

**GOOD PRACTICE NOTE**  
**GRANTING MINERAL RIGHTS**

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## 1. Introduction

Most countries in the developing world have established regulatory regimes which govern the minerals and mining sector. The regimes may be inferred from their constitutions, number of laws affecting the industry, specific mining legislation, model mineral development agreements and ad hoc agreements<sup>1</sup>. In all instances, the mineral resources are either directly owned by the State or held in trust by the respective Government on behalf of its citizens. It should be borne in mind that mineral law or the mineral regulatory system is not merely a legal technicality but an expression of the host country's policy towards the exploration and exploitation of the country's mineral wealth. Therefore, the mining and mineral legal framework exists to guide both the host Government's and the investor's action in relation to mineral development. The regulatory systems set out the boundaries of acceptable conduct in relation to exploration and exploitation.

It should be noted that mining legal frameworks are guided by the legal systems (civil law, Islamic law, and common law or hybrid legal systems) of those countries. In this regard, it is also incumbent upon the investor to know the legal system within which it is operating and not impose legal principles which are foreign to the host country's legal system.

The process for the allocation of mineral rights is based on either a non-competitive (free-entry system) or a competitive (tender) process. It is commonly found that in some countries the mining legislation makes provision for both non-competitive (free entry system) and a competitive bidding process. However, these processes are not used simultaneously, but it depends on the following factors:

- Where less geological information is available to government, the greater the risk and therefore the obvious use of the non-competitive system
- Where more assured information is available, the lower the risk and therefore the easier for bidders to make informed decisions and hence amenable to auctioning system.

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<sup>1</sup> Otto, J. M., 2002, Mineral Policy, legislation and regulation

Both the Non-competitive and Competitive mineral rights allocations should not be treated as a methodology for allocation but as processes that govern the allocation of mineral rights. The next section identifies some of the leading practices in respect of allocation principles of law and policy.

In today's regulatory environment, the success or attractiveness of a regulatory framework should not only be judged based on the extent to which investors are satisfied with it but also on the degree to which the host Government and its citizens derive tangible benefits from the investment. It should be emphasised that, in a non-competitive or competitive process only the application process should differ, but not the regulatory framework per se. In other words the difference should only be on the route followed to acquire the mineral right. However, the eligibility criteria, the terms and conditions must apply similarly. The law must apply equally to all irrespective of whether one investor acquired its mineral rights through a competitive bid process while the other acquired it through a non-competitive process. The essence is that both investors have to apply for mineral rights.

## **2. Principles governing allocation of rights**

2.1. ***Equality before the law*** - Non-discrimination – the regulatory framework applies equally to all applicants without fear or favour, whether local or foreign. This should contain:

2.1.1. *First-come-first-served* - applications to be treated on first-come-first-served basis. However, no applicant should be allowed to lodge an incomplete application so as to maintain its position in the queue. This means that the *first-come-first-served* principle only applies to compliant applications which have been lodged and accepted;

2.1.2. *Predefined eligibility criteria* - explicit, simplified and detailed requirements and procedures for accepting and granting/awarding mineral rights;

2.1.3. *Compliance requirements and titleholder obligation* – explicit identification of all material terms and conditions title holder must comply to maintain its titles;

- 2.1.4. *Public disclosure of application* – all applicants should be required by law to consult with interested and affected parties, specially landowners and hosting communities;
- 2.1.5. *Written notification* - All legally binding decisions, instructions and directives to be in writing and subject to written reason for decision;
- 2.1.6. *Suspension or cancellation of mineral rights* – specific reference to conditions under which mineral rights may be suspended or cancelled, the procedures to be followed before suspension or cancellation, description of the legal recourse available to the titleholder in line with administrative justice principles;
- 2.1.7. *Timeframe for actions* – all actions in terms of the law must be taken, by the regulatory authority and the application, within prescribed timeframes and consequences for not taking the required actions within the prescribed timeframe should be indicated in the law;
- 2.1.8. *Standard terms and conditions* – terms and conditions of mineral rights should be standardised as far as possible and included in the legislation or in subordinate legislation in accordance with the existing laws of the host country. The standardization of terms and conditions promotes the principle of equality before the law and transparency. These terms and conditions should address themselves to:
- 2.1.8.1. *Duration of the mineral rights* – the duration of the mineral right must be stipulated in the legislation;
- 2.1.8.2. *Mortgageability of title* - Ability to use their mineral rights as collateral for bank loans or mortgages;
- 2.1.8.3. *Transferability of title* - Transfer rights with or without prior state authorization (in the earlier case it is argued by host Governments that this authorization requirement is to ensure that the transferee is a fit and proper person to hold the mineral rights). In this case, the transferee is treated like any other new applicant for mineral rights – the transferee is acquiring a mineral right which it did not have. This is to promote the principle of equality before the law.
- 2.1.8.4. *Transparent Fiscal and royalty regime* - If allowed in terms of the law, all fiscal terms should be contained either in the relevant mining legislation or the host country fiscal legislation; (for example in terms

of section 77 of the South African Constitution, legislation which appropriates money is classified as a money bill and falls within the purview of the Minister of Finance. The Constitution further stipulates that money bills may not deal with any other matters except those stipulated in the Constitution. Therefore, if the mining legislation purports to include provisions dealing with fiscal terms, it would be classified as a money bill and as such it would not pass constitutional muster). A fiscal regime that is not open to negotiations also improves transparency and good governance.

2.1.8.5. *Discourage hoarding* - Encourage active use of mineral rights by:

2.1.8.5.1. Escalating rental fees (prospecting or exploration fees) per unit area;

2.1.8.5.2. Mandatory relinquishment criteria to decrease passive speculation practices; and/or

2.1.8.5.3. Minimum investment requirement and minimum work obligation – the applicant determines its minimum investment and work obligation in line with its exploration and mining plan and the period for which the mineral right is sought. This will ensure that the applicant will not have an excuse should the minimum investment and work obligation are not complied with. The adoption of these principles should be guided by capital and human resource availability within the host country's regulatory authority.

2.1.9. *The competitive bidding system*, is not commonly used in the minerals and mining sector, as a regulatory process for the allocation and acquisition of mineral rights. This should be seen as alternative process for the allocation of mineral rights, and not as a parallel legal framework. This process may be employed in instances where:

2.1.9.1. *Extinction/lapsing of mineral right* - Application may potentially be lodged in cases where mineral rights have expired, have been revoked or relinquished;

2.1.9.2. *New discoveries* - A new mineral deposit or areas of potential mineral wealth which has been discovered by the State;

- 2.1.9.3. *Existence of strategic mineral* – where the presence of mineral classified by the host country exists
- 2.1.9.4. *Privatisation* – Where the state wishes to divest from active participation in extractive activities
- 2.1.10. Within the context of the established legal framework and in order to create stability and certainty in the regulatory system, the competitive system should be guided by the following:
- 2.1.10.1. *Difference in allocation procedures* - It is important to note that the difference between the “free-entry-system” and the “competitive bidding system” lies in process for the allocation of mineral rights and not in the eligibility criteria and the contents of the mineral rights. In this regard, the following should be taken into consideration:
- 2.1.10.2. *No parallel regulatory system* - This mean that upon allocation of the mineral rights to the winning bidder, the provisions of the mineral law must apply equally to all titleholders. In this regard, the law should not allow for a differentiated compliance regime.
- 2.1.10.3. *Similar eligibility criteria* – in line with the principle of equality before the law, the eligibility criteria must be similar to those required in a “free-entry system”
- 2.1.10.4. *Application of the law* – save for the process followed for acquisition of the mineral rights, mining legislation must apply equally to both the participants in the non-competitive process and the competitive process. Therefore, all the legal principles enumerated above which are applicable to the non-competitive must also apply to the competitive process.
- 2.1.10.5. *Details of bidding process* – the law should set out the details of the bidding process.

## **2.2. Good governance**

- 2.2.1. It is common knowledge that the concept of the rule of law is fundamental for the effective and efficient governance of the minerals and mining sector. This implies the concept of “the rule of law” should apply to both the host Government and the investor.

- 2.2.2. *Administrative justice and procedural fairness* — applicants should be given the opportunity to address any short coming in their application prior to decisions being taken on
- 2.2.3. *Consistency in the application of the law* – laws should be applied consistently so as to create a predictable regulatory environment. This would remove bias and discrimination in the administration of the regulatory framework
- 2.2.4. *Clarity of administrative procedures* – administrative procedures in terms of the law should be clear and unambiguous. Applicants must be made aware of the prescribed administrative procedures. (Transparent and non-discretionary procedures)
- 2.2.5. *Guided discretionary powers* - the concept of “no subjectivity in decision making” is ‘much easier said than done’. Therefore, the regulatory system should guarantee equal terms and conditions for all applicants without discrimination
- 2.2.6. *Security of Tenure* - subject to titleholder compliance with its statutory and contractual obligations:
- 2.2.6.1. *Discoverer’s rights* – exclusive right to any mineral (covered in the exploration right) discovered in the license area - titled holder apply and be granted an exploitation right
- 2.2.6.2. *Exclusivity of exploration/prospecting and exploitation titles* - exploration and exploitation titles should be exclusive to a single title holder in any given area. However, if mineral for which the title holder is exploiting are not contained within the existing title, the title holder must declare such mineral so that it is lawfully included in such title.
- 2.2.6.3. *Duration of exploration and exploitation titles* - It is important that the investor is given sufficient time to explore and exploit the mineral resources concerned, but also that the investor is precluded from hoarding mineral resources. In this regard an exploration and exploitation title should be given a sufficiently long period and renewed. It is not uncommon to have exploration rights granted for five years and renewed for further period of three years, whilst mining titles are granted for between 25 to 50 years and renewable

once or several times, subject to compliance with investor's statutory and contractual obligations.

2.2.6.4. *Renewal of mineral rights* – titleholder should be entitled to apply for and be granted renewal of its mineral rights;

2.2.7. *Compliance with the law* - both the host Government and the investor must give effect to and comply with the regulatory framework as prescribed in the law. This includes reporting of information and activities.

2.2.8. *In the context of rule of law*, all applicants and titleholders should be required to comply and give effect to the legislation of the host country by:

2.2.8.1. *Respecting the law* - titleholders must respect the regulatory system and institutional integrity of the host country

2.2.8.2. *Complying with applicable legislation* - applicants and titleholders must, once titles have been granted, comply with the regulatory requirements and give effect to its statutory and contractual obligation;

2.2.8.3. *Good faith and Honesty* – with integrity and honesty deal with the host Government in the spirit of good corporate Governance

2.2.9. *Access to courts* – a guarantee to administrative and judicial review of decision taken by regulatory authority. Investors must demonstrate their confidence in the host country's dispute resolution mechanisms in the same way that they show confidence in their own judiciary. Therefore, local laws allow otherwise, investors should only have access to domestic dispute resolution mechanisms. A provision in any mining legislation for international dispute resolution should be seen as a vote of no confidence in the host country judiciary and not as a mechanism to guarantee security of tenure for the investor.

### **2.3. *Social and environmental protection***

It is now common practice that host countries require the compilation of Environmental and Social Impact Assessments. Having regard to the environmental and social importance of these instruments, it would be prudent to require their submission and adjudication prior to the award of the mineral right.

2.3.1. *Good labour practice* – implementation and observance of health and safety acts with subsidiary legislation. This would also include the observance of the necessary International Labour Organisation’s provisions.

This is the basis of society’s licence to permit exploration and mining activities.

2.4. ***Equitable distribution of benefits*** - fiscal terms that serve both the interests of the investor and that of the hosting country equitably; employment equity and charters that ensure benefits filter to society in general.

### **3. Institutional Framework for implementation**

A well resourced regulatory institution is the foundation for an effective and efficient regulatory environment. In this regard, the institution should adhere to the following principles:

3.1. *Well defined institutional responsibility* - Regulatory clarity and certainty – single sector regulatory authority (Lead agent regulate the sector), which is supported by other regulatory bodies i.e. environmental management. Avoid duplication – one-stop shop approach, single regulatory authority. Other Government institutions with regulatory powers should exercise their powers in conjunction with or in support for the leading agency.

3.2. *Separation of responsibilities* - Separation between the licensing authority (management system for accessing and monitoring sector performance) and title registration authority (public register of mineral rights). In order to avoid interference with the registration of titles process and unnecessary operational interaction, the registration authority should be hierarchically independent from the licensing authority. This promotes transparency regarding the licensing process and guarantees security of tenure of registered titles. For example, in South Africa the mineral rights registration function of the Ministry of Mineral Resources is handled by the Mining Titles Office, which is independent from the licensing functions (which is handled by

the Mineral Regulation and Administration office). Both offices fall within the same Ministry, but maintain operational autonomy.

3.3. *Mineral Resources Management* – as custodian of a nation’s mineral resources, the state needs to implement an effective mineral resources management system that embodies the whole mineral value chain, both horizontally and vertically. This will also include elements of national planning, security of supply and the role of the state in mining amongst others. The application of good and pragmatic management principles will lead to maximisation of the value of a nation’s mineral endowment. Down the line, the adoption of good and effective planning will assist in the implementation of the both the non-competitive and competitive systems. For example, it is only good planning that will ensure that once the “tendering process” is open, that the respective Government officials will be ready and prepared to receive the potentially sizable number of applications that may be received through this process. A failure to plan, may lead to disaster. Planning will also ensure that whilst some officials are dealing with the applications received through the tendering process, the normal non-competitive applications should not be disadvantaged.

3.4. *Measurement system* – measuring elements of targets is useful to determine whether the nation achieves its overall objectives of mineral resources development. Scorecards, charters and any other tools would show gaps where appropriate actions are necessary for adjustment in processes to achieve the desired outcomes.

3.5. *Computerised cadastre system* – both the non-competitive and competitive process of allocation of mineral rights should, in addition to a paper base system, be supported by a computerised cadastre system.

## **4. Conclusion**

Regardless of whether a competitive or non-competitive system is adopted, certain immutable principles would need to be adhered to for a country to obtain the maximum benefit from its mineral wealth. These immutable principles reflect a country’s attempt to effectively exercise sovereignty over its natural mineral wealth.

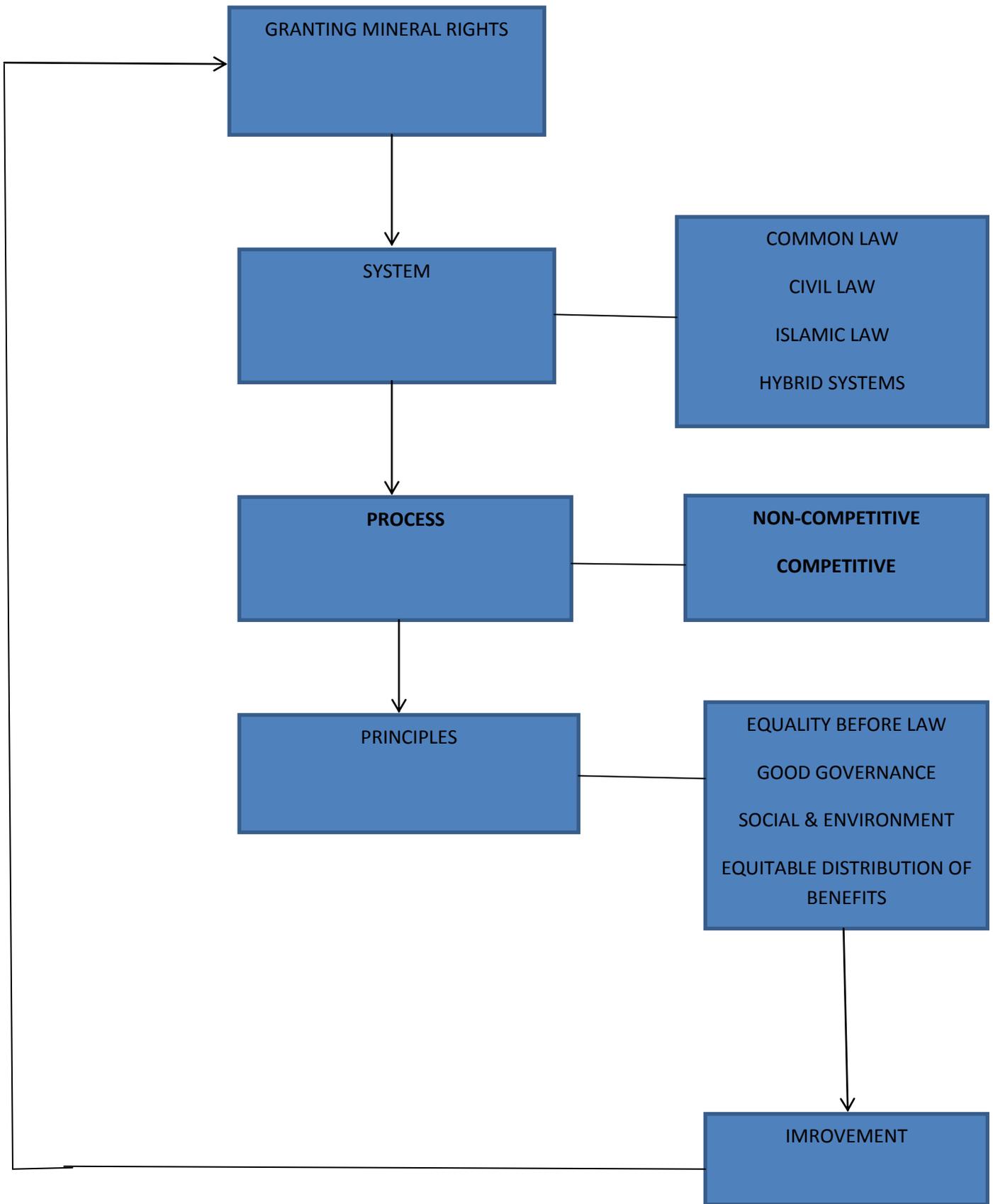
In so doing, the Rule of Law is paramount and impacts both the host countries and investors.

Attempts by countries to ensure that the principles are certain and conducive to investment in their mining industries must be matched by mining companies who should conduct their business to ensure operations continue with the blessing of the government.

Social and environmental protection is becoming more prevalent in mineral legal regimes, with greater emphasis on the health and safety of employees.

An effective programme for the allocation of mineral rights, as evidenced by the case studies, is reflected in the flow chart below (Framework for the allocation of mining rights) which highlights the major components for allocating mineral rights. It commences with the granting of mineral rights by the host government in terms of their specific legal regime. This is done within the chosen process (be it competitive or non-competitive) with due regard to certain immutable principles. This process is a dynamic one, subject to continuous review and assessment which will influence the granting of the mineral rights.

It must be emphasised that mineral legal regimes reflect the government's mineral policy on the exploitation of the country's mineral resources and companies would do well to familiarise themselves and comply therewith.



**Figure 1: Framework for the allocation of mining rights**

## 5. Case studies

The report is a description of the mineral rights licensing regimes of a selected nine developing countries. The selection of countries was based on those countries that the World Bank has used as case examples as indicated in their report entitled “Mineral Rights Cadastre”. The countries are Algeria, Argentina, Madagascar, Chile, Democratic Republic of Congo (DRC), Ghana, Mongolia, Tanzania and Zambia. All these are low income countries as required in the terms of reference. The provisions of the mining codes were compiled based on a template to gather similar information in dealing with pertinent issues and ease of comparison. The table is a combined summary of individual data in the annex.

**Table 1: Typical Mineral Administration Systems in selected low income countries**

<b>Mineral Administration Issues</b>	<b>Provision range</b>
State agency for administration	Ministry, through appropriate government department or agency
Mode of grant of licence	First come first serve/auction (both)
Retention licence	No
Reconnaissance licence	Yes/No
Exploration licence	Yes
<ul style="list-style-type: none"> <li>• Exploration fee</li> </ul>	Prescribed
<ul style="list-style-type: none"> <li>• Maximum size (ha)</li> </ul>	1 000 – 2 000 000/negotiable
<ul style="list-style-type: none"> <li>• Duration (months)</li> </ul>	24 – 60/negotiable
<ul style="list-style-type: none"> <li>• Renewal (months)</li> </ul>	24 – 48/negotiable
<ul style="list-style-type: none"> <li>• Relinquish areas</li> </ul>	Yes/No

• Minimum spending	Yes
• Work to programme	Yes
• Environmental plan	Yes
• Social requirement	Yes
• Reporting requirement	Yes
• Rights of holders	Conversion/Registration
Mining licence	Yes
• Mining fee	Prescribed
• Duration (years)	25 – 40/Negotiable
• Renewal (years)	15 – 30/Negotiable
• Minimum spending	Yes/No
• Work to programme	Yes
• Environmental plan	Yes
• Social requirement	Yes
• Reporting requirement	Yes
• Rights of holder	Exclusive
• Other	Transferability/Assignable/Sustainable Development/Development Agreement

The table and annex show a number of common trends. There is a lead ministry, generally a Ministry of Mines, with an appropriate institution that is responsible for the grant of mineral rights. Such appropriate institutions may be government department (Department of Mines or Geology, Office of Mining Cadastre) or Commission.

Almost all countries have traditionally granted licences using a first come first served basis. Over time many have adopted both the traditional process as well as the auction system, depending upon conditions availing themselves. Algeria uses the auction process where a deposit has been surveyed with public funds or the exploitation area has been released to government. In this case the Mining Patrimony National Agency auctions such deposits to interested investors. In Mongolia, auctioning is used where exploration was undertaken by the government or whose prior holder has forfeited the rights. In some cases the state reserves the right to participate up to 50 percent in such ventures. In yet other cases where government deems the mineral deposit is of strategic importance, the state may participate up to 34 percent in the venture. In Zambia, auctioning is undertaken in the case of identified areas of mineral resources. The Mining Advisory Committee evaluates the bids in accordance to the requirements and advises the Minister on the successful bid. In the case of Tanzania, government may consider and designate any vacant area to be in the public interest and invite tenders for prospecting or mining. The successful bidder is chosen on the proposal likely to promote expeditious and beneficial development of the mineral resources of the area. In the DRC, auctioning is undertaken when a deposit has been studied, documented or worked on by the State or its entities and which is considered as an asset with considerable known value. Bids are invited on prescribed conditions and considered by an Inter-ministerial Commission. In all these cases where the alternative process is applied in addition to the traditional first come first serve basis, once the right is granted, compliance of the requirements of the provisions of the regulations comes into effect. The auctioning system applies in the cases where government had acquired geological information through its investment, through surrender of rights by title holders or by privatisation. The continuous use of this system will depend on the occurrence of these factors, particularly the increased investments of public funds in risk grassroots activities to acquire geological knowledge.

The retention licence does not seem to be common among these selected countries. Only Tanzania has a retention licence, which has a validity of 5 years, renewable once for another equal period. The holder can apply for a special mining licence when he deems fit to proceed with mining operations. The lack of popularity of this

licence may be a reflection of increasing demand for mineral commodities and a deliberate action to reduce speculative tendencies.

The reconnaissance licence is provided for only in two countries, namely Ghana and Zambia. In Ghana, a reconnaissance licence is issued for a period of 12 months and may be renewed for further 12-months periods. In Zambia, a reconnaissance licence is issued for ninety days and is not renewable. Again, the lack of interest in this licence may be a reflection of the fact that basic knowledge of mineralised areas is strong enough to warrant the next phase as demonstrated by the award of prospecting licences over large areas.

Prospecting licences are issued for a period ranging between 24 and 60 months, renewable for 28 to 48 months. Even though the licences are issued over large areas, they are subject to stringent rules which discourage speculation. These rules include relinquishing at renewal, predetermined minimum expenditure on licence areas, demonstration of work according to plans, adhering to environmental and social plans, and periodic reports on the results of prospecting. In return, the title holder has the right to apply for and be granted an exploitation licence subject to satisfactorily meeting the relevant legal requirements.

A mining licence is a key permit for exploitation and is issued for periods varying between 25 and 40 years, renewable for 15 to 30 years. The periods can be negotiated depending upon the estimated life of the mine. Three out of the eight countries prescribe minimum spending. In Algeria, there is specified a fixed annual obligatory investment, which may be reviewed in cases of adverse economic conditions. In Madagascar, the minimum spending is prescribed. In Tanzania, the minimum spending on capital investment for a large-scale operation is prescribed at USD 100 million or its equivalent in Tanzanian Shillings. Chile has set a minimum spending of USD 10,000 under Foreign Exchange Regulations and USD 5 million under Foreign Investment Statute.

All countries make strong requirements for work programmes, environmental plans, social issues and reporting progress. In exchange, title holders have exclusive rights to specified minerals in the designated areas. All have the right to transfer and assign the rights with prior approval.

## SUPPORTING TABLE OF ADMINISTRATION ISSUES

<b>Description</b>	<b>Algeria</b>	<b>Ghana</b>	<b>Madagascar</b>	<b>Mongolia</b>	<b>Tanzania</b>
<b>State Agency</b>	Ministry of Energy and Mines through its Mining Patrimony National Agency or through the Mining General Directorate	Ministry of Mines and Energy. Granted by the Minister on the recommendations of the Minerals Commission	Ministry of Energy and Mining, through its Departments of Mines and Geology, or the office of the Mining Cadastre in accordance	Ministry of Energy and Mines	Ministry of Energy and Minerals
<b>Mode of granting licences</b>	First-come-first-served or auctioning basis	First-come-first-served basis	First-come-first-served basis	First-come-first-served or auctioning basis	First-come-first-served or auctioning basis
<b>Reconnaissance Licence</b>	Not mentioned	Yes	Not mentioned	Not needed	Not mentioned

<b>Retention Licence</b>	Not mentioned	Not mentioned	Not mentioned	Not mentioned	Yes
<b>Prospecting Authorization</b>	Yes	Not mentioned	<b>Prospecting licence</b> (under terms of an Exclusive Authorization of reservation)	Not mentioned	
	<b>Exploration Permit</b>	<b>Prospecting licence</b>	<b>Exploration permit (R Licence)</b>	<b>Exploration licence</b>	<b>Prospecting licence</b>
Exploration fee	Issuing/ Renewal/Transfer /Assignment fees are prescribed.	Issue/annual ground rent/ annual mineral right fees are prescribed	Application/Renewal/Annual mining administrative fees are fixed and specified	Service and Annual licence fees are set forth/fixed	Application/Renewal /Assignment/transfer of mineral rights fees and annual charges are prescribed
Maximum size	Not specified	750 contiguous blocks (or 150 km <sup>2</sup> - 15000hectares)	10.000 km <sup>2</sup> i.e. 1.600 squares	between 25 and 400,000 hectares	Prescribed
Duration (months)	36	36	24	36	48
Renewal (months)	2 renewal periods of 24 months each	Maximum of 2 terms or for a further period not more than 36	Not mentioned	May be renewed twice, for a period of 36 months each	First period of renewal cannot exceed 36 months; the second period of

		months			renewal cannot exceed 24months
Relinquish areas	Not specified	50% of area	Not mentioned	Not mentioned	First renewal is 50% of the area; second renewal is 50% of the balance
Minimum spending	Fixed annual obligatory investment	Specified	Prescribed	Prescribed obligatory minimum expenditure per hectare	Prescribed annually per km <sup>2</sup>
Work to program	Yes	Yes	Yes	Yes	Yes
Environmental plan	Yes	Yes	Yes	Yes	Weak requirement
Social requirement	Not specified	Yes	Yes	Yes	Yes
Reporting requirement	Yes	Yes	Yes	Yes	Yes
Rights of holder	Conversion/Extension/ collection of a surface tax/rights of occupancy of land	Exclusive/Conversion/rights to erect temporary buildings/application for one or more mining leases	Exclusive right/Extension	Conversion/rights to erect temporary buildings	Exclusive rights to carry out reconnaissance and prospecting/Conversion/rights to erect temporary buildings
Other information	A personal property which is transferable and assignable/legible	Right is transferable, assignable and tradable after the	Licence is transferable, transmissible and can be used as a	Right is transferable/Sustainable development/Govern	Right is transferable and assignable after the prior approval of the Commissioner

	ty of Corporate entity of private law /Government participation/pay annual surface tax	prior written approval of the Minister/Government interest	pledge/Stability warranty/Sustainable development	ment involvement is possible	for Minerals
	<b>Mining Concession</b>	<b>Mining Lease</b>	<b>Exploitation Licence (E Licence)</b>	<b>Mining Licence</b>	<b>Special mining licence</b>
Mining fee	Issuing/Renewal/Modification/Transfer/Assignment fees are prescribed	Issuing/Annual ground rent/Annual mineral right fees are prescribed	Application/Renewal/Annual mining administrative fees are fixed and specified	Service and Annual licence fees are prescribed per hectare for and different mineral substances	Application/Renewal/Assignment/transfer of mineral rights fees and annual charges are prescribed
Maximum size	Not specified	Maximum of 300 contiguous blocks (50 km <sup>2</sup> - 5000hectares for a single grant or 150 km <sup>2</sup> - 15000hectares for aggregate grants	1000 km <sup>2</sup> i.e. 160 squares.	Not specified	Prescribed
Duration (years)	30	30	40	30	25

Renewal	According to the estimated life of Deposit Reserves	Further 30-year term	Renewable once or several times for 20 years period for each renewal	Renewable twice for terms of 20 years each	Further period of 25 years or period not exceeding the estimated life of the ore body
Minimum spending	Fixed annual obligatory investment	Not specified	Prescribed	Not specified	US\$100,000,000 or its equivalent in Tanzanian shillings
Work to program	Yes	Yes	Yes	Yes	Yes (substantial compliance)
Environmental plan	Yes	Yes	Yes	Yes	Yes (strict compliance)
Social requirement	Yes	Yes	Yes	Yes	Yes
Reporting requirement	Yes	Yes	Yes	Yes	Yes
Rights of holder	Large-scale exploitation/rights of occupancy of land/first transformation of minerals	Exclusive/ Market exploited minerals/dump or stack waste	Exclusive/Market and transform exploited minerals with prior indication during application/Extension	Rights to explore and extract minerals/Market exploited minerals/erect necessary infrastructures	Exclusive/stack or dump waste/erect necessary infrastructures
Other information	Real property which is transferable, assignable,	Right is transferable, assignable and tradable after the	Right is transferable, transmissible, susceptible of	Right is transferable and can be used as a pledge/Sustainable	Right is transferable and assignable after the prior approval of the Commissioner

	leaseable or can be mortgaged/legibility of Corporate entity of private law/ Sustainable development/pay an annual surface tax.	prior written approval of the Minister/Sustainable development/Stability agreement/Development/Government interest	pledge and leaseable /Sustainable development/Stability warranty	development/Investment agreement/Government's share is allowable	for Minerals/Sustainable development/Development agreement
	<b>Exploitation Permit for Small to Medium-scale mining</b>	<b>Small-scale mining licence</b>	<b>Prospecting and Exploitation permit reserved to the Small Miners (PRE)</b>	Not mentioned	<b>Mining licence</b>
Exploitation fee	Issuing/Renewal/Modification/Transfer/Assignment fees are prescribed	Issuing and renewal fees are prescribed	Application/Renewal/Annual mining administrative fees are fixed and specified		Application/Renewal/Assignment/transfer of mineral rights fees and annual charges are prescribed
Maximum size	Not specified	Prescribed	100 km <sup>2</sup> i.e. 16 squares		Prescribed
Duration (years)	10	5	8		10
Renewal	According to the estimated life of	Determined by the Minister	Renewable once or several times for 4		Further period of 10 years

	Deposit Reserves		years each		
Minimum spending	Fixed annual obligatory investment	Not specified	Not specified		between US\$ 100,000 and US\$ 100,000,000 or its equivalent in Tanzanian shillings
Work to program	Yes	Yes	Yes		Yes (substantial compliance)
Environmental plan	Yes	Yes	Yes		Yes (strict compliance)
Social requirement	Yes	Yes	Yes		Yes
Reporting requirement	Yes	Yes	Yes		Yes
Rights of holder	Small to medium-scale exploitation/rights of occupancy of land/first transformation of minerals	Small-scale extraction/marketing is prescribed by the Minister	Exclusive rights to prospecting, the research and the exploitation/Extension		Exclusive rights to mine/stack or dump waste/erect necessary infrastructures
Other information	Real property which is transferable, assignable, leaseable or can be	Right is transferable, assignable and tradable after the prior written approval of the	Right is transferable, transmissible, susceptible of pledge and leaseable/Sustainable		Right is transferable and assignable after the prior approval of the Commissioner for Minerals/Sustainable

	mortgaged/legibility of Corporate entity of private law/Sustainable development/ pay an annual surface tax	Minister/Sustainable development/reserved for Ghanaian citizens/Government interest	e development/reserved to Malagasy Nationals only/Autonomous Provincial authorization		development/Development agreement
	<b>Authorization of Exploitation of Quarries and Sand Pits</b>	<b>Restricted Licence for Building and Industrial Minerals</b>	Not mentioned	Not mentioned	<b>Gemstone Prospecting Licence (and Prospecting licence for building materials)</b>
Authorization fee	Prescribed fee	Issuing/Annual ground rent/Annual mineral right fees are prescribed			Application fees and annual charges are prescribed
Maximum size (ha)	Defined by Regulatory process	10 km <sup>2</sup> (1000hectares)			Prescribed
Duration (years)	Defined by Regulatory process	Reconnaissance and prospecting licences are for periods between 3 and 5 years.			1

		mining lease is valid for not more than 15 years			
Renewal	Defined by Regulatory process	mining lease may be renewed for further periods not more than 15 years			Cannot be renewed
Minimum spending	Fixed annual obligatory investment	US\$ 10,000 for Ghanaian citizens and US\$ 10,000,000 or above for non-citizens			Prescribed annually per km <sup>2</sup>
Work to program	Not mentioned	Yes			Yes
Environmental plan	Not mentioned	Yes			Weak requirement
Social requirement	Not mentioned	Yes			Yes
Reporting requirement	Yes	Yes			Yes
Rights of holder	Specified by Regulatory process	Exclusive/Conversion			Exclusive rights to prospect for gemstones/Conversion
Other information	Pay annual surface tax	Right is transferable, assignable and			Reserved to Tanzanians only or entities with at least

		tradable after the prior written approval of the Minister /Sustainable development/reserved for Ghanaian citizens only except where an exemption is made/ Government interest			50% Tanzanian holding
<b>Artisanal mining licence</b>	Yes	-----	-----	-----	<b>Primary mining licence***</b>
<b>Authorization for a non-industrial mining exploitation</b>	Yes	-----	-----	-----	-----
<b>Pick-up Authorization</b>	Yes	-----	-----	-----	-----
<b>Authorization for Offshore Activities of Research and Exploitation of Mineral substances.</b>	Yes	-----	-----	-----	-----
	-----	-----	<b>Authorization for</b>	-----	-----

			<b>Gold washing</b>		
	-----	-----	-----	-----	<b>Mineral Processing licence</b>
	-----	-----	-----	-----	<b>Mineral Smelting or Refining licence</b>

<b>Description</b>	<b>Zambia</b>	<b>DRC</b>	<b>Chile</b>		
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<b>State Agency</b>	Ministry of Mines And Minerals Development through the Minister, the Director of Mines or the Director of Geological Survey	Ministry of Mines	Granted by the State but issued by civil courts or a professional administrative official as delegated by the Minister of Mining		
<b>Mode of granting licences</b>	first-come, first-served or auctioning bases	first-come, first-served or auctioning bases	first-come, first-served or auctioning bases		
<b>Reconnaissance Licence</b>	Yes	Not mentioned	Not mentioned		
<b>Retention Licence</b>	Not mentioned	Not mentioned	Not mentioned		
<b>Prospecting Authorization</b>	Not mentioned	<b>Prospecting Certificate</b>	Not mentioned		
	<b>Large-Scale Mining</b>	<b>Mineral Exploration</b>	<b>Exploration Concession</b>		

	<b>Operations - Prospecting licence</b>	<b>Licence (Exploration Certificate)</b>			
Exploration fee	Prescribed fees	Application and surface area fees are specified	Prescribed fees per ha		
Maximum size	Not exceeding 29, 940 cadastre units	400 km <sup>2</sup> or 20,000 Km <sup>2</sup> in cases where up to fifty exploration licences are held	Information not found as at time of compilation		
Duration (months)	24	48 months for precious stones; 60 months, for other mineral substances.	24		
Renewal (months)	Renewable for a further 24-month period but the total maximum period shall not exceed 7 years	Renewable twice for a period of 24 months each, for precious stones; renewable twice for a period of five years each renewal, for other mineral substances	Further period of 24 months		

Relinquish areas	First renewal is 50% of the area; second renewal is 50% of the balance	50% of area	50% of area		
Minimum spending	No	No	US \$10,000 under Foreign Exchange Regulations and US \$5 million under Foreign Investment Statute <sup>1***</sup>		
Work to program	Yes	Yes	No		
Environmental plan	Yes	Yes (strict requirement)	Yes		
Social requirement	Yes	Yes	Yes		
Reporting requirement	Yes	Yes	Information not found as at time of compilation		
Rights of holder	Exclusive/Extension/rights to erect temporary buildings	Exclusive/rights to send samples for analysis outside DRC after prior approval of the Geology Directorate of the Ministry of	Legal rights to carry out exploration/Conversion		

		Mines/Conversion /Extension/registrable			
Other information	Right is transferable after the prior notification of the Minister/Sustainable development	The right is conveyable and transferable	Right is private property which is transferable, transmittable, and liable to mortgage/Sustainable development/ payment of Annual taxes		
	<b>Large-Scale Mining Licence</b>	<b>Mining license (Exploitation Certificate)</b>	<b>Mining Concession</b>		
Mining fee	Application/Renewal fees are prescribed	Application and surface area fees are specified.	Prescribed fees per ha		
Maximum size	Not exceeding 7,485 cadastre units	Not specified	1,000 hectares		
Duration (years)	25	30	Granted for an unlimited duration		

Renewal	Further period not exceeding 25 years	Renewable for successive periods of 15 years	Not applicable		
Minimum spending	Not prescribed, proposed forecast of capital investment is to be presented	Not prescribed	US \$10,000 under Foreign Exchange Regulations and US \$5 million under Foreign Investment Statute		
Work to program	Yes (strict compliance)	Yes	No		
Environmental plan	Yes (strict compliance)	Yes	Yes		
Social requirement	Yes (strict compliance)	Yes	Yes		
Reporting requirement	Yes	Yes	Information not found as at time of compilation		
Rights of holder	Exclusive rights to prospect and mine/dispose any recovered mineral/erect necessary infrastructures/Ex	Exclusive rights to explore and extract/erect necessary infrastructures/co ncentration, metallurgical or	Legal rights to explore and extract minerals		

	tension/Stack or dump waste	technical treatment operations/partial conversion is allowable/registrable			
Other information	Right is transferable and assignable after the prior approval of the Minister/Sustainable development/requirement of domestic insurance coverage/requirement of Annual Operating permit	The right is conveyable, transferable and can be leased/Sustainable development/Stability agreement	Real property right which is transferable, transmittable after prior written consent of the granting authority/collateral/Sustainable development/Stabilization agreement/payment of Annual taxes		
	<b>Small-Scale Mining Operations - Prospecting Permit</b>		-----		
Exploitation fee	Prescribed fee				

Maximum size	10km <sup>2</sup> or not exceeding 300 cadastre units				
Duration (months)	24				
Renewal	Cannot be renewed				
Relinquish areas	Not applicable				
Minimum spending	Not prescribed, statement of proposed investment amount is to presented				
Work to program	Yes (strict compliance)				
Environmental plan	Yes (strict compliance)				
Social requirement	Not specified/mentioned				
Reporting requirement	Yes				
Rights of holder	Exclusive rights to prospecting/rights				

	to erect temporary buildings				
Other information	Right is transferable and assignable after the prior notification of the Minister/restricted to only citizens of Zambia or a citizen-owned company				
	<b>Small-Scale Mining Licence</b>	<b>Small-scale Mining Exploitation Licence (Certificate of Small-Scale Mining)</b>	-----		
Mining fee	Application/Renewal fees are prescribed	Application and surface area fees are specified			
Maximum size (ha)	400 hectares or not exceeding 120 cadastre	Not specified			

	units				
Duration (years)	10	Grant period is variable, but it may not exceed 10 years			
Renewal	Further period not exceeding 10 years	Renewal period is variable, but it may not exceed 10 years			
Minimum spending	Not prescribed, proposed forecast of capital investment is to be presented	Not specified			
Work to program	Yes (Strict compliance)	Yes			
Environmental plan	Yes (Strict compliance)	Yes			
Social requirement	Not specified/mentioned	Yes			
Reporting requirement	Yes	Yes			
Rights of holder	Exclusive rights to prospect and mine/erect	Exclusive/Conversion/registrable			

	necessary infrastructures /stack or dump waste/disposal of minerals recovered /Conversion				
Other information	Right is transferable and assignable after the prior approval of the Minister/restricted to citizens of Zambia or citizen-owned companies/requirement of domestic insurance coverage/requirement of Annual Operating permit	Real property which is conveyable, transferable and can be leased/Sustainable development			
<b>Artisanal mining licence</b>	Yes	Yes	-----		
<b>Large-Scale Gemstone Licence</b>	Yes	-----	-----		

<b>Small-Scale Gemstone Mining Licence</b>	Yes	-----	-----		
<b>Mineral Processing licence</b>	Yes	-----	-----		
<b>Large-Scale Mining Licence in respect of radioactive minerals</b>	Yes	-----	-----		
<b>Mineral Smelting or Refining licence</b>	-----	-----	-----		
	-----	<b>Exploration Licence of quarry products</b>	-----		
	-----	<b>Permanent Quarry Exploitation licence</b>	-----		
	-----	<b>Temporary Quarry Exploitation License</b>	-----		
	-----	<b>Licence for the Exploitation of Tailings</b>	-----		