports containing required information must be submitted to the Minister in prescribed manner. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder: Subject to this Act and the Regulations made under this Act, the holder has exclusive right within the licence area, to search for specific minerals (or commodities) by the conduct of geological and geophysical investigations and to determine the extent and economic value of any discovered deposit; make boreholes and excavations that may be necessary

for the prospecting purposes; erect camps and put up temporary buildings necessary for the prospecting operations and conduct other activity ancillary or incidental to the prospecting.⁵

For purposes of ancillary activities relating to the prospecting operations, the requisite approvals or licences under the Water Resources Commission Act 1996 (Act 552) must be acquired by the holder of a prospecting license in order to obtain, divert, impound, convey and use water from a river, stream, underground reservoir or watercourse within the land the subject of the licence.⁹

The Prospecting licence holder shall commence and carry on prospecting operations in accordance with the prospecting programme, demarcate and keep demarcated the prospecting area in the prescribed manner, within three (3) months after the date of the issue of the licence, or at a time specified by the Minister. The holder must notify the Minister through the Commission, any discovery of minerals and/or mineral deposits which is of possible economic value to which the prospecting license relates within a period of thirty (30) days from the date of the discovery; fill back or otherwise make safe to the satisfaction of the Commission a borehole or excavation made during the course of prospecting operations. The holder must remove within sixty (60) days from the date of the expiration of the prospecting licence a camp, temporary building or machinery erected or installed, unless the Commission otherwise stipulates, and make good to the satisfaction of the Commission any damage done to the surface of the ground occasioned by the removal. Subject to the condition of the prospecting license, the holder must expend on prospecting not less than the amount specified in the prospecting license, and submit reports of other documents to persons at prescribed intervals and supporting documents containing required information.

Funds required to be spent under subsection (2) and which are not yet spent shall be a debt to the Republic and recoverable from the holder in the Court. The holder of a prospecting license shall to the satisfaction of the Minister, keep full and accurate records of the prospecting operations showing particulars that the Minister may prescribe.¹

Other information:

A Prospecting licence holder, prior to the expiration of the licence, is entitled to apply for one or more mining leases in respect of all or any of the minerals the subject of the licence and in respect of all or any one or more of the blocks which constitutes the prospecting area, upon the presentation of an acceptable feasibility study which incorporates environmental impact studies.⁸

Mining lease:

- Mining fee: An applicant for a mineral right shall pay a fee as may be prescribed. Also, annual ground rent and annual mineral right fee shall be paid as prescribed. Payments of annual ground rent shall be made to the owner of the land or successors and assigns of the owner except in the case of annual ground rent in respect of mineral rights over stool lands, which shall be paid to the Office of the Administrator of Stool Lands, for application in accordance with the Office of the Administrator of Stool Lands Act 1994 (Act 481). Payment of the annual mineral right fee shall be made to the Commission.¹
- Maximum size (ha): The size of the area in respect of which a lease may be granted is limited to 50 km² (5000hectares) for a single grant or 150 km² (15000hectares) for aggregate grants OR not be less than one block or more than three hundred contiguous blocks each having a side in common with at least one other block the subject of the grant⁹. These limits may be exceeded in particular cases at the direction of the President if it is in the national interest.⁵
- Duration (years): The lease is issued for up to thirty years
- Renewal: subject to renewal for a further thirty-year term. According to section 44(1), the application for renewal must be made in respect of all or any number of blocks the subject of the mining lease, in the form that may be prescribed to the Minister at any time but not later than three months before the expiration of the initial term of the lease. Renewal of any mineral right is subject to a power of disallowance, exercisable within 30 days of such grant.
- Minimum spending: Not specified in Act, probably per mining lease.
- Work to programme: Yes. Requirement to submit mining plans as well as their environmental and social impact assessment (ESIA) and environmental and social management plan (ESMP). The development and initiation of operations should be conditional on a proper ESIA and ESMP (including a closure plan).
- Environmental plan: Yes. (see note above on 'work to programme').
- Social requirement: Yes. A detailed programme must be submitted for the recruitment and training of Ghanaians with a view to achieving 'localization', being the replacement of expatriate personnel by Ghanaian personnel. In addition, the holder must give preference to Ghanaian products and personnel, to the maximum extent possible, consistent with safety, efficiency and economy⁶. This programme should also include compensation payments, resettlement schemes to owners of private lands or anyone who lawfully occupies land affected by the granting of the mineral right and the provision of basic infrastructure in mining communities to reduce the impact of their operations on local inhabitants.²
- Reporting requirement: Yes. All reports containing required information must be submitted to the Minister in prescribed manner. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder:

Subject to this Act and the Regulations made under this Act, the holder has exclusive rights to mine, win or extract specified minerals (or commodities) within the lease area; exploit and market minerals obtained from the exploitation; dump mining and or other waste products in accordance with its environmental impact statement; and carry out activities incidental to its mining operations². Mining leases may be applied for and granted to a holder of a prospecting license or any person who does not hold such licenses but establishes to the satisfaction of the Minister that a mineral to which the lease relates exists in commercial quantities within the proposed lease area and can be mined at a profit.⁵

In conducting mining operations, the interest of a lawful occupier of land, whose grazing rights are retained must be distressed as little as possible by the mineral right holder but he is precluded from erecting any building without the consent of the holder.

The mining lease holder must exercise his rights subject to such limitations relating to surface rights as the Minister of Mines may prescribe. These rights include (but not exhaustive): taking all reasonable measures on or under the surface to mine the mineral to which the mining lease relates; to erect necessary equipment, plant and buildings; to prospect within the mining area and to stack or dump mineral waste in an approved manner.⁶

The mining lease holder shall notify the Minister three (3) months in advance of any proposed suspension of production from the mine and shall in each case, give reasons for the suspension. In circumstances beyond the holder's control including, without limitation, market conditions, where the holder is unable to give the required notice as provided under section 51(1) before suspending production from a mine, the holder shall within fourteen day of the suspension notify the Minister. The suspension of production shall not exceed twelve (12) months and the holder may apply in writing to the Minister for extension for a period not exceeding twelve months.⁹

Other information:

The grant of a mining lease by the Minister of Mines is normally subject to parliamentary ratification unless the mining lease falls into a class of transactions exempted by parliament. Separate licenses are required for some other activities, including the diversion of water, and additional consents may be required for certain developments.⁷

Mining lease holders are entitled to enter into a Stability agreement with the minister, irrespective of the level of its investment. This agreement is the legal instrument for the mining lease which permits the former to engage in the exploration, development and production of minerals. It requires the submission of detailed reports of investment activities and more generally confirm whether the holder has materially complied with its obligations to the government. The

essence of the stability agreement is to ensure that, within a period of 15 years from the execution of the agreement, the company does not suffer from government freely exercising its authority to impose adverse legislative changes or subsequent modifications to the levels of customs duties, royalties and other taxes or from changes to the laws relating to exchange control, capital transfer and remittance of dividends. The stability agreement however, does not insulate the mining project from existing laws on human rights and sustainable development/environmental protection.

According to section 49(1), for proposed investments which will exceed US\$ five hundred million, the Minister on the advice of the Commission may enter into a Development agreement under a mining lease with the lease holder. This agreements should contain provisions relating to the mineral right or operations to be conducted under the mining lease; the circumstance or manner in which the Minister will exercise a discretion conferred by or under this Act, on stability terms as provided under section 48; environmental issues and obligations of the holder to safe-guard the environment in accordance with this Act or another enactment, and the settlement of disputes.⁹

All immovable assets of the holder under the mining lease as well as all moveable property that is fully depreciated for tax purposes vest in the State on termination, except as otherwise provided in a specific mining lease. Moveable property that is not fully depreciated is to be offered to the State at the depreciated cost.⁶

The government of Ghana shall acquire, without payment, a 10% interest in the rights and obligations of the mineral operations in relation to a mineral right to reconnaissance, prospecting or mining, and shall have the option to acquire a further 20% interest where any mineral is discovered in commercial quantities.⁶

Restricted Licence for Building and Industrial Minerals

- Restricted fee: An applicant for a mineral right shall pay a fee as may be prescribed. Also, annual ground rent and annual mineral right fee shall be paid as prescribed. Payments of annual ground rent shall be made to the owner of the land or successors and assigns of the owner except in the case of annual ground rent in respect of mineral rights over stool lands, which shall be paid to the Office of the Administrator of Stool Lands, for application in accordance with the Office of the Administrator of Stool Lands Act 1994 (Act 481). Payment of the annual mineral right fee shall be made to the Commission.¹
- Maximum size (ha): and over smaller areas of up to 10 km² (1000hectares)maximum
- Duration (years): restricted reconnaissance and prospecting licences are normally issued for periods between three and five years. A restricted mining

lease in respect of an industrial mineral shall be valid for the period that is specified in the lease but shall not be more than a period of fifteen years.⁹

- Renewal: A restricted mining lease may be renewed by the Minister for further periods not more than fifteen years at any one.⁹
- Minimum spending: proposed investment must be US\$ 10,000 for Ghanaian citizens and US\$ 10,000,000 or above for non-citizens.
- Work to programme: Yes
- Environmental plan: Yes
- Social requirement: Yes
- Reporting requirement: Yes. All reports containing required information must be submitted to the Minister in prescribed manner. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the Code to comply with).
- Rights of holder:
Holder has exclusive rights governing the exploration and exploitation of industrial minerals and building materials for use in building, road making or agricultural purposes.

A restricted reconnaissance licence, a restricted prospecting licence and a restricted mining lease may be granted by the Minister specified in the grant and may be amended to include other industrial minerals.⁹

Other information:

It can take the form of a Restricted Reconnaissance License, a Restricted Prospecting License or a Restricted Mining Lease, for the different stages of mineral operations - reconnaissance, prospecting and production. It is reserved for Ghanaian citizens only except where an exemption is made by the Minister on the advice of MINCOM, as being in the public interest and given to co-operative societies of at least 10 members⁵. The Minister may on the recommendation of the Commission cancel a mineral right granted, where the Minister is satisfied that the holder has entered into an arrangement with a person who is a non-citizen, which arrangement has the effect of transferring to that person the benefit of the mineral right.⁹

As stated earlier, rights to industrial minerals are restricted to Ghanaian citizens. The only conditions for which persons who are not citizen may apply for a mineral right in respect of industrial mineral is that the proposed investment in the mineral operations is US\$ 10,000,000 or above. If the holder of the mineral right with respect to industrial minerals fails, within the period of time specified in the holder's programme of mineral operations given with the application, or further time permitted by the Minister, to spend specified investment amounts, the Minister may suspend or cancel the mineral right in accordance with section 68.⁹

Small-scale mining license:

- Small-scale mining fee: fees payable for the grant and renewal of licences for small-scale mining are as prescribe by the Minister via legislative instrument and on the advice of the Commission.
- Maximum size: The size of the area shall be in accordance with the number of blocks prescribed.
- Duration (years): it is issued for a period not more than five years from the date of issue in the first instance
- Renewal (years): it may be renewed on expiry for a further period as determined by the Minister.
- Relinquish areas: Not stated
- Minimum spending: Not specified
- Work to programme: Yes although not clearly specified
- Environmental plan: Yes although not clearly specified
- Social requirement: not specified
- Reporting requirement: Yes. All reports containing required information must be submitted to the Minister in prescribed manner. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
A licensed small-scale miner is entitled to win, mine and produce minerals by an effective and efficient method in compliance with good mining practices, health and safety rules and protection of the environment. The sale of any mineral produced during the mining operation shall be subject to the Rules and Regulations prescribed by the Minister.⁹

Other information:

Application for rights to carry out small-scale mining operation for a mineral can only be made if there is in existence in respect of the mining operation a licence granted by the Minister for Mines. The application for the license shall be made in a form the Minister may direct to the office of the Commission in the designated area. Where a mineral licence has been granted over a parcel of land, another mineral licence of the same kind shall not be granted in respect of the same land.⁹

A licence for small-scale mining operation can only be granted to a person that:

- (a) is a citizen of Ghana,
- (b) has attained the age of eighteen years, and
- (c) is registered by the office of the Commission in an area designated under section 90(1).⁹

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COUNTRY: MADAGASCAR
GRANTING OF MINERAL RIGHTS
ADMINISTRATION ISSUES

State agency: Mining permits are issued by the Ministry of Energy and Mining, through the office of the Mining Cadastre in accordance with the provision of the Mining Code 1999.

Process/procedure:

In Madagascar, mining permits are granted, generally according to the principle of the first-come, first-served.

The mineral permits are given as:

- a. Research licence or 'R' licences;
- b. Exploitation permit or 'E' licences; and
- c. Prospecting and Exploitation permits reserved to the small miners or 'PRE' Licences.

The 'R' and 'E' licences are granted by the Minister of Mines, or delegated his power while the 'PRE' licences are granted by the appropriate competent authority of the Autonomous Province concerned or his representative, to the first eligible applicant whose request has met the requirements stated in Article 43, for the period of validity of his licence.

Prospecting, research and exploitation operations are prohibited inside protected parks and surfaces. Criteria for eligibility to acquire and hold mining licences is that the entities must be domiciled or reside in and should have an authorized agent living in Madagascar. Artisanal mining activities and licences reserved to the small miners can only be acquired and held by the physical people of Malagasy Nationality and the groupings legally made up individuals of Malagasy nationality.

The request for mining licence is written on a form accompanied with other documents specified in the decree of application of this Code, to the office of the Mining Cadastre. After the form is filled correctly and the application is filed, the office registers the receipt of application, indicating the day, hour and minute of the registration, which will serve as an evidence. The Minister in charge of Mines or the appropriate authority of the Autonomous Province concerned is informed by the office of the Mining Cadastre, within twenty (20) days, of any application files received which meets the requirements for the granting of the requested licence. The delivery date of the licences is within a time which cannot exceed thirty (30) working days.

The files related with the mining licences are managed and kept up to date by the office of the Mining Cadastre, from the date of filing of the requests, until the of the date of expiry of the licence, according to a national specific land register and made available to the public for consultation.

In the course of exercising any rights under any of the licences, if the holder discovers any mineral substances classified in mines but not being the subject of the licence, and wishes to undertake research and/or the exploitation, he is may

subject his licence to adjustment by issuing a declaration for this purpose to the office of the Mining Cadastre , and obtain the extension of the his licence and, if it is necessary, an environmental authorization of the appropriate authority, before carrying on with any operation on these new substances.

The holder of a mining licence can at any time surrender whole or part of the perimeter subject of his licence. The renunciation must be declared and recorded at the Mining Cadastre Office, with the precise indication of the whole squares that is being surrendered. In case of partial renunciation, it must relate to one or more whole squares.

The office of the Mining Cadastre can cancel any mining licences for reasons of non-payment of the mining administrative expenses by square, within the legal deadline time. the procedure goes thus:

- i. the office issues out a written warning to the holder by a registered letter with request for notice of receipt, and information of any affluent creditor of pledge or mortgage on the licence;
- ii. the holder who can produce any document aiming at his defense, must reply within the forty five (45) days following the reception date , the postmark bearing evidence;
- iii. the authority is to take decisions of cancellation or not, within the thirty (30) days following the presentation of the file in defense;
- iv. If the defense is not valid enough, the office issues a notification of the cancellation decision to the interested party, by registered letter with request for notice of receipt; and
- v. publishes the cancellation decision on the register of the granted licenses and on the Official Journal (JORM).
- vi. The holder, whose permit has been cancelled pursuant to the provisions of this Code, can only obtain the granting of new mining licences after five (5) years as from the date of cancellation inscribed on the register held by the office of the Mining Cadastre. The cancellation of the mining licence, however, does not unbind the holder from his environmental obligations.¹

The punishment for the violation of the provisions of the Code, vary from sentences to hard work, payment of fines and imprisonment coupled with the seizure of extracted substances.

For the determination of the geographical situation of the mining perimeters, the extent of the National Territory is divided into squares of two thousand five hundred kilometers (2,500 km) on sides.

Reconnaissance Licence: Not mentioned

- Reconnaissance fee
- Maximum size (ha):
- Duration (months):
- Renewal (months):
- Relinquish areas

- Minimum spending
- Work to programme
- Environmental plan
- Social requirement:
- Reporting requirement
- Rights of holder:

Retention licence: Not mentioned

- Retention fee
- Maximum size (ha)
- Duration (months)
- Renewal (months)
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement
- Reporting requirement
- Rights of holder

Prospecting licence (under terms of an Exclusive Authorization of reservation of perimeter in Article 21)

- Prospecting fee: The amount of is fixed in a statutory way.
- Maximum size (ha): The perimeter cannot exceed 15.000 km², that is to say 2.400 squares
- Duration (months): It is valid for a period of 3 months
- Renewal (months): It cannot be renewed
- Relinquish areas: Not applicable
- Minimum spending: Not mentioned
- Work to programme: Not mentioned
- Environmental plan: Not required
- Social requirement:
- Reporting requirement:
- Rights of holder:

This authorization confers on its holder the exclusive right to prospect for mineral substances. After works, he is entitled to request from the office of the Mining Cadastre, if need be, a licence for research and/or the exploitation, relating to one or more squares of the perimeter covered by the authorization. The holder of this authorization is strictly prohibited from marketing of the products of prospecting.

He is required to:

- a. to consult the local authorities in manner fixed by a statutory way, for information purposes on the nature of the environment and the existence or not of the activity of gold washing;

- b. to inform the local authorities and, if necessary, gold washers of the possible installation, in the future, of a mining or research center.¹

Other information:

The prospecting for minerals is free throughout the national territory except on areas protected/ reserved by the government or other legal entities, perimeters covered by mining Licenses held by other people etc.

Applications for prospecting operations are issued by a statement first to the office of the Mining Cadastre.

Exploration permit (R Licence)

- Exploration fee: Application, Renewal fees and annual mining administrative expenses per square, are fixed and specified in the decree of application of this Code.
- Maximum size (ha): The perimeter cannot exceed 10.000 km², is 1.600 squares
- Duration (months): granted for two years
- Renewal (months): Not mentioned
- Relinquish areas: Not mentioned
- Minimum spending: Prescribed
- Work to programme: Plans of geological and mining research tasks must be complied with.
- Environmental plan: Legal process of Environmental Impact Assessment must be conducted and complied with.
- Social requirement: Generation of local employment and training of Malagasy workers for eventual technical or managerial roles; maximization of the use of local inputs.
- Reporting requirement: Exploration results must be submitted compliant to.....
- Rights of holder:
- This Licence confers to its holder the exclusive right to carry out the prospecting and research for mineral substances specified in the licence, within the delimited perimeter. This licence is transferable, transmissible and can be used as a pledge. The holder of this licence is strictly prohibited from marketing of the products extracted from the research operations.¹

The holder is required to hold updated, on site, the following documents:

- a. accounting documents related to the various phases of the holder's activity; and

- b. the research results, registers and documents related to them.¹

Other information:

For investments in research of a minimum amount of two billion, five hundred million Malagasy francs, the project can profit from the stability warranty, provided that the promoters commit themselves to carrying out the presented plan. The guarantee of stability ensures the investor, in particular:

- i. "freedom to open accounts in currencies with local or foreign trade banks, in accordance with the regulation in force;
- ii. right to transfer outside the country , in accordance with the texts in force at the time of the option declaration , the amounts in currencies necessary to the needs for the project, in particular:- the purchase of goods and services with foreign suppliers;
- iii. the acquisition or the hiring of the manufactured or marketed equipment abroad;
- iv. foreign debt servicing (including the capital interests, commissions and penalties), under the framework of financing plan of the project;
- v. the payment of the commissions to thirds for services rendered to the project abroad;
- vi. the payment of fees to the people residing abroad, for the rendered services;
- vii. the payment of the "royalties" for rights granted to the investor by foreign thirds;
- viii. the cost of expatriate employees and training abroad of the Malagasy employees;
- ix. distribution with the foreign shareholders of the dividends on the clear profit;
- x. repatriation, by the investor, of the receipts of his sales of actions and receipts of the investment liquidation or the compensation paid in case of expropriation by the State;
- xi. the possibility of transfer of the currencies for the purchase or the renting of the equipment of the project, without additional formality, since the aforementioned equipment is the subject of a list presented at the same time as the capital spending program to the moment at the option declaration for the mode of stability;

- xii. the possibility of practicing a damping accelerated for the investments out of equipment considered in the plan subject to the Administration at the option moment;
- xiii. the possibility of recapitalizing, at the option moment and in accordance with the texts in force, all the capital expenditures in the phase of research, and to practice the damping accelerated on the amounts thus recapitalized".¹

The duration of the stability guaranteed to the investor varies according to the investment thresholds hereafter:

- a. for the investments going from 2,500,000,000 to 25,000,000,000 FMG – eight (8) years;
- b. for the investments going from 25,000,000,000 to 250,000,000,000 FMG – fifteen (15) years;
- c. For the investments going from 250,000,000,000 to 1,000,000,000,000 FMG – twenty (20) years;
- d. For investments exceeding 1,000,000,000,000 FMG, the mode will be fixed by a law on the large investments.¹

Exploitation Licence (E Licence)

- Mining fee: Application, Renewal fees and annual mining administrative expenses per square, are fixed and specified in the decree of application of this Code.
- Maximum size (ha): the maximum size of perimeter is allowed for 1000 km², is 160 squares.
- Duration (years): It is granted for an initial period of 40 years.
- Renewal: It is renewable once or several times for twenty (20) years period for each renewal.
- Minimum spending: Prescribed
- Work to programme: Work plans must be complied with, for security reasons.
- Environmental plan: Compliance with environmental Impact study documents and rehabilitation plans.
- Social requirement: The safety and the hygiene of the employed personnel, as well as the conservation of the mine or nearby mine, protection of the rights of the individual or collective owners, and cultural buildings, must be ensured as well as generation of local employment, maximization of the use of local inputs, and training of Malagasy workers for eventual technical or managerial roles.

- Reporting requirement: Annual Reports are to be submitted as specified by the decree of application of the Code. Research results may be submitted in compliance to the code of parent country of each mining company e.g. Energizer Resources Inc. report resource estimate compliant with its parent country- Canada's National Instrument 43-101.²
- Rights of holder:

The licence confers to its holder the exclusive right to undertake the exploitation as well as the prospecting and research for mineral substances specified in the licence, within the delimited perimeter and during the period of its validity. This right is transferable, transmissible, susceptible of pledge and leasable to any person who is eligible to acquire and hold mining licences in accordance with the provisions of this Code.

The holder of the exploitation licence if need be, must obtain by prior agreement of the landowner, the right of building and maintaining the necessary infrastructures to the activities related to the licences or using wood and water in the perimeter in accordance with the laws and regulations in force.

In cases where applicants have indicated in their initial permit request that they will undertake apart from exploitation, marketing and transformation of extracted mineral substances, this licence also comprises the authorization within the perimeter of the project:

 - a. to establish on the National Territory of the installations of concentration, treatment, refining and transformation of the mining substances covered by the licence, subject to their conformity with the legal and lawful provisions in force;
 - b. to transport the extracted mineral substances covered by the licence, their concentrates or derived primary education as well as metals and alloys from these substances up their storage location, treatment or loading, to lay out on the domestic and external market with the freely negotiated prices and to export them.¹

The holder is required to hold updated, on exploitation site, the following documents:

- i. the accounting documents related to the various phases of the holder's activity;
- ii. the research results;
- iii. reports of mining activities carried out;
- iv. the annual reports/ratios of extracted, transformed, sold, or dispatched tonnages;
- v. annual reports of methods of sale, transport, trade, transformation of the mining substances, registers and documents related to them.¹

The licence holder is obliged to repair any damage that this work has caused to the private or public superficiary property, as well as to the environment.

Other information:

Mining royalty to be paid on extracted mineral products is equivalent to 2% of their value at the first sale.

For mining investments of a minimum amount of two billion five hundred million Malagasy francs, the projects can profit from the stability warranty, provided the investors commit themselves to carrying out the presented plan. The guarantee of stability ensures the investor, in particular:

- i. "freedom to open accounts in currencies with local or foreign trade banks, in accordance with the regulation in force;
- ii. right to transfer outside the country , in accordance with the texts in force at the time of the option declaration , the amounts in currencies necessary to the needs for the project, in particular:- the purchase of goods and services with foreign suppliers;
- iii. the acquisition or the hiring of the manufactured or marketed equipment abroad;
- iv. foreign debt servicing (including the capital interests, commissions and penalties), under the framework of financing plan of the project;
- v. the payment of the commissions to thirds for services rendered to the project abroad;
- vi. the payment of fees to the people residing abroad, for the rendered services;
- vii. the payment of the royalties for rights granted to the investor by foreign thirds;
- viii.the cost of expatriate employees and training abroad of the Malagasy employees;
- ix. distribution with the foreign shareholders of the dividends on the clear profit;
- x. repatriation, by the investor, of the receipts of his sales of actions and receipts of the investment liquidation or the compensation paid in case of expropriation by the State;
- xi. the possibility of transfer of the currencies for the purchase or the renting of the equipment of the project, without additional formality, since the aforementioned equipment is the subject of a list presented at the same time

as the capital spending program to the moment at the option declaration for the mode of stability;

- xii. the possibility of practicing a damping accelerated for the investments out of equipment considered in the plan subject to the Administration at the option moment;
- xiii. the possibility of recapitalizing, at the option moment and in accordance with the texts in force, all the capital expenditures in the phase of research, and to practice the damping accelerated on the amounts thus recapitalized".¹

The duration of the stability guaranteed to the investor varies according to the investment thresholds hereafter:

- a. for the investments going from 2,500,000,000 to 25,000,000,000 FMG – eight (8) years;
- b. for the investments going from 25,000,000,000 to 250,000,000,000 FMG – fifteen (15) years;
- c. For the investments going from 250,000,000,000 to 1,000,000,000,000 FMG – twenty (20) years;
- d. For investments exceeding 1,000,000,000,000 FMG, the mode will be fixed by a law on the large investments.¹

Prospecting and Exploitation permit reserved to the Small Miners (PRE)

- Permit fee: Application, Renewal fees and annual mining administrative expenses per square, are fixed and specified in the decree of application of this Code.
- Maximum size (ha): It is granted for a maximum holding of 100 km², is 16 squares.
- Duration (years): It is granted for an initial period of 8 years.
- Renewal: It is renewable once or several times for four (4) years each.
- Minimum spending: Not specified
- Work to programme: Work plans must be complied with***
- Environmental plan: Compliance with environmental commitment plans for protection, environmental impact study documents and rehabilitation plans.
- Social requirement: The safety and the hygiene of the employed personnel, as well as the conservation of the mine or nearby mine, protection of the rights of the individual or collective owners, and cultural buildings, must be

ensured as well as generation of local employment, maximization of the use of local inputs, and training of Malagasy workers for eventual technical or managerial roles****

- Reporting requirement: Annual Reports and Research results are to be submitted as specified by the decree of application of the Code.

- Rights of holder:

This licence confers on its holder the exclusive right to carry out the prospecting, the research and the exploitation of the substances specified in the licence, within the perimeter which makes of it the object and during its period of validity, in compliance with the requirements specified in the decree of application of this Code. This licence is transferable, transmissible, susceptible of pledge and leasable to any person who is eligible to acquire and hold mining licences in accordance with the provisions of this Code.

The perimeter covered by each PRE licence cannot consist of more than four (4) contiguous or jointed squares, which is divisible only on whole squares and must be presented to the Mining Cadastre Office for registration. The holder of the exploitation licence, if necessary, must obtain by prior agreement of the landowner, the right of building and maintaining the necessary infrastructures to the activities related to the licences or using wood and water in the perimeter in accordance with the laws and regulations in force.

The licence holder is obliged to repair any damage that this work has caused to the private or public superficies property, as well as to the environment.

Other information:

Before the research and exploitation can commence, the approval of the competent authority in accordance with the regulation of the sector on environmental protection must be obtained. The holder is required to hold updated, on exploitation site, the following documents:

- i. the accounting documents related to the various phases of the holder's activity;
- ii. the research results;
- iii. reports of mining activities carried out;
- iv. the annual reports/ratios of extracted, transformed, sold, or dispatched tonnages;
- v. annual reports of methods of sale, transport, trade, transformation of the mining substances, registers and documents related to them.¹

Authorization for Gold washing

- Authorization fee: Subject to the payment of the related fees
- Maximum size (ha):

- Duration (months): granted for 12 months
- Renewal (months): It is renewable once or several times for the same duration
- Minimum spending: Not specified
- Work to programme: Not specified
- Environmental plan: Compliance to plans for environmental protection and rehabilitation
- Social requirement: Not specified
- Reporting requirement: Not specified
- Rights of holder:
The authorization confers on the holder the rights to gold washing, for the profit of and within the district of the Commune which has delivered it, and outside the perimeters covered by the mining licence on agreement of the aforesaid licence holders. This authorization does not constitute an exploitation licence. It is personal and cannot be transferred or leased to another.

The holder is entitled to apply for an exploitation licence if the perimeter of request is not reserved to any right. The gold-washer is obliged to pay periodically, a contribution as provision for environmental rehabilitation related to his activity. (ref: [Mining_Code_feb_06.doc](#))

Other information:

The procedure of granting and delivery of the authorizations of gold washing is fixed in statutory way which must allow the implementation of the administrative follow-up of the activity. The authorizations of gold-washing are recorded on a special register, which is updated by each Commune that delivers them.

For the gold produced by gold washing, the payment of the mining royalty is the responsibility of the approved collector.¹

References

1. LAW N° 99-022 concerning Mining Code: Expose reasons (not published with the J.O.R.M.):
http://www.google.co.za/url?sa=t&source=web&cd=4&ved=0CCYQFjAD&url=http%3A%2F%2Fwww.consulmada-th.org%2FIMG%2Fdoc%2FMining_Code_feb_06.doc&rct=j&q=application%20for%20mining%20rights%20subject%20to%20Madagascar%27s%20Mining%20Code%2C%20Law%20No.%2090-017%2C%201990&ei=gWzBTKKpAojusgbqtOXNCA&usg=AFQjCNHWUIORJfoEaiwBJdX8YDhjWVNESQ&cad=rja
2. Energizer Resources Inc. And DRA Mineral Projects (Pty) Ltd. form Strategic Alliance: <http://www.marketwire.com/press-release/Energizer-Resources-Inc-And-DRA-Mineral-Projects-Pty-Ltd-Form-Strategic-Alliance-TSX-VENTURE-EGZ-1282246.htm>

COUNTRY: MONGOLIA
GRANTING OF MINERAL RIGHTS

ADMINISTRATION ISSUES

State agency: The Ministry of Energy & Mines through the provisions of the Minerals Law of Mongolia, 2006.

Process/procedure:

In Mongolia, generally, licences are granted on first-come, first-served basis except for land which has been explored with State funds or whose prior holder has forfeited its exploration rights, which are given on auctioning basis.

In cases where in the time past, the State funded the geological survey work was used to determine mineral concentration, the State may participate up to a 50% in joint partnership with a private legal entity in the exploitation of a mineral deposit of strategic importance. For the exploitation of all other mineral deposits of strategic importance, the State's share shall be determined by an agreement based on the amount of its investment made, with the maximum percentage being set at 34%. License holders of mineral deposits of strategic importance are required to trade at least 10% of their shares on the Mongolian Stock Exchange.²

Only private legal entities duly formed, registered and operating under the laws of Mongolia are eligible to hold Mineral exploration and mining licences. One license may be granted to one legal person only

After review of the application in accordance with specifications of this law, the Government agency shall carry out the following:

- i. register the application in the application registry, record the number, date, hour and minute of registration on each page attached to the application and issue the applicant a receipt acknowledging the filing of the application;
- ii. record with a specific note the first and last registered applications of that day;
- iii. immediately following the registration it shall be determined by preliminary screening whether the application and the attached documents meet the requirements specified under Articles 17.1, 17.2 and 18.2 of this law;
- iv. following the preliminary screening set forth in Article 19.1.3 of this law, it shall be determined whether:
 - a. the requested exploration area overlaps with an area with restrictions on mineral exploration or mining, reserved areas, special-purpose territories, or any area subject to an existing valid licence or previously filed pending application for a licence; or
 - b. the mining area requested by the exploration licence holder is within the boundaries of its exploration licensed area, or overlaps with an area having restrictions on mineral exploration or mining, reserve area, special-purpose territories, or any area subject to an existing valid license or previously filed pending application for a licence;

- c. the size and evaluation of the mineral reserve estimated by exploration would be sufficient for reclamation of environmental damages that might result from mining activities etc.

After completion of the actions stated above, the Government agency is expected to make decisions of refusal or grant within twenty (20) business days after registration of the application. If the application is refused, the agency must give a written notice to the applicant containing the grounds for refusal if the application and attached documents fail to meet the requirements stated in Articles 17.1, 17.2 and 18.2 of this law and record it in the application registration book.

In the case where the request is granted, the Government agency shall notify, immediately following the grant of an exploration licence or within 7 working days for a mining licence, the Government Ministry in charge of the environment, the Government agency in charge of taxation and fiscal issues, governors of the Aimag, Soum or district where the licensed area is located, State professional inspection agency and give an official notice in a daily newspaper. The applicant is to obtain the exploration or mining licence within one (1) month of the decision. In failure to do so within specified time or failure to pay the first year's license fee within the period set forth in the law, the Government agency shall remove the application from the registry, notify the applicant of this and record its action in the application registration book.

Within three (3) working days following the payment of the prescribed licence fee for the first year made by the applicant, the Government agency shall issue the requested licence to the applicant for specified term of licence and record the licence, its area in their respective licence and licence cartographic registries.

A licence shall be terminated based on the following cases:

- a. expiration of the licence term;
- b. surrender by the licence holder of the entire licensed area as set forth in Article;
- c. revocation of the licence by the Government agency.

A licence holder may voluntarily submit an application to surrender the entire or part of a license area in an approved manner to the Government agency. In pursuance of the provisions of this law, the licence holder that surrenders a particular licensed area is precluded from submitting a new application for the same area, for a period of two (2) years following the surrender.

The Government agency may revoke a licence on the grounds set forth in Article 56 of this law, shall re-issue the licence through a tender as set forth in the law. The agency will notify the public in a daily newspaper, within 30 days of the date it will accept tender applications. Applicants shall be evaluated according to the procedures set forth in Article 10.1.2 of this law, considering the skills of the applicant's professional staff and the applicant with highest rating shall be granted the licence. At instances where 2 or more applicants have the same

rating on evaluation, the licence shall be granted to the first applicant based on the record of whose application was registered first on the day of acceptance of tender bids.

The infringement of any provisions of this law is liable to a fine or confiscation of income realized from carrying out such activities as stated in Chapter 11 of the law.¹

To conduct reconnaissance for minerals in areas already under exploration or mining licences, a legal entity may do so without a licence but must obtain permission to enter the land from the landowners, land-possessors or land-users. For reconnaissance activities in reserved areas and special purpose territories, the legal entity is required to notify the State and local administrative bodies in advance, register its name, address and provide a description and location of the area on which it proposes to conduct the operation. Disturbance of the subsoil while conducting reconnaissance is prohibited.

Reconnaissance Licence: Not needed

- Reconnaissance fee
- Maximum size (ha):
- Duration (months):
- Renewal (months):
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement:
- Reporting requirement
- Rights of holder:

Retention license: Not mentioned

- Exploration fee
- Maximum size (ha)
- Duration (months)
- Renewal (months)
- Relinquish areas
- Minimum spending
- Work to programme
- Environmental plan
- Social requirement
- Reporting requirement
- Rights of holder

Exploration licence

- Exploration fee: The service fee is set forth in Article 10.1.4 of this law. Annual licence fees begin at US \$0.10 per hectare in the first year; US\$ 0.2 for the second year; US\$ 0.3 for the third year; US\$ 1.00 for each of the fourth to sixth years; and US \$1.50 per hectare in the seventh through to ninth years of the term of the exploration licence.
- Maximum size (ha): It is granted for areas of land between 25 and 400,000 hectares.²
- Duration (months): The initial grant of the licence is three years
- Renewal (months): It may be renewed twice, for a period of three years each. Application for renewal should be made one (1) month prior to the expiration of the licence.
- Relinquish areas: Not mentioned
- Minimum spending: Yes. Licence holders are required to spend an obligatory minimum expenditure per hectare on exploration activities, beginning in the second year of a licence.
US\$ 0.5 for each of the second to third years of the term of the exploration licence;
US\$ 1.00 for each of the fourth to sixth years of the term of the exploration licence;
US\$ 1.50 for each of the seventh to ninth years of the term of the exploration licence.¹
- Work to programme: Yes. Exploration work plan for review by government agency is required.
- Environmental plan: Yes, the holder is obligated to prepare an environment protection plan and environment impact assessment.
- Social requirement: Yes. There is requirement for the development of the region; creation of more employment with up to 90% of the employees being Mongolian citizens; compensation for the damages caused by operations, to owners and users of private and public residential dwellings, wells, winter animal shelters, other structures, and historic and cultural landmarks; ensuring safety for citizens of the relevant Soum or district, labor safety and hygiene of employees as set forth in the applicable laws and regulations.
- Reporting requirement: Exploration action report and results of exploration work must be submitted in a form approved by the Government agency.
- Rights of holder:
This licence confers on holder the rights to:
 - a. conduct exploration for minerals within the boundaries of licensed exploration area as set forth in this law;
 - b. obtain a mining licence for any part of the exploration area upon fulfilling the terms and conditions of this law;
 - c. surrender all or part of the exploration license area with permission and under supervision of respective authority;
 - d. access the exploration area and construct temporary structures with the purpose of conducting exploration work;

- e. pass through the land surrounding the exploration area, owned or possessed by other persons as approved by the owner or possessor of the land, for the purpose of entering the exploration area and exercising the rights provided by this law.

An exploration licence holder may transfer its licence under the terms and conditions of this law to another person eligible to hold the license, provided there is an evidentiary proof that original materials and reports of prospecting and exploration work were sold as well as taxes were paid in accordance with the applicable laws and regulations.¹

The licence holder is required to:

- i. register the type and quantity of the minerals extracted during the exploration for surveying purposes with the professional inspection agency.
- ii. pay royalties for minerals that are sold after such a registration, similar to those paid by mining licence holder;
- iii. submit annual reports within thirty (30) days to the government agency, which shall contain information on the work completed and expenses incurred in reconnaissance, geophysical and geochemical work, drilling and other activities, information on the labor force, and the results of the exploration work.¹
- iv. deposit an amount equal to 50% of their environmental protection budget for a particular year in a special bank account with the Government, in order to ensure compliance with the environment protection plan. These funds are accessed by the Government if a license holder fails to fully implement its environment protection plan.²

Other information:

There is no limit placed on the number of individual exploration licences that any one business entity is entitled to hold.

The requested license area must meet the following requirements:

- i. "it shall be tetragon in shape and its borders shall be straight lines overlapping with directions along longitude and latitude;
- ii. no part of the requested exploration area may overlap with a reserve area or a special purpose territory;
- iii. no part of the requested exploration area may overlap with an existing licensed area or the licensed area covered by a pending application".¹

The application for an exploration licence shall include the following:

- a. "the applicant's name, mailing address, phone and fax numbers;
- b. certified copy of the applicant's State registration certificate;
- c. an area map prepared as set forth in the requirements of Article 17.1 of this law and the name of the Aimag, Soum or district where the exploration area is located;

- d. a document showing that the applicant has paid the service fee set forth in Article 10.1.4 of this law;
- e. information about the qualifications of the staff conducting the exploration works;
- f. a document proving that the applicant meets the requirements of Article 7.1 of the law;
- g. a preliminary plan that includes the type, scope and cost of exploration work to be conducted by the applicant set forth in Article 20 of this law”.¹

There is an allowable pre-mining period between the expiration of exploration license and commencement of extraction of the mineral deposit. This period shall not exceed 3 years after expiration of the exploration licence. The Pre-mining operations shall be regulated by a pre-mining agreement concluded between the exploration licence holder and the Government agency.¹

Mining licence

- Mining fee: Prescribed service fee. Annual licence fees are US \$5 per hectare for coal and common mineral substances; and US \$15 per hectare for gold, copper, zinc, and iron.
- Maximum size (ha): Not specified
- Duration (years): It is granted for an initial term of 30 years
- Renewal: It can be renewed twice for terms of 20 years each. Application for renewal should be made not less than two (2) years prior to the expiration of the licence.
- Minimum spending:
- Work to programme: Yes. Mining plan to be reviewed by the relevant organization is required.
- Environmental plan: Yes, the holder is obligated to prepare an environment protection plan and environment impact assessment.
- Social requirement: Yes. There is requirement for the development of the region; creation of more employment with up to 90% of the employees being Mongolian citizens; compensation for the damages caused by operations, to owners and users of private and public residential dwellings, wells, winter animal shelters, other structures, and historic and cultural landmarks; ensuring safety for citizens of the relevant Soum or district, labor safety and hygiene of employees as set forth in the applicable laws and regulations.
- Reporting requirement: Reports and results of exploration operations must be submitted in compliance with the form approved by the professional inspection agency. (It is not prescriptive on the international Code of compliance for exploration results).
- Rights of holder:
The licence holder is entitled to:
 - a. carry out extraction of minerals within the mining claim as set forth in the provisions of this law;
 - b. fulfill obligations set forth in Chapter 6 of this law;

- c. sell mineral products from the mining claim at international market prices;
- d. conduct exploration for minerals within the mining area;
- e. transfer and surrender all or part of the mining licence as set forth in provisions of this law;
- f. enter and pass through the mining area for construction of necessary structures and use of the mining area for ancillary activities to the mining operation;
- g. enter and pass through the land adjacent to the mining area, owned or possessed by other persons as approved by the owner or possessor of the land in order to exercise the rights provided by this law;
- h. use land and water in compliance with applicable laws.¹

A mining licence holder may transfer its licence under the terms and conditions of this law to persons eligible to hold a licence provided there is an evidentiary proof that the mine together with its machinery, equipment and documents are sold and taxes are paid in accordance with the applicable laws and regulations. The mining licence can also be used as a pledge for securing of investment funds. A copy of the pledge agreement, together with the licence certificate and application must be submitted to the Government agency.¹

He is required to:

- i. pay licence fees for the first year within ten (10) business days after he receives the notice of grant of licence. Licence fees for subsequent years shall be payable annually in advance before the anniversary date of the issuance of the license;
- ii. define and mark the boundaries of approved mining area by permanent markers as set forth in technical requirements specified by the professional inspection agency, and file a report with the agency upon completion within three (3) months following the registration of the mining licence in accordance with Article 26.5 of this law. A person duly authorized by the Government agency shall carry out measurements to define boundaries of the mining area;
- iii. preserve the boundary markers in good condition;
- iv. adjust and remove the markers in case of rearrangement of the boundaries following the decisions of the Government agency;
- v. inform the professional inspection agency by an official letter that the mine shall be closed in whole or in part, at least one year prior to a mine closure;
- vi. implement the necessary measures to ensure the safe use of the mine area for public purposes and reclamation of the environment;
- vii. export precious stones and extracted metals through Mongolbank;
- viii. pay royalties to the treasuries of the central and local administrative bodies on the sales value of all products extracted from the mining claim that are sold, shipped for sale, or used;

- ix. submit quarterly reports to the professional inspection agency, in the form approved by the agency that indicates the quantity of products extracted, sold, shipped for sale or used, the total value report of the sales and the basis of the evaluation for that quarter;
- x. exhaust all the mineral reserves. It is prohibited to selectively mine the high-grade areas.¹
- xi. deposit an amount equal to 50% of their environmental protection budget for a particular year in a special bank account with the Government, in order to ensure compliance with the environment protection plan. These funds are accessed by the Government if a license holder fails to fully implement its environment protection plan.²

Other information:

For investments of US \$50 million in the first five years of a project, the licence holder is entitled to enter into a 10-year Investment Agreement with the Government, which can stabilize rates for corporate income tax, customs duty, value added tax (VAT), minerals royalties etc. If the amount of the investment over the first five (5) years is more than a hundred US \$100 million, the term of the agreement shall be fifteen (15) years, or if more than US \$300 million, the term shall be 30 years.

The minerals royalty imposed for domestically sold coal and common mineral resources is 2.5%, while the royalty on gold, copper, zinc, and iron is 5%.

If an exploration licence holder on the expiry of his license wishes to submit an application for a mining licence, the mining licence for the area shall be granted through a tender. The requested mining area shall meet the following requirements:

- i. "shall have the shape of a polygon with borders that are straight lines, not less than 500 meters in length, oriented north-south and east-west;
- ii. shall not overlap with a reserve area, special purpose territory or an area under existing valid licence;
- iv. in the case of salt and common minerals, each side of the area shall be not less than 100 meters".¹

The application for a mining licence shall include the following:

- i. "the applicant's name, mailing address, phone and fax numbers and a certificate containing the name of an authorized officer to make decisions;
- ii. a document certifying that the applicant meets the requirements of Article 7.1 of this law;
- iii. a map of the area prepared as set forth in the requirements of Article 24.3 of this law. The map shall contain the name of the Aimag or capital city and Soum or district in which the area is located;
- iii. a document showing that the applicant has paid the service fee set forth in Article 10.1.4 of the law;
- v. the Minerals Council's minutes on discussion of the exploration work results, and a decision of the Government agency;

- vi. a verification of full performance of the duties with regard to environment protection plan during exploration work;
- vii. an evaluation of the effect on the environment;
- viii. a decision by the official or the organization that conducted the tender as set forth in Article 24.2 of this law for the licence areas explored with State budget funding”.¹

References

1. The Minerals Law of Mongolia (Amended law, official translation on 30/10/2006): <http://www.miningmongolia.mn/download/mineralslaw.pdf>
2. Mongolian Mining Law Brief: http://www.taalo-bakernet.com/e/areas_of_practice/practice_group/pdf/20090624.pdf

COUNTRY: TANZANIA GRANTING OF MINERAL RIGHTS

ADMINISTRATION ISSUES

State agency: Mineral rights are granted by the Ministry of Energy and Minerals under the Mining Act of 1998 (the Act), and the Mining Regulations, 1999.¹

Process/procedure:

In Tanzania, the granting of licences is given on an apparently well-balanced mix of first-come, first-served and auctioning bases. In cases where two or more persons, not acting together as partnership or joint venture, each make a specified application for the grant of a mineral right over the same area of land, the applications are handled and granted based on who was first registered under this Act and if the application meets specified criteria.

Also, in cases where the Minister considers it in the public interest to do so he may publish, an invitation to tender in the Gazette or in a local newspaper, designating any vacant area other than a reserved area as an area for which applications for prospecting, mining or special mining licences. The successful bidder is chosen based on which proposal is most likely to promote the expeditious and beneficial development of the mineral resources of the area.

The following are criteria for a person or entity to qualify for the grant of a mineral right in Tanzania:

- i. the individual must not be under the age of eighteen years;
- ii. the individual must not be an undischarged bankrupt, having been adjudged or, otherwise declared bankrupt under any written law, or entered into any agreement or scheme of composition with his creditors, or taken advantage of any law for the benefit of debtors;
- iii. the corporate entity must not be one which is in liquidation other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder;
- iv. the corporate entity must not be one in which an order has been made by a court of competent jurisdiction for the winding up or dissolution of the body corporate;
- v. the corporate entity must not be one which has made a composition or arrangement with its creditors.
- vi. the individual or corporate entity must not be in default in another mineral rights or in an expired or cancelled mineral rights (except upon rectifying the default).²

The licensing authority is required to notify the applicant on the decision of the grant or not of the licence within four weeks from the date on which an application for licence was registered. The applicant in return must within four weeks of the date of receipt of notification, give notice to the licensing authority of

his willingness to accept the proposed licence and pay the prescribed fees stipulated in the notification.

The licensing authority may, upon consent of the mineral right holder, grant more than one mineral right over the same mining area as follows:

- a. a mining licence or primary mining licence for building materials may be granted in an area subject to a mineral right for minerals other than building materials;
- b. a primary mining licence for gemstones may be granted in an area subject to a prospecting license for minerals other than gemstones.²

The holder of a mineral right, or where the holder is more than one person, every person who constitutes the holder of that mineral right, may freely assign the mineral right to another person, so long as the assignee is duly qualified to be granted a mineral right under this Act. Application for assignment or transfer of mineral rights shall be made by notifying the Commissioner for Minerals, except for a mining licence, which must have the approval of the Ministry to be assigned, in a prescribed form and accompanied by a prescribed fee. The above condition for approval in respect of assignment of a mining license does not apply if the mining licence is assigned to an affiliate company of the holder or to a financial institution or bank as security for any loan or guarantee in respect of mining operations.¹

A certificate of surrender must be obtained by the holder of a mineral right who wishes to surrender all or any part of the land subject to his license. Application must be made to the licensing authority not less than three months before the date on which he wishes the surrender to have effect. Also, the holder of mineral right is entitled to apply to the licensing authority for the enlargement of the area for which his licence is granted.

Prospecting Reconnaissance Licence (Not mentioned in the Act but in reference document 1)

- Prospecting fee: Application is at a prescribed fee. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): maximum area of 5,000 km²
- Duration (months): This is issued for a period of two years
- Renewal (months): it is renewed in the form of applying for four-year prospecting licence.
- Relinquish areas: Does not apply
- Minimum spending:
- Work to programme:
- Environmental plan:
- Social requirement:
- Reporting requirement

- Rights of holder:

Prospecting Licence:

- Prospecting fee: Prescribed fee. Applications for Renewals, Assignment or transfer of mineral rights are also made at prescribed fees. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (months): valid for an initial period of four years
- Renewal (months): first period of renewal cannot exceed three years; the second period of renewal cannot exceed two years. An application for renewal must be submitted not later than one month before expiry date of the licence.
- Relinquish areas: On the first renewal of a prospecting licence, 50% of the area covered by the licence must be relinquished. In the case of a second renewal 50% of the balance is relinquished, and has by notice in writing to the licensing authority given a sufficient description of the areas he is relinquishing.
- Minimum spending: the minimum amount per km² of area covered by the licence is prescribed annually and different in respect of prospecting licences for building materials, gemstones minerals groups, metallic, energy, kimberlitic diamonds or industrial minerals group
- Work to programme: Yes. Compliance of mineral development with the programme of prospecting operations
- Environmental plan: weak/no requirement
- Social requirement: Yes. Operations must comply with a statement on the procurement plan of goods and services available in the United Republic.
- Reporting requirement: Yes in compliance with paragraph 1 of Schedule 2 of the Act
- Rights of holder:

This licence confers on the holder exclusive right to carry on prospecting operations in the area covered by the licence for all minerals, other than building materials. He is also entitled:

 - a. to enter the prospecting area and erect camps, temporary buildings and installations on/in any water body that forms part of the prospecting area.
 - b. to search for any mineral by any means and to carry out any such works; and
 - c. to remove such samples as may be necessary to test the mineral bearing qualities of land, and includes the conduct of reconnaissance operations.²

He is required to:

- a. commence prospecting operations within a period of three (3) months, or such further period as the licensing authority may allow, from the date of the grant of the licence or such other date as is stated in the licence on commencement period;
- b. give notice to the licensing authority of the discovery of any mineral deposit of potential commercial value.²

Upon the discovery of a mineral deposit within the prospecting area, which is potentially of commercial significance but cannot be developed immediately for reasons ranging from funds to technical constraints, after the expiry of the 4-3-2 year prospecting licence period, the licence holder may apply to the minister for a retention licence which will entitle the holder to apply for a special mining licence when he deems it fit to proceed with mining operations.

Other information:

An application of a prospecting licence that qualifies it for a grant must contain:

- i. in the case of an individual, his full name and nationality, physical and postal addresses, and attach his recent passport size photograph; or
- ii. in the case of a body corporate, its corporate name, place of incorporation, names and nationality of directors;
- iii. in the case of more than one person, particulars referred in items i and ii of each of that person.
- iv. statement of the type of minerals and its relevant group;
- v. statement of the size of the area of land over which it is sought, which shall not exceed the maximum area prescribed as provided under section 70, and be accompanied by a plan of the area;
- vi. statement giving particulars of the financial and technical resources available to the applicant; and
- vii. statement on the procurement plan of goods and services available in the united Republic;
- viii. details of any Mineral Right previously granted to the applicant.²

A prospecting licence shall not be granted to an individual or corporate entity, or any one of the partners, shareholders or directors of the corporate entity who owns more than twenty other valid prospecting licences, unless the cumulative prospecting areas of such other prospecting licences does not exceed 2,000 km².

Gemstone Prospecting License (Prospecting licence for building materials)

- Prospecting fee: Application made at a prescribed fee. There is also an annual charge of such amount as may be calculated and prescribed in

Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.

- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (months): valid for a period of one year
- Renewal (months): cannot be renewed
- Relinquish areas: since it cannot be renewed, no area is subject to relinquishment.
- Minimum spending: the minimum amount per km² of area covered by the licence is prescribed
- Work to programme: Yes. Compliance of mineral development with the programme of prospecting operations
- Environmental plan: weak/no requirement (not mentioned)
- Social requirement: Yes. Operations must comply with a statement on the procurement plan of goods and services available in the United Republic.
- Reporting requirement: Yes in compliance with paragraph 1 of Schedule 2 of the Act.
- Rights of holder:
This licence confers on the holder exclusive right to carry on prospecting operations in the area covered by the licence for gemstones. in the course of carrying out operations under this license, if the holder recovers gemstones, he may:
 - i. may dispose of the gemstones by sale to a licensed dealer; and
 - ii. shall promptly submit particulars of the sale to the Commissioner, showing the name and business address of the dealer, a description of the stones, their weight and a copy of a receipt given by the purchaser for the price received.²

Other information:

A gemstones mining licence shall only be granted to applicants who are Tanzanians. An exception to this arises in situations, where the Minister after consultation with the Board determines that the development of gemstone resources in an area of land subject to a mineral right, most likely requires specialized skills, technology or high level of investment. He may grant this licence to the applicant, where he is satisfied that the licence will be held by that person together with a citizen whose undivided participating shares amount to not less than fifty percent either alone, in the case of one person or in the aggregate in the case of more than one person.

Retention licence

- Retention fee: Application for licence is at a prescribed fee. Applications for Renewals, Assignment or transfer of mineral rights, are also made at prescribed fees. There is also an annual charge of such amount as may be

calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.

- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (months): valid for a period of five years
- Renewal (months): renewable for a single period of five years
- Relinquish areas: Not mentioned
- Minimum spending: Not specified
- Work to programme: Yes. Compliance of mineral development with the programme of prospecting operations
- Environmental plan: Environmental Impact studies and assessments must be submitted as well as and the plans for eliminating or minimizing any adverse effects
- Social requirement: Not specified
- Reporting requirement: Yes in compliance with paragraph 1 of Schedule 2 of the Act***
- Rights of holder:
This licence entitles the holder to apply for a special mining licence when he deems it fit to proceed with mining operations. This licence can be granted over that part of the prospecting area which the Minister, after consultation with the applicant, anticipates is required to mine the deposit identified by the applicant.

Other information:

Application from this licence is precluded from holders of a prospecting licence for building materials or gemstones

Special Mining licence

- Special Mining fee: Application for licence is at a prescribed fee. Applications for Renewals, Assignment or transfer of mineral rights, are made at prescribed fees. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (years): granted for a period of 25 years or for the estimated life of the orebody indicated in the feasibility study report, whichever is shorter.

- Renewal (years): It is renewable for a further period of 25 years or period not exceeding the estimated life of the ore body. Application for renewal should be made at any time not later than one year before the expiry of that license.
- Minimum spending: the capital investment of this large-scale operation must not be less than US\$100,000,000 or its equivalent in Tanzanian shillings;
- Work to programme: Yes. Substantial compliance with the programme of mining operations.
- Environmental plan: Yes. Show of and strict compliance with environmental management plan and environmental certificate issued
- Social requirement: Yes. Provisions must be made in relation to the settlement of any such dispute by international arbitration; guarantee procurement of good, and services available in the United Republic; employment, training of citizens of Tanzania and succession plan for expatriate employees.
- Reporting requirement: Yes in compliance with paragraph 2 of Schedule 2 and details of the latest proved, estimated and inferred ore reserves must be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
The holder has the exclusive right to carry out mining operations in or on the area covered by the licence, for minerals it specifies. The licence is granted for the mining within the prospecting area or the retention area of minerals to which the prospecting licence or the retention license specifies. In cases where an application is made for a special mining licence for an area which includes an area subject to a prospecting licence issued to another person, the licensing authority shall on the advice of the Board serve a termination notice on the holder of the prospecting license, which takes effect after thirty (30) days from the date on which the notice was received.²

A special mining licence or any undivided proportionate part of it, is only assignable to another person after receipt of a written consent of the licensing authority.

The holder as well as his servants and agents are also entitled to:

- a. "enter the mining area and take all reasonable measures on or under the surface for the purpose of facilitating and undertaking his mining operations;
- b. erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;
- (c) subject to the payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;
- (d) stack or dump any mineral or waste products in a manner provided for in his environmental management plan and the Regulations, and may prospect within the mining area for any mineral specified in the licence.²

The holder is required, inter alia, to:

- a. develop the mining area, carry on mining operations and commence production in substantial compliance with the stipulated requirements;
- b. employ and train citizens of Tanzania and implement succession plan on expatriate employees in accordance with his proposals as appended to the special mining licence;
- c. demarcate and keep demarcated in the prescribed manner the mining area;
- d. prepare and update mine closure plans for making safe the mining area on termination of mining operations in a manner as prescribed in the relevant regulations;
- e. implement proposed plan for relocation, settlement and payment of compensation to people within the mining area in accordance with the Land Act;
- f. the Minister shall, after consultation with the Board, provide for the posting of a rehabilitation bond, as provided for in the regulations, to finance the costs of rehabilitating and making safe the mining area on termination of mining operations.²

Other information:

The holder of a mineral right may enter into a development agreement with the Minister on behalf of the United Republic, in the standard model as prescribed in the regulations and upon provisions binding on the United Republic, to guarantee the fiscal stability of this long-term mining project and make special provision for the payment of royalties, taxes, fees and other fiscal imposts.¹

According to section 10 of this Act, the Minister may also enter into a development agreement, with the holder in respect of granting the Government's free carried interest and State participation in mining, and the financing of any mining operations under a special mining licence. The level of free carried interest and State participation in any operations under this licence shall be negotiated upon between the Government and the licence holder, depending on the type of minerals and the level of investment. The Minister shall not enter into a development agreement if:

- a. the capital expenditure of establishing the mining operations within the special mining area which is subject for the intended development agreement is below US\$ 100,000,000 or its equivalent in any convertible currencies; and
- b. due diligence conducted on the status of the licence holder or applicant does not confirm the financial and technical capability for such a person of being able to efficiently undertake such a large scale investment.

The development agreement entered into shall be subject to periodic performance review by parties after every five years.

Mining licence

- Mining fee: Application for licence is at a prescribed fee. Applications for Renewals, Application for assignment or transfer of mineral rights, are made at prescribed fees. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (years): granted for a period of 10 years
- Renewal (years): is renewable for a further period of 10 years. Application may, not later than six months prior to expiry date of the licence, apply to the Minister for a renewal of his licence
- Minimum spending: The capital investment for this medium-scale mining operation must be between US\$ 100,000 and US\$ 100,000,000 or its equivalent in Tanzanian shillings;
- Work to programme: Yes. Substantial compliance with his programme of mining operations with due diligence.
- Environmental plan: Yes. Show of and strict compliance with environmental management plan and environmental certificate issued.
- Social requirement: Yes. Must append a plan on employment and training of Tanzanians and succession plan on expatriate employees, a procurement plan of goods and services available in the United Republic.
- Reporting requirement: Yes in compliance with paragraph 2 of Schedule 2 and details of the latest proved, estimated and inferred ore reserves must be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:

The holder has the exclusive rights, subject to this Act and the Regulations, to conduct mining operations in or on the area covered by the license, for its specified minerals. The licence is granted for the mining within the prospecting area or the retention area of minerals to which the prospecting licence or the retention license specifies. In cases where an application is made for a mining licence for an area which includes an area subject to a prospecting licence issued to another person, the licensing authority shall on the advice of the Board serve a termination notice on the holder of the prospecting license, which takes effect after thirty (30) days from the date on which the notice was received.²

A mining licence or any undivided proportionate part of it is only assignable to another person after receipt of a written consent of the licensing authority.

The holder as well as his servants and agents are also entitled to:

- a. enter the mining area and take all reasonable measures on or under the surface for the purpose of facilitating and under taking his mining operations;
- b. erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of mining operations;
- c. subject to payment of royalties in accordance with this Act and the Regulations, dispose of any mineral product recovered;
- d. stack or dump any mineral or waste product in a manner provided for in the applicable Regulations;
- e. employ and train citizens of Tanzania and implement succession plan on expatriate employees in accordance with the Employment and Labour Relations Act, and may prospect within the mining area for any minerals other than gemstones.²

The licence holder is required, inter alia, to:

- a. develop the mining area and carry on mining operations in substantial compliance with stipulated requirements with due diligence;
- b. demarcate and keep demarcated in the prescribed manner the mining area;
- c. take all appropriate measures for the protection of the environment in accordance with the Environment Management Act;
- d. implement the proposed plan for relocation, resettlement of, and payment of compensation to people within the mining areas in accordance with the Land Act and for procurement of goods and services available in the United Republic; and
- e. employ and train citizens of Tanzania and implement the succession plan on expatriate employees in accordance with the Employment and Labour Relations Act.²

Other information:

The holder of a mining licence may enter into a development agreement with the Minister on behalf of the United Republic, in the standard model as prescribed in the regulations and upon provisions binding on the United Republic, to guarantee the fiscal stability of this long-term mining project and make special provision for the payment of royalties, taxes, fees and other fiscal imposts.¹

The development agreement entered into shall be subject to periodic performance review by parties after every five years.

A mining licence can be terminated by the Minister, on the advice of the Board, where the licence holder, over a continuous period, not being less than three years, has in each year of production recovered less than 50% of:

- i. the quantity of minerals which should have been recovered under the estimated recovery rate specified in his feasibility study submitted in accordance with section 49; or
- ii. the shortfall in the quantities recovered has not been caused by events beyond the reasonable control of the holder and the continuous period does not include any period during which the Minister under section 69, has approved the cessation or suspension of production.²

Primary Mining licence

- Primary Mining fee: Application for licence is at a prescribed fee. Applications for Renewals, Application for assignment or transfer of mineral rights, are made at prescribed fees. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (years): valid for a period of seven years
- Renewal (months): can be renewed (does not specify duration) and its application must be made not later than three months before the expiry date of primary mining licence,
- Minimum spending: The capital investment for this small-scale mining operations must not be less than US\$100,000 or its equivalent in Tanzanian shillings;
- Work to programme: Yes. Substantial compliance with his programme of mining operations with due diligence.
- Environmental plan: Show of and strict compliance with environmental management plan and environmental certificate issued.
- Social requirement: Yes. The development of the mining area with due diligence
- Reporting requirement: Yes in compliance with paragraph 2 of Schedule 2 and details of the latest proved, estimated and inferred ore reserves must be reported (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
The holder has the exclusive rights, subject to this Act and the Regulations including the Regulations applicable to safety and the protection of the environment, to prospect for and mine in or on the area covered by the license, for minerals as provided for in this Division.

The holder as well as his servants and agents (being persons not disqualified under subsection (2) of section 8 from holding a primary mining licence), are also entitled to:

- a. enter on the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;
- b. erect the necessary equipment, plant and buildings for the purpose of mining, transporting, dressing or treating the minerals recovered by him in the course of mining operations;
- c. subject to payment of royalties in accordance with this Act and the regulations dispose of any mineral recovered;
- d. stack or dump any mineral or waste product in compliance with the applicable regulations;
- e. carry on prospecting operations in the mining area.²

The holder of one or more primary mining licences may, at any time before the licences expire, apply to the Commissioner to convert the licence or licences to a mining licence, if the holder is not in default and has provided particulars which would be required in an application under sections 49 and tendered the prescribed fee.²

Other information:

A primary mining licence for any minerals shall not be granted to a person, partnership or corporate entity unless:

- a. the person is a citizen of Tanzania;
- b. in the case of a partnership, it is composed exclusively of citizens of Tanzania;
- c. in the case of a body corporate, it is a company whose directors and staff members are composed exclusively of citizens of Tanzania;
- d. the control over the company, both direct and indirect, is exercised, from within Tanzania by persons all of whom are citizens of Tanzania.²

Mineral Processing licence

- Processing fee: Application for licence is at a prescribed fee. Applications for Renewals, assignment or transfer of mineral rights, are also made at prescribed fees. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (years): valid for a period not exceeding ten years
- Renewal (years): can be renewed (does not specify duration)
- Minimum spending: amount is determined by the Minister after consultation with the mineral right holder
- Work to programme: Yes. Substantial compliance with his programme of processing operations with due diligence plus submitted procurement, haulage and processing inputs plan

- Environmental plan: Yes. Show of and strict compliance with environmental management plan
- Social requirement: Weak requirement of compensation, relocation and resettlement plan (there is an 'if' clause)
- Reporting requirement: Not specified
- Rights of holder:
The holder is entitled to process minerals in any area within the area subject to a mineral right.

Mineral Smelting or Refining licence

- Smelting or Refining fee: Application for licence is at a prescribed fee. Applications for Renewals, Assignment or transfer of mineral rights, are also made at prescribed fees. There is also an annual charge of such amount as may be calculated and prescribed in Regulations which is payable on the grant of the mineral right, for as long as the mineral right subsists.
- Maximum size (ha): The maximum area for which this licence may be granted shall be prescribed with different maximum areas for different minerals and in respect of different mineral rights according to the provisions of the Regulations.
- Duration (years): valid for a period not exceeding 25 years***
- Renewal (years): can be renewed (does not specify duration)
- Minimum spending: required to set a side certain amount of minerals at such percentage as determined by the Minister may after consultation with the mineral right holder
- Work to programme: Yes. Substantial compliance with his programme of smelting or refining operations with due diligence
- Environmental plan: Yes. Show of and strict compliance with environmental management plan and waste disposal management plan.
- Social requirement: Yes. Compensation, relocation and resettlement plan is required Reporting requirement: Not specified
- Rights of holder:
The holder is entitled to smelt or refine minerals in any area within the area subject to a mineral right.

References:

1. The regulatory environment enabling AngloGold Ashanti to mine:
http://www.anglogold.co.za/subwebs/InformationForInvestors/Reports09/AnnualReport09/f/AGA_AR09_33.pdf
2. THE MINING ACT, 2010: <http://faolex.fao.org/docs/pdf/tan97360.pdf>

COUNTRY: ZAMBIA
GRANTING OF MINERAL RIGHTS
ADMINISTRATION ISSUES

State agency: Ministry of Mines And Minerals Development through the Minister, the Director of Mines or the Director of Geological Survey.

Process/procedure:

A mining right or non-mining right shall be granted to any person only in accordance with the provisions of the Mines And Minerals Development Act, 2008.

In Zambia, the granting of licences may be given on first-come, first-served or auctioning bases. In cases where there exists more than one application for mineral rights over the same area of land, the applications are handled in the order in which they are received, on a first-come-first served basis.

The Minister may also issue a notice of invitations to tender for mining rights over identified areas or mineral resources. The Minister shall, within five days of the expiry of the specified period, refer all the bids submitted in accordance with the stipulated requirements, to the Mining Advisory Committee for evaluation. The Mining Advisory Committee shall take the following into consideration when evaluating the bids:

- a. the investment and financial plan;
- b. the environmental management plan;
- c. in the case of a holder of a mining right, whether the holder has been compliant with the provisions of this Act and the terms and conditions of the right, as the case may be; and
- d. any other matter relevant for purposes of this Act.¹

If the Mining Advisory Committee recommends a bid to the Minister, indicating that it complies with the requirements of this Act, the Minister must grant the bidder the mining right in accordance with the provisions of this Act.

The following are criteria for a person or entity to qualify for the grant of a mineral right in Zambia:

- i. a person who is not under the age of eighteen years;
- ii. a person who is not an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or entered into any agreement or scheme of composition with creditors, or taken advantage of any legal process for the relief of bankrupt or insolvent debtors; or
- iii. a person who has not been convicted, within the previous ten years, of an offence involving fraud or dishonesty, or of any offence under this Act or any other law within or outside Zambia, and been sentenced to imprisonment without the option of a fine or to a fine exceeding fifty thousand penalty units;
or
- iv. a corporate entity that is not in liquidation, other than liquidation which forms

- part of a scheme for the reconstruction of the company or for its amalgamation with another company;
- v. the entity is incorporated under the Companies Act.
 - vi. the entity has an established office in Zambia to which communications may be sent and shall give notice to the Director, the Director of Mines Safety and the Director of Geological Survey of that address and of any changes of that address;
 - vii. the entity does not have among its directors or shareholders any person who would be disqualified under the provisions of the Act.¹

Where the application for a licence meets the requirements of this Act, the Director of Geological Survey is expected to grant the licence within sixty (60) days of receipt of the application. In cases where the Director rejects an application, for reasons of not meeting the requirements of this Act, he must give the reasons for this to the applicant.

Holders of a mining licences besides prospecting licences or permits or mineral processing licences, are required to apply to the Director of Mines Safety for an annual operating permit in the prescribed manner and upon payment of the prescribed fee.

An applicant for a mining right over an area subject to another mining right is entitled to apply for consent from the holder of the mining right, if:

- a. the minerals or metals applied for are different from those indicated on holder's licence or permit;
- b. the geographical position of the minerals or metals applied for is different from the holder's ore body position indicated in the approved programmes of operations;
- c. the geological position of the minerals or metals applied for is different from the position of the holder's plant and infrastructure indicated in the approved programme of operations; or
- d. the mineral applied for is an industrial mineral and the holder is not eligible under the Act.¹

The holder of a mining right over an area in respect of which consent to the application is sought shall within a period of ninety days respond to the request

Only citizens of Zambia and citizen-owned companies are eligible for obtaining mining licences for industrial minerals.

A holder of a mining right or mineral processing is required to:

- a. obtain and maintain an insurance coverage within the Republic, at all times during the lifetime of the mining right or mineral processing licence and for the prescribed period thereafter;

- b. cause its contractors also to obtain and maintain an insurance coverage within the, Republic, at all times, in such amounts and against such risks as may be prescribed by the Minister, by statutory instrument, and
- c. shall present certificates to the Minister, evidencing that such coverage is in effect and provide copies of any policies requested.¹

A certificate of abandonment must be obtained by the holder of a license or permit who wishes to abandon all or any part of the land subject to his licence. Application must be made to the Director or the Director of Geological Survey, as the case may be, not later than ninety days before the date on which the holder wishes the abandonment to have effect.

Any offence committed in breach of any provisions of the Act with respect to mining rights is liable, upon conviction, to pay a fine specified according to the type of licence, or to imprisonment for a period specified, or to both.¹

Reconnaissance right

- Reconnaissance fee: prescribed fee
- Maximum size (ha): not specified
- Duration (months): for a period not exceeding ninety days
- Renewal (months): it cannot be renewed
- Relinquish areas: not applicable
- Minimum spending: prescribed amount
- Work to programme: Yes
- Environmental plan: Yes
- Social requirement: Yes
- Reporting requirement:
- Rights of holder:

This confers on the holder to right to carry out or undertake an aerial survey, for the purpose of reconnaissance operations for the location of minerals by geo-physical, geo-chemical and photo-geological survey or by the study of surface geology. The Director of Geological Survey may grant in writing, for the specified period, the right to enter any area that is not subject to a mining right, which is subject to such conditions, including conditions relating to work and expenditure, as the Director of Geological Survey may impose.

Large-Scale Mining Operations - Prospecting Licence

- Prospecting fee: Prescribed fee
- Maximum size (ha): Area must not exceeding twenty-nine thousand, nine hundred and forty (29, 940) cadastre units, and represented by complete and not partial cadastre units
- Duration (months): valid for 2 years (24 months)
- Renewal (months): It can be renewed for a further two year period but the total maximum period shall not exceed seven years. Application for renewal must be made not later than three months before the expiry of the prospecting licence

- Relinquish areas: It is required that at least 50% of the initial prospecting area is relinquished on the first renewal and at least 50% of the balance, on the second renewal.
- Minimum spending: Prescribed amount
- Work to programme: Yes. The submitted proposed programme of prospecting operations must be adhered to.
- Environmental plan: Yes, an environmental management plan must be submitted and complied with.
- Social requirement: Yes. In conducting of operations, purchases, construction and installation of facilities, must give preference to materials and products made in Zambia; service agencies located in Zambia and citizen-owned companies. In terms of employment and training, preference must be given to citizens of Zambia, to enable them qualify for advancement.
- Reporting requirement: Yes. Reports are to be submitted to the Director of Geological Survey, in prescribed manner.
- Rights of holder:
This licence confers on the holder exclusive rights to prospect for any mineral, over the size of area covered by the license for the minerals it specifies, other than gemstones, and to reasonably carry out activities incidental to the prospecting operations. This prospecting licence is transferable and can only be transferred after notifying the Minister not less than thirty days, giving such details of the transferee as would be required in the case of an application for a prospecting license. In the course of exercising any rights under a prospecting licence, if the holder discovers any mineral not included in the prospecting license, he may apply to the Director of Geological Survey for an amendment of his licence to include the discovered mineral, in prescribed form.

Date for the commencement of prospecting operations, should not exceed ninety days from the date of the grant of the licence.

The licence holder is obligated, amongst other things, to:

- a. notify to the Director of Geological Survey of the discovery of the mineral to which the prospecting licence relates or any mineral deposit of possible commercial value within thirty (30) days of the discovery;
- b. expend on prospecting operations not less than the amount prescribed or required by the terms and conditions of the prospecting licence to be so expended;
- c. carry on prospecting operations in accordance with the programme of prospecting operations;
- d. backfill or otherwise make safe any excavation made during the course of the prospecting operations, as the Director Geological of Survey may specify;
- e. permanently preserve or otherwise make safe any borehole in the manner directed by the Director of Geological Survey and surrender to

- Government, without compensation, the drill cores, other mineral samples, the boreholes and any water rights in respect thereof, on termination;
- f. unless the Director of Geological Survey otherwise stipulates, remove, within sixty (60) days of the expiry or termination of the prospecting licence, any camp, temporary buildings or machinery erected or installed and repair or otherwise make good any damage to the surface of the ground occasioned by the removal, in the manner specified by the Director of Geological Survey;
 - g. keep and preserve such records as the Minister may prescribe, relating to the protection of the environment;
 - h. keep full and accurate records at the holder's office, of the prospecting operations and shall present them with mineral samples and other reports containing the information required under the licence and the Act, at least once in every three (3) months, digital and hard copies of the records to the Director, Director of Geological Survey and Director of Mines Safety.¹

Other information:

An application for a prospecting licence shall be made to the Director of Geological Survey in the prescribed form upon payment of the prescribed fee and must include the following stated below, and upon compliance thereof, ensures the grant of the licence:

- a. a full description, with geographical coordinates, of the area of land over which the licence is sought, but not exceeding the maximum area size allowable; or in the case where more than one license is held by a single entity, the number of licences must be such that the accumulated total area covered is not more than one hundred and forty-nine thousand, seven hundred (149,700) cadastre units
- b. a statement of the minerals to be searched for;
- c. an environmental management plan including the applicant's proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of prospecting operations;
- d. the proposed programme of prospecting operations and an indication of the investment commitment in the proposed prospecting operations;
- e. the applicant's proposals with respect to the employment and training of citizens of Zambia;
- f. the applicant's proposals for the promotion of local business development;
- g. a tax clearance certificate issued under the Income Tax Act; and
- h. such further information as may be prescribed by the Minister by statutory instrument.¹

In making the decision to grant the licence or not, the Director of Geological of Survey assesses the application criteria also in light of the following:

- i. “the applicant is disqualified from holding a prospecting licence under section 7 of the Act;
- ii. the applicant is the holder of another mining right and is in breach of any condition of that right or any provision of this Act;
- iii. the area of land for which the applicant has made the application, or a part of it, is subject to another mining right and the holder thereof has not consented to the exercise of the right in respect of which the application is made; or it extends to or is included in, an area in respect of which the Director of Geological Survey has granted preliminary investigation rights on conditions which impose work or expenditure obligations, unless the applicant is the holder of that right; or
- iv. the area of land for which the application is made covers or includes an area of land for which an application has been made by another person who has priority over the applicant.¹

In cases where an application for a prospecting licence is made in respect of an area over which a previous prospecting licence has been held for seven (7) years, a new prospecting licence cannot be granted before a period of two (2) months has elapsed since the expiry of the previous licence.

Retention licence (Not mentioned in the Act 2008 but in Mine and Mineral Act, 1995)

- Retention fee: Prescribed fee***
- Maximum size (ha): Size of area may be that covered by a prospecting licence or smaller area as redefined by the License holder.²
- Duration (months):
- Renewal (months):
- Relinquish areas:
- Minimum spending:
- Work to programme:
- Environmental plan:
- Social requirement:
- Reporting requirement: Not mentioned
- Rights of holder:
This confers the right to retain an area subject to the Minister’s agreement, over which feasibility studies have been completed but market conditions are unfavorable for development of a deposit at that time.²

Large-Scale Mining Licence

- Mining fee: prescribed fee. Application for renewal is also made on payment of the prescribed fee
- Maximum size (ha): The area to be held should not exceed the area covered by prospecting licence but not exceeding seven thousand, four hundred and eighty-five (7,485) cadastre units and represented by complete and not partial cadastre units.

- Duration (years): valid for a maximum period of 25 years
- Renewal: It can be renewed for a period, not exceeding 25 years. Application for renewals can be made to the Director at any time not later than one (1) year before the expiry of the licence, in respect of all or any part of the mining area.
- Minimum spending: Not prescribed, proposed forecast of capital investment is to be presented
- Work to programme: Yes. Strict compliance with programme of mining operation.
- Environmental plan: Yes. Strict compliance with submitted environmental management and protection plans approved by the Environmental Council of Zambia.
- Social requirement: Yes. Strict compliance with submitted proposals for the employment and training of citizens of Zambia and proposals for promotion of local business development with respect to giving preference to materials and products made in Zambia for purchases, construction and installation of facilities; and use of service agencies located in Zambia and citizen-owned companies.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
This licence confers on the holder exclusive rights to carry-out within the mining area, mining and prospecting operations for minerals specified in the licence, except gemstones, and other activities reasonably incidental to the operation. A large-scale mining licence is transferable, assignable, only after the approval of such application has been received from the Minister, with the application stating such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a large-scale mining licence.

The licence holder is also entitled to:

- i. enter to the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;
- ii. erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;
- iii. dispose of any mineral product recovered;
- iv. prospect within the mining area for any mineral except gemstones; and
- v. stack or dump any mineral or waste products in accordance with the environmental management plan.¹

The licence holder is required, inter alia, to:

- i. develop the mining area, and carry on mining operations, with due diligence and in compliance with the programme of mining operations and the environmental management plan;
- ii. take all reasonable measures on or under the surface to mine the mineral to which the licence relates;
- iii. comply with the proposed forecast of capital investment as attached to the licence; and
- iv. demarcate the mining area, and keep it demarcated in the prescribed manner.
- v. furnish the Director with a copy of the annual audited financial statements within three months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year.
- vi. report to the Director within twenty-four hours, any discovery of petroleum.¹

In the course of exercising any rights under this licence, if the holder discovers any deposits of minerals for which the holder is not licensed, must within thirty (30) days after such discovery, notify the Director thereof, giving particulars of the mineral discovered and the site and circumstances of the discovery. He may apply to the Director of Geological Survey for an amendment of his licence to include the mining of any such discovered mineral, in prescribed form, giving a proposed programme of mining operations in respect of that mineral.

The holder of a large-scale mining license may, after giving notice to the Director, at least ninety (90) days in advance, without abandonment of the licence, suspend or curtail production for any of the following reasons:

- a. an unsafe working environment;
- b. uncontrolled pollution of the area resulting from the mining operations;
- c. any force majeure; or
- d. any labour disputes that disrupt the mining operations.¹

Other information:

The criteria for grant of the licence depend on compliance with the following documents submitted on application:

- i. a statement of the period for which the licence is sought;
- ii. a statement of the minerals to be mined under the licence;
- iii. a comprehensive statement of the mineral deposits in the area over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- iv. the proposed programme for mining operations, including a forecast of capital investment, the estimated recovery rate of ore and mineral products, and the proposed treatment and disposal of ore and minerals recovered;

- v. the applicant's environmental management plan, including the proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of mining operations;
- vi. details of expected infrastructure requirements;
- vii. the applicant's proposals with respect to the employment and training of citizens of Zambia; the applicant's proposals for the promotion of local business development.
- viii. a full description, with geographical coordinates, of the area of land for which the large-scale mining licence is sought;
- ix. a tax clearance certificate issued under the Income Tax Cap. 323 Act;
- x. a plan of the proposed mining area prepared in such manner and showing such particulars as the Director may require; and
- xi. such further information as the Director of Geological Survey may require for the disposal of the application.¹

In making the decision to grant the licence or not, the Director of Geological Survey assesses the application criteria also in light of the following:

- i. whether or not there are sufficient deposits or reserves to justify their commercial exploitation;
- ii. that the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining operations;
- iii. taking into account the recognized standards of good mining practice, the applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought;
- iv. that the applicant's environmental management plan conforms to specifications and practices established by national standards for the management of the environment as it is affected by mining operations;
- v. whether the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry out effective mining operations;
- vi. if the land is within a national Park, game management area, national forest or local forest, or is a bird sanctuary or land to which subsection (1) of section 127 applies, the applicant has obtained the necessary consent;
- vii. the size and nature of the proposed mining operations is adequate enough to support the applicant's proposals for the employment and training of citizens of Zambia; and
- viii. the applicant is not in breach of any condition of the prospecting licence or any provision of this Act.¹

Large-Scale Mining Licence in respect of radioactive minerals

- Mining fee: prescribed fee. Application for renewal is also made on payment of the prescribed fee
- Maximum size (ha): The area to be held should not exceed the area covered by prospecting licence but not exceeding seven thousand, four hundred and eighty-five (7,485) cadastre units and represented by complete and not partial cadastre units.
- Duration (years): valid for a maximum period of 25years****
- Renewal: It can be renewed for a period, not exceeding twenty five years. Application for renewals can be made to the Director at any time not later than one (1) year before the expiry of the licence, in respect of all or any part of the mining area.***
- Minimum spending: Not specified
- Work to programme: Yes
- Environmental plan: Yes. Strict compliance to submitted environmental protection plans approved by the Environmental Council of Zambia as well as programme for training of workers and persons living in the vicinity of facilities in relation to their safety and limiting the adverse effects of radioactive substances on the health of persons and the environment.
- Social requirement: Strict compliance with submitted proposals for the employment and training of citizens of Zambia and proposals for promotion of local business development with respect to giving preference to materials and products made in Zambia for purchases, construction and installation of facilities; and use of service agencies located in Zambia and citizen-owned companies.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with)****
- Rights of holder:
This licence confers on the holder exclusive rights to carry out within the mining area, mining and prospecting operations for radioactive minerals only and other activities reasonably incidental to the operation.

Other information:

The criteria for grant of the licence depend on compliance with the following documents submitted on application:

- i. a plan and description of the mine, processing facilities and disposal sites;
- ii. a copy of the relevant licence issued under the Ionising Act No. 15 Radiation Protection Act; of 2005
- iii. a programme to educate persons living in the vicinity of the mine or processing facilities of the general nature and characteristics of anticipated effects on the environment, health and safety of persons;
- iv. programmes to assist authorities outside the mining area in planning and preparing to limit the adverse effects of an accidental release of radioactive substances;

- v. the proposed programme for selecting, using and maintaining personal protective equipment;
- vi. the proposed training programme for workers in relation to radiation safety;
- vii. the proposed ventilation and dust control methods and associated equipment;
- viii. in relation to security, the proposed measures during storage and transportation of any radioactive mineral products and measures to alert the holder to acts of sabotage at the mine or processing facility;
- ix. the storage, transportation and marketing arrangements; and
- x. other requirements that the Director may specify, by statutory instrument.¹

Large-Scale Gemstone Licence

- Mining fee: Prescribed fee. Application for renewal is also made on payment of the prescribed fee
- Maximum size (ha): Area should not exceed seven thousand, four hundred and eighty-five (7,485) cadastre units and represented by complete and not partial cadastre units
- Duration (years): valid for a maximum period of ten years
- Renewal: It can be renewed for a further period of 10 years (max). Application for renewal can be made at any time not later than one (1) year before the expiry of the licence, in respect of all or any part of the mining area.
- Minimum spending: Not prescribed, proposed forecast of capital investment is to be presented
- Work to programme: Yes. Strict compliance with programme for prospecting and mining operations.
- Environmental plan: Yes. Strict compliance with submitted environmental management and protection plans approved by the Environmental Council of Zambia.
- Social requirement: Yes. Strict compliance with submitted proposals for the employment and training of citizens of Zambia to enable them qualify for advancement and proposals for promotion of local business development with respect to giving preference to materials and products made in Zambia for purchases, construction and installation of facilities; and use of service agencies located in Zambia and citizen-owned companies.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
This licence confers on the holder the exclusive rights to prospect for and mine gemstones within the area covered by the licence, and to do all other activities reasonably incidental to the carrying out of these operations. A large-scale gemstone licence is transferable, assignable, only after the approval of such application has been received from the Minister, with the application stating such particulars concerning the proposed transferee,

assignee, or other party concerned as would be required in an application for a large-scale gemstone licence. The licence holder is also entitled to:

- i. enter to the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;
- ii. the purposes of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;
- iii. dispose of any mineral product recovered;
- iv. prospect within the mining area for any gemstones; and
- v. stack or dump any mineral or waste products in accordance with the environmental management plan.¹

The licence holder is required, inter alia, to:

- i. develop the mining area, and carry on mining operations, with due diligence and in compliance with the programme of mining operations and the environmental management plan;
- ii. take all reasonable measures on or under the surface to mine the mineral to which the licence relates;
- iii. comply with the plan for cutting, polishing, and faceting gemstones in Zambia;
- iv. comply with the proposed forecast of capital investment as attached to the licence; and
- v. demarcate the mining area and keep it demarcated in the prescribed manner
- vi. submit to the Director, all technical reports and a copy of the annual audited financial statements within six months of the end of each financial year.
- vii. report to the Director within twenty-four hours, any discovery of petroleum.¹

In the course of exercising any rights under this licence, if the holder discovers any deposits of gemstones for which the holder is not licensed, must within thirty (30) days after such discovery, notify the Director thereof, giving particulars of the mineral discovered and the site and circumstances of the discovery. He may apply to the Director of Geological Survey for an amendment of his licence to include the mining of any such discovered mineral, in prescribed form, giving a proposed programme of mining operations in respect of that mineral.

The licence holder may, after giving notice to the Director, at least ninety (90) days in advance (with respect to suspension), or at least thirty (30) days in advance (with respect to curtailment), and without abandonment of the licence, suspend or curtail production for any of the following reasons:

- a. an unsafe working environment;
- b. uncontrolled pollution of the area resulting from the mining operations;

- c. any force majeure; or
- d. any labour disputes that disrupt the mining operations.¹

Other information:

The criteria for grant of the licence depend on compliance with the following documents submitted on application:

- a. a statement of the period for which the licence is sought;
- b. a statement of the gemstones to be prospected for and mined under the licence;
- c. a comprehensive statement of the mineral deposits or probable deposits in the area over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
- d. the proposed programme for prospecting and mining operations, including a forecast of capital investment, the estimated recovery rate of ore and gemstone products, and the proposed treatment and disposal of ore and gemstones recovered;
- e. the applicant's environmental management plan, including the proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of mining operations;
- f. details of expected infrastructure requirements;
- g. the applicant's proposals with respect to the employment and training of citizens of Zambia;
- h. the applicant's proposals for the promotion of local business development.
- i. full description, with geographical coordinates, of the area of land for which the large scale gemstone licence is sought
- j. a plan for cutting, polishing and faceting of gemstones in Zambia;
- k. a tax clearance certificate issued under the Income Tax Act;
- l. a plan of the proposed mining area prepared in such manner and showing such particulars as the Director may require; and
- m. such further information as the Director may require for the disposal of the application.¹

In making the decision to grant the licence or not, the Director of Geological of Survey assesses the application criteria also in light of the following:

- i. whether or not there are sufficient indications of gemstone probable deposits or reserves of gemstones to justify their commercial exploitation;
- ii. that the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining operations;
- iii. taking into account the recognized standards of good mining practice, the applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought:

- iv. that the applicant's environmental management plan conforms to specifications and practices established by national standards for the management of the environment as it is affected by mining operations;
- v. whether the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry out effective mining operations;
- vi. if the land is within the National Park, game management area, national forest or local forest or is a bird sanctuary or land to which subsection (1) of section 127 applies, the applicant has obtained the necessary consent;
- vii. the size and nature of the proposed mining operations is adequate enough to support applicant's proposals for the employment and training of citizens of Zambia; and
- viii. the applicant is not in breach of any condition of the prospecting licence or any provision of this Act.¹

Small-Scale Mining Operations - Prospecting Permit

- Exploration fee: prescribed fee.
- Maximum size (ha): maximum areas of 10km² OR not exceeding three hundred (300) cadastre units and represented by whole numbers of cadastre units
- Duration (months): The grant of the license is limited to two years
- Renewal (months): cannot be renewed
- Relinquish areas: Not applicable
- Minimum spending: Not prescribed, statement of proposed investment amount is to presented.
- Work to programme: Yes. Strict compliance to the proposed programme of prospecting operations.
- Environmental plan: Yes. Strict compliance with submitted environmental management and protection plans approved by the Environmental Council of Zambia.
- Social requirement: Not prescribed/ mentioned.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with)
- Rights of holder:
This permit confers on the holder exclusive rights to carry out prospecting operations for minerals specified in the licence, except gemstones, within the area covered by the permit, and to do all such activities incidental to the carrying out of the operations. This permit is transferable, assignable, only after the approval of such application has been received from the Minister, with the application stating such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a small-scale prospecting permit.

Removal of any mineral from the prospecting area apart for the purposes of analyzing and conducting tests on the mineral is only possible after obtaining a written permission from the authorized officer at the local office. The removal of any mineral must comply with such conditions as the authorized officer may specify in the written permission. For the purpose of analyzing and conducting tests on mineral specified in the permit, the Minister may, by statutory instrument, determine the quantities of mineral samples to be removed.

The licence holder is required, inter alia, to:

- a. notify the local office of the discovery of any mineral deposit of possible commercial value in the prospecting area within thirty days of the discovery;
- b. keep at the office of the holder, full and accurate records of the prospecting operations which shall show:
 - i. the boreholes drilled;
 - ii. the strata penetrated, with detailed logs of the strata;
 - iii. the minerals discovered;
 - iv. the results of any seismic survey or geo-chemical, geo-physical and remote sensing data analysis;
 - v. the results of any analysis or identification of minerals;
 - vi. the geological interpretation of the records maintained under items (i) to (v) inclusive;
 - vii. the number of persons employed;
 - viii other work done in connection with the prospecting permit;
 - ix. the costs incurred; and
 - x. such other matters as may be prescribed by the Minister, by statutory instrument; and
- c. keep and preserve for such period as the Minister may prescribe by statutory instrument, records in relation to the protection of the environment.¹

Other information:

The grant of a prospecting permit is restricted to only citizens of Zambia or a citizen-owned company.

The criteria for grant of the permit depend on compliance with the following documents submitted on application:

- a. a statement of the minerals, other than gemstones, for which the applicant wishes to prospect;
- b. a description and sketch with geographical coordinates of the area of land for which the permit is sought, sufficient to enable identification of the area and to provide a plan to be annexed to the permit;
- c. an environmental management plan including the applicant's proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimizing the adverse effects on the environment of the prospecting operations; and

- d. a statement of the sum the applicant intends to expend on the prospecting operations;
- e. a description of any mining right which has previously been granted to the applicant or for which the applicant has previously made an application; and
- f. a tax clearance certificate issued under the Income Tax Act.
- g. the proposed programme of prospecting operations.¹

Small-Scale Mining Licence

- Mining fee: Prescribed fee. Application for renewal is also made on payment of the prescribed fee
- Maximum size (ha): areas not exceeding 400 hectares OR not exceeding one hundred and twenty (120) cadastre units
- Duration (years): valid for 10 years
- Renewal: It can be renewed for a further period of 10 years (max). Application for renewal must be made to the Director at least sixty (60) days before the expiry of the licence.
- Minimum spending: Not specified, a forecast of investment must be presented.
- Work to programme: Yes. Strict compliance with proposed program of small-scale mining operations.
- Environmental plan: Yes. Strict compliance with submitted environmental protection plans approved by the Environmental Council of Zambia.
- Social requirement: Not prescribed/ mentioned.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
this licence confers on the holder exclusive rights to carry on mining operations for minerals specified in the licence, except gemstones, within the area covered by the licence, and to do all such other activities reasonably incidental to the carrying on of those operations. This licence is transferable, assignable, only after the approval of such application has been received from the Minister, with the application stating such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a small-scale mining licence. When the Director considers on reasonable grounds that the holder is engaged in mining operations on a substantial scale, he may require the holder of a small-scale mining license to apply for a large-scale mining licence.

The licence holder is also entitled to:

- i. enter into or upon the mining area and take all reasonable measures on or under the surface for the purpose of the mining operations;

- ii. erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of the mining operations;
- iii. dispose of any mineral products recovered;
- iv. prospect within the mining area for any mineral; and
- v. stack or dump any mineral or waste product.¹

The licence holder is required, inter alia, to:

- i. develop the mining area and commence and carry on mining operations, with due diligence and in accordance licence with the programme of mining operations;
- ii. demarcate the mining area, and keep it demarcated, in the prescribed manner
- iii. submit to the Director, all technical reports and a copy of the annual audited financial statements within three months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year.¹

Other information:

The grant of a small-scale mining licence is restricted to citizens of Zambia or citizen-owned companies.

The criteria for grant of the permit depend on compliance with the following documents submitted on application:

- i. "an identification of the relevant prospecting permit;
- ii. a description and sketch of the area of land, over which the small-scale mining licence is sought, sufficient to enable identification of the area;
- iii. a description of the proposed programme of mining operations, which shall include a forecast of investment, the estimated recovery rate of ore and the applicant's proposal for its treatment and disposal;
- iv. a description to the best of the applicant's knowledge and belief of the mineral deposits in the area over which the licence is sought;
- v. a statement of the duration, not exceeding ten years, for which the small-scale mining licence is sought;
- vi. a tax clearance certificate issued under the Income Tax Act; and
- vi. such other information as the Director may require for disposing of the application.¹

In making the decision to grant the licence or not, the Director of Geological of Survey assesses the application criteria also in light of the following:

- i. that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective small-scale mining operations;
- ii. that the proposed programme of small-scale mining operations is adequate and makes proper provision for environmental protection; and
- iii. where consent is required for the area under any written law, the applicant has submitted evidence of the consent.

- iv. Whether the applicant has been required to apply for a large-scale mining licence;
- v. whether the applicant is disqualified under provisions of section 7 of the Act;
- vi. if the area in respect of which a small-scale mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;
- vii. if the applicant is in breach of any condition of any other mining right or any provision of this Act.¹

Conditions for which the Director may cancel a licence are:

- i. in cases where over a continuous period of three years or longer, a holder of a small-scale mining licence has failed to carry on mining operations in accordance with the proposed plan of mining operation and/or
- ii. over such period has in each year of production recovered less than 50% of the ore which should have been recovered under the estimated recovery rate.¹

Small-Scale Gemstone Licence

- Mining fee: Prescribed fee. Application for renewal is also made on payment of the prescribed fee
- Maximum size (ha): area not exceeding 400 hectares OR not exceeding one hundred and twenty (120) cadastre units and with whole numbers of cadastre units.
- Duration (years): valid for a period of not more than 10 years
- Renewal: It can be renewed for a further period of 10 years (max). Application for renewal must be made to the Director at least sixty (60) days before the expiry of the licence.
- Minimum spending: Not specified, a forecast of investment must be presented.
- Work to programme: Yes. Strict compliance with proposed programme of gemstone mining operations
- Environmental plan: Yes. Strict compliance with submitted environmental protection plans approved by the Environmental Council of Zambia.
- Social requirement: Not specified/ mentioned.
- Reporting requirement: Not specified/ mentioned
- Rights of holder:

The holder has exclusive rights to prospect and carry out small-scale mining operations for gemstones over area covered by the licence, and to do all other activities reasonably incidental to the carrying out of these operations. This licence is transferable, assignable, only after the approval of such application has been received from the Minister, with the application stating such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a small-scale gemstone licence.

The holder of a small-scale gemstone licence is required, inter alia, to:

- i. notify the Director of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery;
- ii. keep and preserve, for such period as the Minister may prescribe, by statutory instrument, the records in relation to the protection of the environment.¹

Other information:

The grant of a small-scale gemstone is restricted to citizens of Zambia or citizen-owned companies.

The criteria for grant of the permit depend on compliance with the following documents submitted on application:

- i. a description and sketch, with geographical coordinates of the area of land over which the gemstone licence is sought, sufficient to enable the officers at the local office to identify the area and provide a plan to be annexed to the licence;
- ii. the proposed program of mining operations, including a forecast of investment and the estimated recovery rate of ore and gemstones;
- iii. a statement, to the best of the applicant's knowledge and belief, of the gemstone deposits in the area over which the licence is sought;
- iv. a tax clearance certificate issued under the Income Tax Act; and
- v. such other information as the Director may require for disposing of the application.¹

In making the decision to grant the licence or not, the Director of Geological of Survey assesses the application criteria also in light of the following:

- i. that the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective small-scale gemstone mining operations;
- ii. that the proposed programme of gemstone mining operations is adequate and makes proper provision for environmental protection; and
- iii. whether the applicant has been required to apply for large-scale gemstone licence;
- iv. the applicant is disqualified under provisions of section 7 of the Act;
- v. if the area over which the applicant seeks a small-scale gemstone licence is already subject to a mining right and the holder has not granted consent;
- vi. the area in respect of which a small-scale gemstone licence is sought is in excess of the area required to mine the deposits identified by the applicant; or
- vii. the applicant is in breach of any condition of any other mining right or any provision of this Act.¹

Artisanal Mining Licence

- Mining fee: Prescribed fee. Application for renewal is also made on payment of the prescribed fee.
- Maximum size (ha): area must not exceed 5 hectares OR two (2) cadastre units,
- Duration (years): valid for a period of 2 years

- Renewal: it is renewable for a further period of 2 years (max). Application for renewal must be made to the Director at least sixty (60) days before the expiry of the licence.
- Minimum spending:
- Work to programme: Yes. Strict compliance with proposed programme of mining operations
- Environmental plan: Yes. Strict compliance of operations with submitted environmental protection plans approved by the Environmental Council of Zambia
- Social requirement: Yes. The execution of mining operation must ensure the proper conservation and use in the national interest of the mineral resources of the mining area.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format. Details of all known minerals proved, estimated or inferred, ore reserves must be presented (although it is not prescriptive on the international Code to comply with).
- Rights of holder:
This licence gives the exclusive rights to the local people to explore and mine on a community basis, the deposit specified in the licence, within the area for which it is granted, in accordance with customary practices. The Minister may authorize such operations by the granting the artisan's mining right to the chief of the area or such other person as he may, by statutory instrument, prescribe.

The holder of the Artisanal mining right is required, inter alia, to:

- a. maintain at the holder's office:
 - i. complete and accurate technical records of the operations in the mining area, in such form as the Director may approve;
 - ii. copies of all maps and geological reports, including interpretations, mineral analyses, core logs, analyses and test results obtained and compiled by the holder in respect of the mining area;
 - iii. accurate and systematic financial records of the operations in the mining area and such other books of account and financial records as the Director may require; and
 - iv. where the holder is engaged in any other activity not connected with the operations under the artisan's mining right, separate books of account from the operations under the licence;
- b. permit an authorized officer at any time to inspect the books and records maintained and deliver to the Director, without charge, copies of any part of the books and records as the Director may require;
- c. submit to the Director such reports, records and other information as the Director may require concerning the conduct of the operations in the mining area; and
- d. furnish the Director with a copy of the financial statements within three (3) months of the end of each financial year showing the profit or loss for the

year and the state of the financial affairs of the holder at the end of each financial year.¹

Other information:

The grant of artisan's mining rights is restricted to citizens of Zambia or citizen-owned companies.

The application for this licence must include:

- i. statement indicating the minerals in respect of which it is to be granted; and
- ii. a description and delineated plan of the area of land for which the licence is sought, not exceeding maximum size allowable and not being an area that is already subject to a mining right.¹

The artisan's mining right may be suspended or cancelled by the Director, if:

- a. the holder of the right has been disqualified under section 7 of the Act
- b. the holder has been convicted of an offence under this Act; or
- c. the holder contravenes this Act or any condition of the right.¹

Mineral Processing Licence

- Processing fee: Prescribed fee. Application for renewal is also made on payment of the prescribed fee.
- Maximum size (ha): Not specified.
- Duration (years): valid for a period of 15 years
- Renewal: it is renewable for a further period of 15 years (max). Application for renewal must be made to the Director not later than ninety days before the expiry of the licence.
- Minimum spending: Prescribed amount
- Work to programme: Yes. Strict compliance with proposed programme of mineral processing operations.
- Environmental plan: Yes. Strict compliance with submitted environmental management and protection plans approved by the Environmental Council of Zambia.
- Social requirement: Yes. Strict compliance with submitted proposals for the employment and training of citizens of Zambia to enable them qualify for advancement and proposals for promotion of local business development with respect to giving preference to materials and products made in Zambia for purchases, construction and installation of facilities; and use of service agencies located in Zambia and citizen-owned companies.
- Reporting requirement: Yes. Technical and financial reports must be submitted to the Minister in compliance with prescribed format.
- Rights of holder:

The licence confers exclusive rights to carry on mineral processing within the area covered by the license, of the minerals specified in the licence and to do all such activities reasonably incidental to the carrying on of those operations. A mineral processing licence is transferable, only after the approval of such application has been received from the Minister at least thirty days before the

intended transfer, with the application stating such particulars concerning the proposed transferee, assignee, or other party concerned as would be required in an application for a mineral processing licence.

The holder is required, inter alia, to:

- i. "commence mineral processing operations within twelve months, or such further period as the Director of Geological Survey may allow from the date of the grant of the licence;
- ii. carry on the mineral processing operations in accordance with the programme of mineral processing approved by the Director of Geological Survey;
- iii. notify the Director of Geological Survey of mineral recoveries within thirty (30) days of the recovery;
- iv. expend on mineral processing operations not less than the amount prescribed or required by the terms and conditions of the licence to be so expended; and
- v. submit reports to the Director of Geological Survey on:
 - a. sources of ore, concentrates, tailings, slimes or any other mineral substances fed to the plant;
 - b. quantities and grade of feed to the plant;
 - c. compliance with safety and environmental standards;
 - d. labour and production returns as submitted by the holder of a mining right; and
 - e. any other records, reports and other information as the Director of Geological Survey may require concerning the operations of the mineral processing operations.¹

Other information:

The application for this licence must include:

- i. a full description of the area of land over which the licence is sought, including its surrounding settlements or developments and plans of the area prepared in such a manner and showing such particulars as the Director of Geological Survey may require;
- ii. a statement of the minerals to be processed;
- iii. a copy of the applicant's title to the land or written consent from a surface right holder or mining right holder;
- iv. the proposed programme for mineral processing operations including a forecast of plant capacity, capital investment, facilities, mineral processing methods and the estimated mineral recoveries;
- v. an environmental management plan including the applicant's proposals for the prevention of pollution, the treatment of waste, the protection and reclamation of land and water resources, and for eliminating or minimising the adverse effects on the environment of the mineral processing operations;
- vi. a tax clearance certificate issued under the Income Tax Act; and
- vii. such further information as may be prescribed by the Director of Geological Survey by statutory instrument.¹

In making the decision to grant the licence or not, the Director of Geological of Survey assesses the application criteria also in light of the following:

- i. whether the applicant has, or has secured access to, adequate financial resources, technical competence and experience to carry on effective mineral processing operations;
- ii. if the applicant has title to the land over which the application is made;
- iii. that the proposed programme of mineral processing operations is adequate and makes proper provision for environmental protection; and
- iv. that the applicant is not in default or disqualified from holding a mineral processing licence under section 7 of the Act;
- v. the applicant is the holder of another mineral processing licence and is in breach of any condition of that licence or any provision of this Act.¹

Conditions, for which the Director may terminate this licence, are:

- i. in cases where over a continuous period of three years or longer, a holder of a mineral processing licence has failed to carry on processing operations in accordance with the proposed plan of mining operation and/or
- ii. over such period has in each year of production recovered less than 50% of the minerals which should have been recovered under the estimated recovery rate.¹

References

1. THE MINES AND MINERALS DEVELOPMENT ACT, 2008:
http://www.saflii.org/zm/legis/num_act/mamda2008295.pdf
2. Mining Legislation: <http://www.zambiamining.co.zm/mining-legislation.html>