

## **MINERALS LAW OF AFGHANISTAN**

### **Chapter One**

#### **General Provisions**

##### ***Article one: the basis***

This Law is enacted pursuant to the provision of Article nine of the Constitution of Afghanistan in order to provide for State ownership and control of Mineral Substances, [to provide for] the procedures for the protection, management, use, utilization, and attraction and promotion of private investment in Mineral Activities, and to regulate other activities connected with the foregoing.

##### ***Article two: Management of Minerals***

The ownership, control, prospecting, exploration, exploitation, extraction, concentration, Processing, transformation, transportation, marketing, sale, and export of Mineral Substances in the territory of Afghanistan, [whether] under or on the surface of the Earth or in its water courses, shall be governed by the provisions of this Law.

##### ***Article three: Expressions***

In this law, the following expressions shall have the following meanings.

1- "Artificial Deposit" means any concentration of Mineral Substances on or under the surface of land, which is derived from storage of scraps, Tailings, or processing of Tailings and which is economically reasonable to be processed (scrap and old metals, and scrap deposits and so forth).

2- "Artisanal Exploitation" means any activity by means of which a Person carries out extraction of Mineral Substances using traditional tools, and traditional methods of processing at a depth not exceeding thirty meters.

3- "Authorization" means an Authorization granted by the Ministry of Mines and Industries for Quarry Exploration, Temporary Quarry Exploitation, Permanent Quarry Exploitation, Tailings Exploitation, Artisanal Exploitation or for the commerce, Processing, transportation or Transformation of Mineral Substances,

4- "Base Metal" means any metal, found in any form and condition, other than a Precious Metal.

5- "Bituminous Sand" means sand or [other] rock material containing naturally occurring hydrocarbons which hydrocarbons have a viscosity, [determined] under the same conditions, greater than 10,000 centipoises, or a density, determined under the same conditions, equal to or less than 12 degrees API.

6- "Cadastral Survey Map" means the specific topographical map indicating the limits of each Perimeter in force or whose application is being processed, prepared for each province and zone by the Mining Cadastre Administration pursuant to the provisions of this Law.

7- "Coal" means a fossil fuel consisting of carbonized vegetable matter [deposited] in sedimentary basins including anthracite, bituminous coal, sub-bituminous coal and lignite.

8- "Construction Materials" means crushed stone, dolomite, limestone, gravel and such other Mineral Substances that may be designated as Construction Materials from time to time in the Mining Regulations.

9- "Control" means power and ability to direct management directly or indirectly through ownership or participation in a contract

10- "Deposit" means any concentration of Mineral Substances which can be economically exploited naturally or artificially.

11- "Environmental Impact Statement" [or "EIS"] means a prior scientific foreseeable analysis of the potential effects of an activity that will effect the environment and social conditions

- the analysis of the acceptable levels thereof and the mitigating measures to be taken [to ensure the conservation of] the environment

- To minimize the major effects on the environment and social conditions or other negative impacts.

- To compensate for the damages [suffered by] the affected communities.

12- "Environmental Management Plan" means, to describe the program and work plan in connection to the environment and the society, and to eliminate its

negative impacts during the working period of the project and to reduce negative impacts or to compensate the resultant damages [in case of such impacts], to ensure the benefits to local communities, [and] rehabilitation of the sites of a Mine.

13- "Exploitation" means any activity [by means of] which, from an identified Deposit, exploration, pre-production development and extraction of Mineral Substances takes place by means of open [surface] and/or underground works, from a natural Deposit or an Artificial Deposit for its processing, using or selling.

14- "License" means a license for Exploration or Exploitation of Mines granted pursuant to the provisions of this law.

15- "Exploration" means any activity carried out to discover Mineral Substances, to demarcate it, to evaluate the quality and quantity of the reserves contained within it, or to evaluate the possibilities of exploiting it.

16- "Forced Labor" means any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty.

17- "Gemstone" means any Mineral or Mineral Substance consisting of one or more chemical elements which are precious and have high market value, including diamond, emerald, sapphire, ruby, tourmaline, topaz, aquamarine, garnet, peridot, amethyst and such other Mineral Substances that may be designated as Gemstones from time to time in the Mining Regulations.

18- "Having capacity for mining industry" means the exercise of that degree of skill, diligence, prudence and foresight that would ordinarily be expected from a skilled and experienced operator under similar circumstances, adhering to internationally recognized standards.

19- "Gross Revenue" means the revenues, whether in cash or non-cash form, obtained from the sale of output of a Mine or Quarry, [including] all by-products sold, without taking into consideration the costs of exploration, development, or exploitation.

20- "Harmful Child Labor" means the employment of persons under the age of eighteen (18) years that is economically easily exploitative, interferes with, the child's education, is harmful to the child's health, [or] has a mal effect on the child's physical, mental, or social development.

21- "Health and Safety Plan" means, for any project, a description of the potential health and safety hazards based upon the specific activities [being or to

be carried out]. The response plan for such hazards are designed and implemented through provision of equipment which is technically appropriate, better implementation of relevant measures, and adoption of accurate method[s].

22- "Holder" means a Person [or Persons] in whose name a Mineral Right is registered by the Mining Cadastre. A lessee of a Mineral Right under a Lease registered with the Mining Cadastre is also included in this definition.

23- "Hydrocarbons" has the meaning given to that term in the Hydrocarbons Law.

24- "Industrial Mineral" means barite, bentonite, borates, diatomite, dimension stone, quartzite, basalt, diorite, kaolin, magnesite, mica, phosphate, zeolites and such other Mineral Substances that may be designated as Industrial Minerals from time to time in the Mining Regulations.

25- "Mineral" means any chemical element forming a naturally-occurring substance, simple or complex, inorganic or organic, in a solid, liquid or gaseous state.

26- "Mineral Activity" means the Prospecting, Exploration, Exploitation, Processing, Transformation, transportation, export, marketing or sale of Mineral Substances whether under or on the surface of the Earth or in its water courses.

27- "Mineral Certificate" means the special certificate issued by the Mining Cadastre in accordance with the provisions of this Law for the purpose of undertaking mineral activities.

28- "Mineral Royalties" mean the mineral royalties paid to the state as a certain parentage of the gross productions, in accordance with the provisions of this law.

29- "Mineral Substance" means any naturally occurring substance containing one or more Minerals in amorphous or crystalline form, solid, liquid or gaseous and having economic value.

Hydrocarbons, water, Coal, Bituminous Sand and Quarry Materials are not included in this definition.

30- "Mining Contract" means a contract entered into by the State and another natural or legal Person or between two other legal or natural persons to conduct Mineral Activities in accordance with the provisions of this law.

31- "Mining Regulations" means the special measures enacted by the Government for better implementation of the provisions of this Law.

32- " Rehabilitation and Mitigation Plan" means a plan required for the operations relating to an Exploration License or an Authorization for Quarry Exploration pursuant to which a Holder undertakes to carry out certain mitigation measures of the impact of its activities on the environment and social conditions as well as rehabilitation measures, and provides a cash guarantee to cover the costs of mitigation and rehabilitation of the environment and social conditions.

33- "National Territory" means the land, subsurface and waters comprising the territory of the country [Afghanistan] and its exclusive economic zone.

34- "Ornamental Stone" means a Mineral or Mineral Substance having use as an ornamental material including lapis lazuli, onyx, amber, marble, turquoise, petrified wood, jade, malachite and such other Mineral Substances that may be designated as Ornamental Stones from time to time in the Mining Regulations. Gemstones shall be excluded from this definition.

35- "Perimeter" means an area demarcated on the surface and of indefinite depth relating to a Mineral Right.

36- "Person" means a natural or a legal person.

37- "Precious Metal" means gold, silver, platinum, and such other natural metallic Minerals that may be designated as Precious Metals from time to time in the Mining Regulations.

38- "Processing" means ore dressing and/or metallurgical processes applied to ore or other Mineral Substances which results in obtaining of Products for Sale, including crushing, concentration, beneficiation, washing, and refining.

39- "Processing Entity" means any natural or legal person carrying out Processing.

40- "Products for Sale" means any Mineral Substance extracted and/or any products obtained [from these substances] after Processing or Transformation for commercial purposes.

41- "Prohibited Area" means any unauthorized area designated as a prohibited area in accordance with Article 13 of this law.

42- "Prospecting" means any activity which a Person carries out to search, and to discover indications of the existence of Mineral Substances, by studying the information observable from the surface, including by means of physical

observation, remote or aerial sensing techniques or rock sampling, without disturbing the land or the surface of land and without harming the environment.

43- "Quarry" has the meaning given to that term in Article 12.

44- "Quarry Authorization" means an Authorization for Quarry Exploration, an Authorization for Quarry Exploitation or an Authorization for Tailings Exploitation (Artificial Deposits of Quarry Materials), which is granted by the Ministry of Mines and Industries in accordance with the provisions of this law and the Mining Regulations.

45- "Quarry Material" has the meaning given to that term in section 3, paragraph (1) of Article 12 of this law.

46- "Restricted Substance" means any substance designated as unauthorized in accordance with Article 14 of this law.

47- "Small-scale Exploitation License" means an Exploitation License with specific economic parameters issued in accordance with Article 39 of this law.

48- "Small-scale Deposit" means a Deposit designated as such in accordance with Article 39 of this law.

49- "Start of Commercial Production" means the first day of the first 90-day period throughout which a Mine or Quarry operates at least at 60% of its rated capacity.

50- "Sub-contract" means a contract where the contractor directly or indirectly or another person on his behalf carries out work or services relating to Mineral Activities.

51- "Surface Rights Fees" mean the fees the amount, payment conditions, and duration of which shall be established in the Mining Regulations.

52- "Stores of scrap materials [Tailings]" means the stores of material rejected from the exploitation of Mines or Quarries or any solid or liquid residue deriving from Processing.

53- "Tailings Exploitation" means any activity by means of which an individual or a legal entity, extracts Mineral Substances from an Artificial Deposit of scrap material, and processes them, in order to sell them.

54- "Transformation" means any industrial process which changes the form and nature of a processed Mineral Substance or prepares finished or semi-finished Products for Sale.

55- "Transformation Entity" means any natural or legal Person carrying out Transformation of Mineral Substances.

#### ***Article four: Ownership of Minerals***

(1) All naturally occurring Mineral Substances and all Artificial Deposits of Mineral Substances on or under the territory of Afghanistan or in its water courses (rivers and streams) are the exclusive property of the State.

(2) Mineral Activities may be conducted in Afghanistan [only] by the State, unless a Person [other than the state] is the Holder of a Mineral Right validly obtained in accordance with this Law.

(3) A Person may conduct Mineral Activities, acquire control or possession over Minerals and Mineral Substances extracted [in Afghanistan] pursuant to a Mineral Right [validly obtained in accordance with this Law].

(4) The Ministry of Mines and Industries is hereby authorized to grant Mineral Rights in accordance with the provisions of this Law.

(5) A surface right to land does not confer upon its holder any claim or right whatsoever over the Deposits of Mineral Substances which may be found/detected on or under such land without a Mineral Right validly obtained in accordance with this Law. The provisions of Paragraphs (1) and (2) of this article shall prevail in any case.

#### ***Article five: Administration of mineral activities:***

(1) The Ministry of Mines and Industries shall be obliged to regulate mineral activities in accordance with this law and to develop, promote and ensure the efficient management of the Minerals industry by the private sector for the benefit of the people of Afghanistan.

(2) The Ministry of Mines and Industries may by itself, through other public entities, or in association with the private sector, carry out Mineral activities, in accordance with this Law.

## **Chapter Two**

### **Duties and Authorities**

#### ***Article six: the duties and responsibilities of the Ministry of Mines and Industries***

(1) In order to implement the provisions of this law, the Ministry of Mines and Industries shall have the following duties and authorities:

1- formulate and implement policies relating to Minerals and their development in Afghanistan, including policies for the promotion of private investment in Mineral Activities;

2- Propose to the Council of Ministers for its approval the classification, declassification or reclassification of an area as a Prohibited Area for Mineral Activities;

3- Propose to the Council of Ministers for its approval the classification, declassification or reclassification of a Mineral or a Mineral Substance as a "Precious Metal", "Gemstone", "Ornamental Stone" or "Restricted Substance";

4- propose to the Council of Ministers for its approval the classification, declassification or reclassification of Deposits of Mineral Substances as Mines or Quarries;

5- Accept or refuse the extension of a License or other Mineral Right to associated or non- associated substances;

6- Cancel or withdraw Licenses or other Mineral Rights, accept declarations of relinquishments of Mineral Rights and certify the expiry of Mineral Rights;

7- Grant or refuse to grant Licenses and to establish the particular rights and obligations attaching thereto;

8- Propose to the council of ministers for its approval of the execution of Mining contracts with other persons for the implementation of Mineral projects.

9- Propose to the council of ministers for its approval the Deposits which are subject to tender or are to be awarded on the basis of a Mining contract.

10- Approve and register transfers of [security interests in] Licenses and other Mineral Rights;

11- [Authorize] the Processing, [Trans]formation, transportation, marketing, sale and/or export of Mineral Substances;



12- Supervise and investigate the Mineral activities of public entities or other institutions which have invested in the public sector of Mineral activities.

13- Assess and ensure the collection of Mineral Royalties

14- Assess and ensure the collection of Surface Rights Fees and the fees referred to in Article 8, paragraph 2, section 2.

15- Order certain areas to be restricted in scope for Mineral Activities in accordance with Article 13, paragraph 1.

16- Carry out such other duties and authorities as provided by this law.

### ***Article seven: inter-ministerial committee:***

(1) An inter- ministerial committee shall be created to regulate the tenders of mineral rights and approve mining contracts and other relevant affairs composed of:

1- The minister for mines and industries, as the chairman

2- The minister of Finance, as the deputy chairperson

3- The Minister of Economy, as member

4- The minister of Commerce, as member

5- The minister of Foreign affairs, as member

6- Head of National Agency for Environmental Protection, as member.

(2) The government may appoint other members when needed.

### ***Article Eight: Mining Cadastre***

(1) There shall be established within the Ministry of Mines and Industries a Mining Cadastre.

(2)The Mining Cadastre shall have the following duties and authorities:

1. To assess fees, in accordance with the Mining Regulation, for the acceptance [and] processing of applications for Mineral Rights and [for] other relevant acts, and to transfer Mining Rights to be executed in accordance with this law.

2. To collect Surface Rights Fees, in accordance with the provisions of article 64 of this law and to transfer such amounts to the relevant bank account.

3. The acceptance [and processing] of applications for Mineral Rights;

4. The evaluation of the admissibility of the applications for Mineral Rights;

5. the execution of the technical and environmental evaluation of applications for Mineral Rights;

6. The issuance of Mineral Certificates evidencing Mineral Rights;

7. Acceptance [and processing] of applications for renewals and extensions of Mineral Rights;

8. Notifying the applicants concerning the processing and status of, and determinations relating to, applications for Mineral Rights;

9. issuing the opinion of the Ministry of Mines and Industries in the event of the classification, declassification or reclassification of a Prohibited Area;
  10. Registering Applications for the granting of Mineral Rights;
  11. Registering Mineral Rights granted, as well as refusals to grant them;
  12. Registering cases of relinquishment, withdrawal, termination and expiry of Mineral Rights;
  13. Registering extension of Mineral Rights to other substances;
  14. Registering transformation of Mineral Rights;
  15. Registering assignments, Leases and transfers of Mineral Rights; [and]
  16. Registering security, pledges and other encumbrances on Mineral Rights and mining assets.
- (3) The Mining Cadastre shall establish, maintain [and keep up-to-date] a special registry book for registering the cases referenced in paragraph 2 of this article.
- (4) The Mining Cadastre shall develop Cadastral Survey Map regarding Mineral Rights, which shall be open to the public for information.
- (5) The Mining Cadastre shall be authorized to officially confirm Mineral Rights and Mineral Certificates.
- (6) The Mining Regulations shall set forth the conditions for the processing of applications and the registration of Mineral Rights, for the execution of the technical and environmental evaluation of the applications, for determining the forms of certifications of applications for Mineral Rights, and other relevant situations.

### ***Article Nine: The Mining Inspectorate***

- (1) There shall be established within the Ministry of Mines and Industries a Mining Inspectorate for inspection and supervision of Mineral Activities.
- (2) The Mining Inspectorate shall have the following duties and responsibilities:
- 1- To inspect and supervise Mines with regard to health, safety, work procedures for production, concentration, Processing, Transformation, transport and sale.
  - 2- Financial and technical evaluation of applications for Mineral Rights;
  - 3- Inspect the sites, equipment [facilities], and books and records of participants in Mineral Activities and Artisanal Exploitation;
  - 4- Monitor the compliance by Holders with terms of the contracts, including the payment of Surface Rights Fees;

- 5- Issue orders concerning payment of fines and penalties as provided under this Law;
- 6- To require the production of information in order to carry out its functions under this Law;
- 7- to supervise the compiling and publishing of statistics and information about the production and sale of products from Mines and Quarries.
- 9- Perform such other functions as are assigned to it by the Ministry of Mines and Industries in accordance with the provisions of this law.

### ***Article ten: Environmental Protection Department***

(1) There shall be established within the Ministry of Mines and Industries an Environmental Protection Department for the protection of the environment in [connection with] Mineral Activities.

(2) The Environmental Protection Department shall have the following duties and responsibilities:

- 1- The technical evaluation of Rehabilitation and Mitigation Plans in relation to the Exploration for Minerals and Mineral Substances;
- 2- The technical evaluation of Environmental Impact Statements and the Environmental Management Plans presented by the applicants requesting Licenses and Exploitation Licenses;
- 3- Monitoring of compliance by participants in Mineral Activities with the environmental requirements of this Law, the Mining Regulations and MRPs and EMPs, to the extent applicable;
- 4- Recommendations on compliance with Mining Regulations concerning environmental protection with regard to Mineral Activities;
- 5- Cooperation with other state agencies which are responsible for protection of Environment, social welfare of the local indigenous populations, and natural and cultural heritage in connection with Mineral Activities, in accordance with the provisions of this law.

### ***Article eleven: The Geological Survey***

(1) There shall be established within the Ministry of Mines and Industries a Geological Survey for conducting geological studies and research.

(2) The Geologic Survey shall have the following duties and authorities:

- 1- Promotion of the Minerals, Hydrocarbons, and hydrology sectors through geological research
- 2- Compiling, publication and maintaining a national geological information system;
- 3- Conduct geological research activities and studies;

- 4- Provide information and perform mapping for exploration work and for Mineral Substances on a regional and national scale;
- 5- preparation and provision of geological data and at appropriate cost;
- 6- Perform such other functions as may be assigned to it by the Ministry of Mines and Industries, in accordance with this law.

(3) The Geological Survey shall be entitled to receive submissions from Holders of Mineral Rights of periodic information (including exploration and production data in synthesized and usable form or raw materials) and duplicate [samples] from all samples or sample batches taken in the National Territory for analysis or assaying.

(4) The Geological Survey may issues its opinion in the following events:

- (a) Classification, declassification or reclassification of Mineral Substances as Mines or as Quarry Materials and conversely;
- (b) Opening and closing down of an artisanal exploitation area; and
- (c) Classification, declassification or reclassification of a substance declared to be a "Precious Metal", "Gemstone", "Ornamental Stone" or "Restricted Substance".

## **Chapter three:**

### **Classification of Mineral Deposits,, Prohibited Areas and Restricted Substances**

#### ***Article twelve: Classification of Mineral Deposits***

(1) Deposits are classified as Mines or Quarries and shall be defined as follows:

1-- "Mine" means any Deposit or Artificial Deposit of Mineral Substances and/or any plant for the Processing or Transformation of the products within the Perimeter for such Mine, including the installations, movable equipment and fixtures used in the production process. Quarry Materials which can be economically exploited shall be an exception to the definition.

2-- "Quarry" means any Deposit of Quarry Materials which can be economically exploited and/or any plant for the Processing or Transformation of the products

of such Exploitation located within the Perimeter for such Quarry, including the installations, movable equipment and fixtures used in the Exploitation process.

3-- "Quarry Material" means a non-metallic Mineral Substance which can be used as building materials, as ballasting and road building materials, in the ceramics industry, as fertilizers for plants [to improve land cultivation], including: natural sands and gravels, and sedimentary, igneous and volcanic rock. This definition excludes phosphates, nitrates, alkaline salts and other associated salts, which may be classified as Mines in the same Deposits.

(2) The Ministry of Mines and Industries may, if deemed necessary, present the proposal to classify, declassify or reclassify a Mine as a Quarry, or vice-versa to the Council of Ministers for approval.

### ***Article thirteen: Prohibited Areas***

(1) If the national interest, including the health or safety of the population, national security, requirement of public order, the incompatibility of the mining and quarry activities with other uses of the soil or sub-soil, the protection of the environment or cultural heritage or other natural values, the protection of indigenous peoples or the welfare of vulnerable local communities so requires, the Ministry of Mines and Industries may submit the proposal to declare an area to be off-limits to, or restricted in scope for, Mineral Activities to the Council of Ministers for approval.

(2) The Ministry of Mines and Industries may temporarily reserve an area for Mineral Activities in order to be awarded pursuant to a tender or on the basis of a Mining Contract.

(3) The declaration of classification of an area as a Prohibited Area shall be adopted by means of a Mining Regulation and may or may not have a fixed term.

(4) The Mining Cadastre shall develop and compile the map indicating the Prohibited Areas where mining activity and quarry works are forbidden or restricted.

(5) Mineral Rights in existence prior to the declaration of an area as a Prohibited Area shall continue to be valid unless the Mineral Rights are withdrawn or terminated on the basis of public order or necessity. In such cases, compensation is paid to the Holder thereof in accordance with the provisions this law and Mining Regulation.

### ***Article fourteen: Restricted Substances***

- (1) If national security, the health or safety of the population, public order or necessity or the protection of the environment so requires, the inter-ministerial committee may, on the proposal of the Ministry of Mines and Industries, declare a Mineral Substance a "Restricted Substance".
- (2) All radioactive ores shall be Restricted Substances.
- (3) The provisions for use of the restricted substances referenced in paragraph one and two of this article shall be regulated in the Mining Regulations.

## **Chapter four**

### **Mineral Rights**

#### ***Article fifteen: Types of Mining Rights***

- (1) Mineral Rights consist of Licenses and Authorizations, which shall be classified as follows:
  - 1- Licenses consist of Exploration Licenses and Exploitation Licenses.
  - 2- Exploitation Licenses consist of ordinary Exploitation Licenses and Small-scale Exploitation Licenses. Exploitation Licenses shall in accordance with the provisions of this law by equivalent to Small-scale Exploitation Licenses unless otherwise specified in this Law or the Mining Regulations.
  - 3- Authorizations consist of:
    - (a) Authorizations for Quarry Exploration;
    - (b) Authorizations for Temporary Quarry Exploitation;

- (c) Authorizations for Permanent Quarry Exploitation;
- (d) Authorizations for Tailings Exploitation;
- (e) Authorizations for Artisanal Exploitation; and
- (f) Authorizations for the treatment, Processing, Transformation, transportation or trading of Minerals.

(2) Rights of Holders of Mineral Rights shall constitute interests in possessed property within the validity period of the contract, which shall be assignable and transferable in accordance with the provisions of this Law, the Mining Regulations and, to the extent not inconsistent therewith, the civil law of Afghanistan. A Mineral Right does not confer upon its Holder any ownership interest in land.

(3) Subject to Article 16 and the limitations set forth elsewhere in this Law, a Person may hold one or more Licenses and/or Authorizations simultaneously.

(4) The procedures for the evaluation of applications, issuance of licenses and/or authorizations, maintenance, renewal, assignment and transfer and transformation of Mineral Rights shall be established in the Mining Regulations.

### ***Article sixteen: Eligibility to obtain Mineral Rights***

(1) The following Persons are eligible to hold Mineral Rights:

- 1- Any individual having an age of 18 or more years who is a citizen of Afghanistan;
- 2- Any individual having an age of 18 or more years, who is a citizen of a foreign country, and legally entitled to reside in Afghanistan;
- 3- Any legal entity organized in accordance with law or a legal entity organized as a cooperating legal entity; [and]
- 4- Any legal entity organized or cooperating under foreign law or that is legally entitled to reside, invest, or do business in Afghanistan.

Only persons who are citizens of Afghanistan are eligible to hold an Authorization for Artisanal Exploitation.

(2) The following are not eligible to obtain Mineral Rights:

- 1- High ranking state officials, magistrates, members of the Armed Forces, the Police and the Security Services, other public employees;
- 2- Any individual who does not have legal capacity;
- 3- Any Person that is bankrupt;
- 4- Any Person convicted by a valid conclusive [non-appealable] judgment of the authorized court, for a period of two years of imprisonment; and

5- Any Person whose Mineral Right has been prematurely withdrawn, cancelled or terminated.

(3) Any person with a foreign citizenship as referred in paragraph one of this article shall be obliged to establish and maintain a permanent representative office in Afghanistan or to appoint [and maintain] an authorized agent resident in Afghanistan .

### ***Article seventeen: [Public] Tender***

(1) The decision to reserve a Deposit or other subject of a Mineral Right shall be awarded by means of a [public] tender pursuant to the approval of the government. The tender procedure, the terms and conditions, and other related issues of bids shall be provided in the approval.

(2) The Inter-ministerial Committee shall take the following actions to implement the approval of the government: (a) review and approve the bid documents, including the tender procedure, the bidding terms and conditions and type of contract; (b) evaluate the bidding and select a winning bidder;

(2) The Inter-ministerial Committee shall be required to treat all bidders fairly and without discrimination, and to select the bidder which provides the best value for Afghanistan, taking due consideration of the following:

- 1- Plan of work proposed and the amount of investment committed thereto;
- 2- Financial and technical capacity of the bidder;
- 3- Previous experience of the bidder; [and]
- 4- Various other socio-economic advantages for the State;  
(including commitments with respect to the compensation [of affected communities], employment and training of Afghan citizens, commitments with respect to the construction of local infrastructure and issues related to the environment.)

### ***Article Eighteen: Mining Contracts***

(1) Mining Contracts shall be implemented upon the approval of the government.  
The government may delegate such powers to the cabinet of ministers.

(2) The [Mining] Contract shall be prepared in accordance with this law and shall guarantee the stability, the term and conditions related to the party to the



Mining Contract, and shall be valid with regard to taxes and customs duties, Mineral Royalties and other conditions upon the date of conclusion of the Mining Contract.

(3) Upon effectiveness of a Mining Contract, the party awarded the Mining Contract shall be deemed the Holder of Mineral Rights. The Ministry of Mines and Industries shall register [in favor of such party] and grant the relevant Licenses or Authorizations,

(4) Amendments, supplements or modifications to Mining Contracts may be made in accordance with the procedures provided therefore in the Mining Contract. If no such procedure is provided in a Mining Contract, then such Mining Contract may only be amended, supplemented or modified if by Decree of the approval of government. In such cases, a re-tender shall not be required for amendments, assignments or transfers of such Mining Contracts unless so specified in the relevant approval of the Government.

(5) Unless otherwise specified in a Mining Contract, a Mining Contract shall be construed and interpreted in accordance with the laws of Afghanistan.

(6) Mining Contracts shall be subject to the civil and the commercial codes.

### ***Article nineteen: Mining Perimeters***

(1) Mineral Rights are granted for Mineral Substances situated inside the Perimeter identified in the relevant License or Authorization.

(2) Each Perimeter shall be in the form of a polygon of specified or indefinite depth consisting of quadrangles subject to the limits relating to the borders or those relating to reserved Prohibited Areas as set forth in the Mining Regulations.

(3) The National Territory shall be divided into mining cadastral grids in accordance with the appropriate coordinates system set forth in the Mining Regulations. This grid shall define uniform and indivisible quadrangles which sides are oriented North-South and East-West. The Mining Regulations shall set forth the conditions for the cadastral grid, as well as the rules governing the identification of the Mine and Quarry Perimeters.

(4) The location and delimitation of the Perimeter of Mineral Rights may be identified either in Cartesian coordinates or by geographical reference marks or a combination of both, as envisaged by the Mining Regulations.

## ***Article twenty: Overlap of Perimeters***

(1) The Perimeters of Mineral Rights generally do not overlap with one another, except in the following circumstances:

1- The Perimeter of an Exploration License may, with the consent of the Holder of the Exploration License or by Order of the Ministry of Mines and Industries, overlap with the Perimeter of an Authorization for Quarry Exploration, an Authorization for Quarry Exploitation, an Authorization for Tailings Exploitation or an Authorization for Artisanal Exploitation;

2- The Perimeter of an Exploitation License may, with the consent of the Holder of the Exploitation License or by Order of the Ministry of Mines and Industries, overlap with the Perimeter of an Authorization for Quarry Exploration, an Authorization for Quarry Exploitation, an Authorization for Tailings Exploitation or an Authorization for Artisanal Exploitation;

3- The Perimeter of a Quarry Authorization may, with the consent of the Holder of the License or the Authorization for Tailings Exploitation or by Order of the Ministry of Mines and Industries, overlap with the Perimeter of a License or an Authorization for Tailings Exploitation and may, with the consent of the Holder of the Quarry Authorization, overlap with an Authorization for Artisanal Exploitation;

(d) An Authorization for Tailings Exploitation may, with the consent of Holder of the relevant License or Authorization for Quarry Exploitation or by Order of the Ministry of Mines and Industries, overlap with the Perimeter of a License or an Authorization for Quarry Exploitation and may, with the consent of the Authorization for Tailings Exploitation, overlap with an Authorization for Quarry Exploration or an Authorization for Artisanal Exploitation; and

(e) An Authorization for Artisanal Exploitation may, with the consent of the Holder of the relevant License, Quarry Authorization or Authorization for Tailings Exploitation, overlap with the Perimeter of a License, Quarry Authorization or Authorization for Tailings Exploitation.

## ***Article twenty one: Extension of Perimeters***

The extension of the Perimeter of a Mineral Right is authorized, subject to the prior rights, reservations or applications for competing Mineral Rights, under the conditions established in the Mining Regulations.

## ***Article twenty two: Renewal***

(1) Subject to provisions of paragraph three of this article, and the time limitation imposed on each type of Mineral Right in the applicable provisions of this Law, Mineral Rights shall be renewed by the Ministry of Mines and Industry upon the application of the Holder the Mining Regulations, who accepts to comply with the relinquishment provisions..

(2) A Mineral Right may be renewed if the Holder has complied with its obligations under the terms of the contract and has timely presented an application for renewal in accordance with the Mining Regulations.

(3) The Mining Regulations shall provide for the mandatory or non mandatory relinquishment of a specified percentage of the original Perimeter covered by an Exploration License or an Authorization for Quarry Exploration upon renewal thereof, in accordance with Article twenty nine paragraph 2 and Article forty two paragraph 2 of this law.

(4) If the application for renewal of a Mineral Right is not acted upon by the Ministry of Mines and Industries before the expiry of its original period of validity, the term of the Mineral Right is automatically extended, until the issuance of a formal decision. Such extension only applies to the portion of the Perimeter of such Mineral Right for which a renewal is applied for.

(5) If the application for renewal is rejected by the Ministry of Mines and Industries for all or a part of a Perimeter covered by a Mineral Right, then the portion of the Perimeter which is not renewed is released from the Mineral Right from the date following the date of its written decision.

(6) Any refusal to grant a renewal of a Mineral Right shall be reasoned by the Ministry of Mines and Industries, and is subject to appeal by the Holder of the Right in accordance with the provisions of Chapter eleven of this Law.

### ***Article twenty three: Assignments, Transfers, Lease, and Pledge***

(1) Licenses and Quarry Authorizations may be assigned, transferred, leased and pledged by the Holder as security for the financing of the Mineral Activities of the relevant area, subject to the conditions established in the Mining Regulations.

(2) assignments, transfers, Leases and pledges of Mineral Rights other than the provisions of paragraph one of this article, and pledges of Mineral Rights for purposes other than security for the financing of Mineral Activities, may only be made with the consent of the Ministry of Mines and Industries, subject to the conditions established in the Mining Regulations.

(3) The assignment, transfer, Lease or pledges of a License or a Quarry Authorization shall be as of right if the proposed assignee, transferee, lessee, or pledge receiver is eligible to be the Holder of such Mineral Rights and the assignee, transferee, lessee or pledge receiver offers at least the warranties or guarantees of performance of the his obligations

(4) The Holder of a Mineral Right must submit a copy of any contract or agreement by which it purports to assign, transfer, Lease or pledge all or any part of its rights and obligations arising out of a Mineral Right to the Mining Cadastre.

(5) If the assignment, transfer, Lease or pledge of a Mineral Right has satisfied the conditions set forth in the Mining Regulations, the Mining Cadastre shall register such assignment, transfer, Lease or pledge.

(6) Unless a Mineral Right is re-registered in the name of the assignee or the transferee by the Mining Cadastre, the assignment or transfer does not relieve the [original] Holder from its responsibility relating to the protection of the environment, rehabilitation of sites or in respect of any other obligations established in the contract.

(7) The lessee and the lessor of a Mineral Right, as the case may be, shall be jointly and severally liable to the State concerning the Mining Right, including the payment of Mineral Royalties.

(8) Any Person who inherits a Mineral Right shall be required within 12 months of the death, personal incapacity, or bankruptcy of the original Holder to apply to the Ministry of Mines and Industries for the formal assignment or transfer of the Mineral Right to the inheritor. If such application is not made within such period the Mineral Right shall be terminated.

(9) A Holder shall have the right to freely assign, transfer, pledge or use marketable products extracted pursuant to its Mineral Rights, subject to the provisions of this Law and other applicable laws.

#### ***Article twenty four: Relinquishment***

(1) The Holder of a Mineral Right may, in whole or in part, relinquish the Mineral Rights covering its Perimeter without entitlement to compensation of damages by making a written declaration to the Ministry of Mines and Industries.

(2) The declaration of partial or total relinquishment shall be addressed to the Ministry of Mines and Industries, and shall indicate the coordinates of all or part of the renounced and retained Perimeter.

(3) The part of the Perimeter to be renounced must be made up of whole quadrangles and the remaining part of the Perimeter must comply with the Mining Regulations.

(4) The Mining Cadastre shall identify and register the relinquishment of the portion of the Perimeter so relinquished as of the date the Ministry of Mines and Industries makes acknowledgement of the relinquishment.

(5) The total or partial relinquishment of a Mineral Right does not entitle the Holder to reimbursement of any fees paid to the State for the Mineral Right, and does not relieve the Holder from its responsibility relating to the protection of the environment, rehabilitation of sites or in respect of any other obligation established in the contract.

(6) Upon total or partial renouncement of a Perimeter covered by Mineral Rights or the area outside such Perimeter, the following actions shall be taken:

1- The buildings, and permanent installations constructed affixed to the relinquished Perimeter covered by the Mining Rights shall not be removed by the Holder and shall automatically become property of the State, without payment of cost; [and]

2- the buildings, and permanent installations constructed affixed to land outside the Perimeter covered by the Mineral Rights, which is later on relinquished, , shall, subject to Article 75, be disposed of with the agreement of the Holder of such Mineral Right and the owner of the land upon or under which such property is located. If such an agreement may not be reached, such buildings, and structures shall automatically become property of the State, without payment of cost.

The Ministry of Mines and Industries shall in both of the above mention cases, be the authority responsible for administering the buildings and structures so disposed..

(7) Upon total relinquishment of a Mineral Right, all geological and geophysical data, samples and other information relating to the relinquished Mineral Right shall automatically be transferred to the Ministry of Mines and Industries, free of charge. The ministry of Mines and Industries may require the Holder to provide additional data, information, and reports concerning the relinquished areas, in accordance with the Mining Regulation.

## ***Article twenty five: Withdrawal and Termination of Mineral Rights***

(1) A Mineral Right expires on the final day of its term of validity, unless it is renewed.

(2) A Mineral Right can be withdrawn or terminated by Order of the Ministry of Mines and Industries on the basis of one [or more] following grounds:

1- Persistent or serious violation of the terms and obligations of the Mineral Rights;

2- Delay or suspension of Exploration for a period of more than one year without a valid justification unless the period of delay or suspension is provided otherwise in the text of the contract;

3- delay or suspension of Exploitation, without authorization, for a period of more than two years, or, with authorization, for a period of more than six years , unless the period of delay or suspension is provided otherwise in the text of the contract; and

4- Non-payment of Surface Rights Fees, Mineral Royalties or taxes;

5- Bankruptcy or insolvency of the Holder;

6- Relinquishment of a Mineral Right as a compensation for damages or penalty by the Holder;

7- persistent violation of laws or violations of obligations of the Holder relating to health and safety of labor, human rights, protection of the environment or protection of affected communities; and

8- Public order or necessity.

(3) Prior to the withdrawal or termination of a Mineral Right on the basis of the grounds set forth in paragraph 2 of this article, the Holder shall be given not less than 30 days' written notice of the Ministry of Mines and Industries's intention to withdraw or terminate the Mineral Right.

(4) If the withdrawal or termination of a Mineral Right is based solely on the grounds of public order or necessity, compensation shall be paid to the Holder in accordance with the provisions of this law.

(5) A withdrawing or terminating of Mineral Rights shall be based on a written and reasoned Order of the Ministry of Mines and Industries, and is subject to appeal by the Holder.

(6) Unless otherwise specified in the Mining Regulations, the withdrawal or termination of the Mineral Right does not relieve the Holder from its responsibilities relating to the protection of the environment, rehabilitation of sites or in respect of any other obligation established in the contract of Mineral Rights.

(7) The Holder of a withdrawn or terminated Mineral Right may within six months from the date of the relevant Order, remove equipment, materials and movable installations of which it is the owner. The State shall have a pre-emptive right to purchase such equipment, materials or movable installations from the Holder in accordance with the Mining Regulations.

(8) During relinquishment, the buildings, and permanent installations constructed pursuant to a Mineral Right that are affixed to the Perimeter shall become property of the State, without payment of cost

(9) the buildings, and permanent installations constructed affixed to land outside the Perimeter covered by the Mineral Rights, [and the ownership thereof], shall, subject to Article 75, be disposed of with the agreement of the Holder of such Mineral Right and the owner of the land upon or under which such property is located. If such an agreement may not be reached, such buildings, and structures shall become property of the State, without payment of cost.

(10) Upon withdrawal, all geological and geophysical data, samples and other information relating to the Mineral Right including additional data and reports relating to the area of such Rights shall be transferred to the Ministry of Mines and Industries, free of charge.

### ***Article twenty six: distribution of Exploration Licenses***

(1) Exploration Licenses shall be issued upon the conclusion of a contract by the Ministry of Mines and Industries to any eligible Person having presented an application that conforms to the requirements set forth in this Law and the Mining Regulations.

(2) The Mining Regulations shall establish the requirements and procedures for the applications for Exploration Licenses, including the time limits for processing such applications, establishment of the applicant's financial capability [and the requirement of] a three-year work program and budget for the Exploration work to be carried out in the specified term.

(3) Subject to any restrictions placed upon such areas, the Mining Cadastre shall register Exploration Licenses for a given Perimeter in the chronological order of their filing, unless an application is not admissible.

(4) The Mining Cadastre shall register Exploration Licenses upon the approval of Ministry of Mines and Industries. In such cases, the Holder shall be entitled to receive a Mineral Certificate representing the Exploration License.

### ***Article twenty seven: Rights of Holders of Exploration Licenses***

(1) The Exploration License entitles its Holder to the exclusive right, within the Perimeter on which it is granted and for the term of its validity, to carry out mineral exploration work for Mineral Substances classified as Mines, and other associated substances for which the Exploration License Holder applies for the Exploration License to be extended to include these substances. The granting of an Exploration License does not preclude the granting of an Authorization for Quarry Exploration, an Authorization for Quarry Exploitation, an Authorization for Tailings Exploitation or an Authorization for Artisanal Exploitation on the same Perimeter, provided that the Quarry work, Tailings Exploitation or the Artisanal Exploitation, [as the case may be], does not obstruct the Exploration work of the Holder of the Exploration License and that the agreement of the Holder of the Exploration License has been obtained in advance.

(2) In no event may the Exploration work become Exploitation work unless the Holder of the Mineral Exploration License has obtained an Exploitation License in accordance with the provisions of this Law.

(3) As long as an Exploration License is effective, no other application for Mineral Rights for all or part of the Perimeter may be accepted in the mentioned period, except when: 1- the application for an Exploitation License from the Holder of the said Exploration License is presented; [or] 2- the Holder is eligible pursuant to Article 20 of this law.

(4) The Exploration License also entitles its Holder the automatic right to obtain an Exploitation License for all or part of the Mineral Substances indicated in the Exploration License, and the associated substances within the area covered by the Exploration License, if the Holder discovers a Deposit which can be economically exploited, subject to the fulfillment of the satisfaction of the conditions to issuance of an Exploitation License in accordance with paragraph 4, Article 37 of this law.

(5) Subject to the provisions of 30, paragraph 8, , the Holder of an Exploration License is authorized to take samples of the Mineral Substances within the Perimeter indicated on its Exploration License in order to carry out analyses or industrial assays in the laboratory of [its] choice.



### ***Article twenty eight: Duration of validity***

An Exploration License shall be valid for a period of 3 years from the date of registration thereof by the Mining Cadastre. It shall be renewable for 2 consecutive periods of 3 years subject to the timely payment of annual surface rents and compliance by the Holder of its obligations under this Law, the Mining Regulations, and under the relevant license.

### ***Article twenty nine: Surface Area***

(1) The maximum Perimeter for which an Exploration License may be granted shall not exceed 250 square kilometers.

(2) At the time of renewal of an Exploration License, the surface area of the Perimeter that is reduced shall not be less than 25% of the total area. The area released constitute a contiguous zone whose shape and size shall be defined in the Mining Regulations. In such cases, the Holder of the Exploration License shall have the right to define the Perimeter retained, in accordance with the Mining Regulations.

(3) A Person, its partners and Affiliates may not hold more than fifty (50) Exploration Licenses simultaneously. The State shall be an exception to this rule.

### ***Article thirty: Obligations of Holders of Exploration Licenses***

(1) The Holder of an Exploration License shall be required to pay Surface Rights Fees for its Perimeter in the amounts and at the times established in the Mining Regulations.

(2) The Holder of an Exploration License shall be required to begin to carry out its work within 6 months of the date on which the Exploration License has been registered with the Mining Cadastre.

(3) The Holder of the Mineral Exploration License is obligated to prepare and submit to the Environmental Protection Department for approval a Mitigation and Rehabilitation Plan (MRP) in accordance with the provisions of this Law and the Mining Regulations. The Holder cannot commence work on the property without having obtained the approval of the Environmental Protection Department

(4) The Holder of an Exploration License must comply with all applicable laws and regulations regarding health, safety of labor, human rights, use of water, protection of the environment and protection of affected communities.

(5) The Holder of an Exploration License is required to submit the program for work, budget, minimal annual spending, and protection of the affected communities during the period of the License's validity to the Mining Inspectorate. Any deviations from the work programs and budgets so submitted shall be reported by him promptly to the Mining Inspectorate. Submitting an accurate budget for the initial fiscal year shall be an exception to this rule.

(6) The Holder of an Exploration License is required to collect and keep duplicate samples of all samples, sample batches and drill cores taken within the Perimeter of its Exploration License, to make them available to inspection by the Geological Survey, and to submit them to the Geological Survey upon relinquishment, termination or expiration of the Exploration License.

(7) The Holder of an Exploration License shall also be required to maintain written records of its activities, and to submit their reports and to the Geological Survey as required in the Mining Regulations.

(8) When the Holder sends the samples abroad for assaying, he must comply with the provisions of the customs law and submit a description of them, indicating the number, volume and weight, to the Geological Survey.

### ***Article thirty one: Use of Products***

The Holder of an Exploration License may use products extracted at the time of Exploration, subject to the prior declaration of such products to the Mining Inspectorate, provided that such use is necessary for Exploration and does not constitute Exploitation.

### ***Article thirty two: Distribution of Exploitation Licenses***

(1) An Exploitation License shall be granted by the Ministry of Mines and Industries to the Holder of an Exploration License for the same Perimeter, provided that the following conditions are satisfied:

1- Compliance with the obligations of the Exploration License

2- Satisfaction of the requirements for acquiring an Exploitation License established in this Law and the Mining Regulations at least three months prior to the expiration of validity of the relevant Exploration License.

(2) The requirements and procedures for obtaining for an Exploitation License shall be as follows:

- 1- Evidence of the applicant's financial capability;
- 2- A feasibility study;
- 3- A development plan, including proposed investments and any socio-economic contributions proposed for the communities concerned;
- 4- An Environmental Impact Assessment (EIA), including a social impact assessment; [and]
- 5- An Environmental Management Plan (EMP), including a social mitigation plan, plans for rehabilitation of the sites to be exploited, and Mine closure plan in special conditions.

(3) In the event that an application for the transformation of an Exploration License into an Exploitation License is being processed at the time when the validity of the Exploration License expires, the validity of said rights is deemed to be extended until an Exploitation License is issued.

(4) Subject to any existing Mineral Rights already registered in respect of a given area (including existing Licenses and any conditions placed upon such areas by the Ministry of Mines and Industries), other applications for an Exploitation License for that area shall be registered by the Mining Cadastre in the chronological order, unless such applications are rejected.

(5) As long as an application for an Exploitation License is being processed, no other application for Mineral Rights relating in whole or in part to the same Perimeter shall be processed.

(6) Exploitation Licenses shall be issued by the Ministry of Mines and Industries and registered by the Mining Cadastre. In such cases, the Holder [who is] entitled to receive a Mineral Certificate, shall receive an "Exploitation Certificate" confirming the Exploitation License.

### ***Article thirty three: Investigation of Mineral Rights provided for in the License***

(1) The Mineral rights of an Exploitation License shall be granted [only] after a comprehensive investigation of its advantages and disadvantages.

(2) The requirements, procedures, and the time limits for the investigations shall be established in the Mining Regulations.

(3) The recommendations of the relevant public agencies concerning the investigation shall be published in accordance with the Mining Regulations.

(4) The investigation shall establish the advantages and disadvantages which the proposed exploitation shall present to the communities concerned. The Mining Inspectorate and the Environmental Protection Department may establish additional conditions and obligations to which the exploitation will be subject, including any obligations relating to the socio-economic development of the affected communities. The conditions and obligations shall be included in the Exploitation License, and shall constitute an integral part of the License terms.

### ***Article thirty four: Rights of Holders of Exploitation Licenses***

(1) The Holder of an Exploitation License shall be entitled to the exclusive right to carry out, within the Perimeter over which it has been granted, and during its term of validity, exploration, development, construction and exploitation works in connection with Mineral Substances classified as Mines, and other substances and any associated mineral substances for which the Exploitation License has been granted.

(2) In addition, the Holder as provided for in paragraph one may also carry out the following:

- 1- To build installations and infrastructure required for exploitation;
- 2- To access water and wood within the Perimeter in compliance with the requirements set forth in the Environmental Management Plan, and law;
- 3- To freely have, transport, sell and use the Mineral Substances, and to concentrate, and hold other substances extracted from within the relevant Perimeter;
- 4- To establish installations for the Processing or Transformation of the Mineral Substances [extracted from the exploitation Perimeter]
- 5- To proceed to carry out works to extend the Mine;
- 6- To proceed with Processing or Transformation of the Mineral Substances extracted from Deposits within the exploitation Perimeter;

(3) As long as there are Mining activities in a Perimeter covered by an Exploitation License, no other application for a Mineral Right for all or part of the same Perimeter can be processed, except in the circumstances contemplated by Article 20 of this Law.

### ***Article thirty five: Extent of the Exploitation License***

(1) The Holder of an Exploitation License shall be authorized to extract the Mineral Substances which are mentioned in the License and which can be economically exploited.

(2) The Exploitation License may be extended to include associated substances, in accordance with the rules established in the Mining Regulations.

### ***Article thirty six: Duration of the Exploitation License***

(1) The maximum term of the validity of Exploitation Licenses is thirty years from the date of registration thereof by the Mining Cadastre. Exploitation Licenses are renewable as of right for consecutive periods of five years until exhaustion of the Deposits being exploited, subject to the timely payment of annual surface rents and compliance with the obligations under this Law and the Mining Regulations. Small-scale Exploitation Licenses shall be an exception to this rule.

(2) The term of the validity of Small-scale Exploitation Licenses shall be established in the Mining Regulations, but shall not exceed a maximum of ten years from the date of registration thereof by the Mining Cadastre, including renewal period.

### ***Article thirty seven: Surface Area***

(1) The surface area of the Perimeter covered by the Exploitation License shall correspond to that defined in the feasibility study submitted by the applicant for the Exploitation License, but shall not exceed 50 square kilometers.

(2) In the case of an Exploitation License applied for as of right by the Holder of an Exploration License, the surface area of the Perimeter covered by the Exploitation License shall not exceed that of the Exploration License from which it originates. In case only a part of the Perimeter of the Exploration License is included in the application, only that part shall be included in the Exploitation License.

(3) The area and demarcations of the Perimeter of an Exploitation License shall be established in accordance with the Mining Regulations and Procedures of the Mining Cadastre.

(4) The Ministry of Mines and Industries may not issue more than ten (10) Exploitation Licenses simultaneously to a Person and its Affiliates. The State shall be an exception to this rule.

### ***Article thirty eight: Obligations of Holders of Exploitation Licenses***

(1) The Holder of an Exploitation License shall be required to pay Surface Rights Fees for its Perimeter in the amounts and at the times established in the Mining Regulations.

(2) Subject to receipt of an exemption, the Holder of an Exploitation License shall be required to commence Exploitation, on a continual basis, within a maximum of eighteen (18) months from the date of registration of the Exploitation License by the Mining Cadastre.

(3) The Holder of an Exploitation License may apply for an exemption to the Ministry of Mines and Industries concerning the payment of Surface Rights Fees for its perimeter. The Ministry of Mines and Industries shall propose the approval of the application to the inter-ministerial committee.

The inter-ministerial committee shall have the authority to grant up to three consecutive or non-consecutive exemptions, each for a period of not more than one (1) year in duration

(Unfavorable economic conditions, no market for the products)

If after a total of three (3) years of exemption, the Holder fails to pay the Surface Rights Fees, the Ministry of Mines and Industries shall withdraw the Exploitation License in accordance with Article 25 of this law.

(4) The Holder of an Exploitation License shall exploit the Deposits within the Perimeter in accordance with the feasibility study, the development plan, and the Environmental Management Plan. Any deviation of the work from such studies and plans shall require the approval of the Ministry of Mines and Industry, in accordance with the Mining Regulations. The Holder of an Exploitation License must comply with all applicable laws and regulations regarding health, safety of work, human rights, use of water, protection of the environment and protection of affected communities.

(5) The Holder of an Exploitation License shall be required to maintain written records of its documents and activities, and to, not less than annually, submit periodic progress reports to the Ministry of Mines and Industries, including a description of its activities, investments, production, sales, revenue, estimated reserves data and such other information as may be required in the Mining Regulations.

### ***Article thirty nine: Small-Scale Mining Deposit***

(1) If the technical conditions characterizing certain Deposits of Mineral Substances do not allow for large-scale Exploitation, the Ministry of Mines and Industries may, on the basis of semi-industrial procedures, designate such Deposits as Small-Scale Mining Deposits and economically exploit them the basis of Small-scale Exploitation Licenses.

(2) The conditions for defining Small-scale Mining Deposits shall be established in the Mining Regulations, based upon one or more factors including the method of exploitation, volume of reserves, level of investment, production capacity, the number of employees, the value-added and the degree of mechanization.

(3) The procedural requirements of applications for Small-scale Exploitation Licenses, including the time limits for processing such applications, and the rights and obligations of the Holders of such Licenses, shall be established in the Mining Regulations.

(4) If the conditions of a Deposit for exploitation on the basis of a Small-scale Exploitation License have changed and an industrially and economically it is counted as a mining deposit, the Holder of such a Small-scale Exploitation License shall have the right to apply for a transformation of the Small-scale Exploitation License into an ordinary Exploitation License. The conditions for transformation of a Small-scale Exploitation License into an ordinary Exploitation License shall be established in the Mining Regulations.

### ***Article forty: Authorizations for Quarry Exploration***

(1) Authorizations for Quarry Exploration shall be issued by the Ministry of Mines and Industries to any eligible Person having presented an application in accordance with this Law and the Mining Regulations.

(2) The Mining Regulations shall establish the procedural requirements for the applications for Authorizations for Quarry Exploration, including the time limits for processing such applications and essential issues ( the applicant's financial capability and the an annual work program and budget for the exploration work proposed to be carried out for the term of validity of the Authorization for Quarry Exploration).

(3) Subject to any existing Mineral Rights already registered in respect of an area and any prior reservations or restrictions placed upon such areas by the Ministry of Mines and Industries, applications for an Authorization for Quarry

Exploration for a given Perimeter shall be registered by the Mining Cadastre in the chronological order [of their issuance].

(4) The prior existence of a Exploration License or an Exploitation License does not preclude the granting of an Authorization for Quarry Exploration on the same Perimeter, provided that, Authorization for the Quarry work does not obstruct the work of the prior License Holder, and that the agreement of the Holder of the License has been obtained in advance.

### ***Article forty one: Rights of Holders of Authorizations for Quarry Exploration***

(1) The Authorization for Quarry Exploration confers upon its Holder the exclusive right, within the Perimeter on which it is granted and for the term of its validity, to carry out exploration work for Quarry Materials.

(2) In no event may the Exploration work become Exploitation work unless the Holder of the Mineral Authorization for Quarry Exploration has also obtained an Authorization for Quarry Exploitation in accordance with the provisions of this Law.

(3) As long as a Perimeter is subject to a Authorization for Quarry Exploration, no other application for Quarry Authorizations for all or part of this Perimeter may be processed, except: 1- When the application for an Authorization for Quarry Exploitation is submitted by the Holder of the said Authorization for Quarry Exploration; 2- In circumstances contemplated by Article 20 of this Law.

(4) The Authorization for Quarry Exploration entitles its Holder the right to obtain an Authorization for Quarry Exploitation for Quarry Materials in all or part of the relevant Perimeter, so that the Holder may extract them if it can be economically exploited.

(5) Subject to the provisions of paragraph 6 of Article 44, the Holder of an Authorization for Quarry Exploration is authorized to take samples of the Mineral Substances within the Perimeter indicated on its Authorization for Quarry Exploration in order to carry out analyses or industrial assays in the laboratory or plant of [its] choice.

### ***Article forty two: Duration***

(1) An Authorization for Quarry Exploration shall be valid for a period of six (6) months from the date of registration thereof by the Mining Cadastre and shall



be renewable for two additional periods of six (6) months subject to the timely payment of annual surface rents and compliance by the Holder of its obligations under this Law and the Mining Regulations.

(2) At the time of the renewal of an Authorization for Quarry Exploration, the surface area of the Perimeter shall be reduced by 25%. The area released shall constitute a contiguous zone whose shape and size may be defined in the Mining Regulations. The Holder of the Authorization for Quarry Exploration shall have the right to define the Perimeter retained, in accordance with the Mining Regulations.

### ***Article forty three: Surface Area***

(1) The maximum Perimeter for which an Authorization for Quarry Exploration may be granted is four square kilometers.

(2) A Person, its partner and Affiliates may not hold more than fifty (50) Authorizations for Quarry Exploration simultaneously. The State shall be an exception to this rule.

### ***Article forty four: Obligations of Holders of Authorizations for Quarry Exploration***

(1) The Holder of an Authorization for Quarry Exploration shall be required to pay Surface Rights Fees for its Perimeter in the amounts and at the times established in the Mining Regulations.

(2) The Holder of an Authorization for Quarry Exploration shall be required to begin to carry out the work program written in its Authorization for Quarry Exploration within three (3) months of the date on which the Authorization for Quarry Exploration has been registered.

(3) The Holder of an Authorization for Quarry Exploration is obligated to prepare and submit to the Environmental Protection Department for approval Mitigation and Rehabilitation Plan (MRP) in accordance with the provisions of this Law and the Mining Regulations. The Holder cannot commence Exploration work unless he has acquired the certification of the Environmental Protection Department.

(4) The Holder of an Authorization for Quarry Exploration must comply with all applicable laws and regulations regarding health, safety of labor, human

rights, use of water, protection of the environment and protection of communities affected due to the Exploration work.

(5) The Holder of an Authorization for Quarry Exploration is required to collect and keep duplicate samples of all samples, [sample] batches and drill cores taken within the Perimeter of its Authorization for Quarry Exploration, to make them available to inspection by the Geological Survey, and to submit such duplicate samples to the Geological Survey upon relinquishment, termination or expiration of the Authorization for Quarry Exploration.

The Holder of an Authorization for Quarry Exploration shall also be required to maintain written records of its activities, and to submit periodic progress reports and Exploration data to the Geological Survey as required in the Mining Regulations.

(6) Taking into consideration the provisions of the customs law, the Holder may send the samples abroad for assaying, and prior to that he must submit a description of said samples, indicating the number, volume and weight, to the Geological Survey.

### ***Article forty five: Use of Products***

The Holder of an Authorization for Quarry Exploration has the right to use products extracted at the time of Exploration, provided that such use is necessary for Exploration and does not constitute Exploitation and subject to declaration of the extraction of such products with the Mining Inspectorate,.

### ***Article forty six: Authorizations for Quarry Exploitation***

(1) An Authorization for Quarry Exploitation (whether temporary or permanent) shall be granted by Order of the Ministry of Mines and Industries to the Holder of an Authorization for Quarry Exploration for the same Perimeter, provided that the Holder of the Authorization for Quarry Exploration has satisfied the following conditions:

- 1- Complying with the obligations of the relevant Authorization for Quarry Exploration
- 2- Satisfying the requirements for the issuance of an Authorization for Quarry Exploitation set forth in this Law and the Mining Regulations at least three months prior to the expiration of validity of the relevant Authorization for Quarry Exploration.

(2) An Authorization for Quarry Exploitation (whether temporary or permanent) shall be granted by the Ministry of Mines and Industries to any

Person who has presented an application for such an Authorization and who is eligible pursuant to this law and the Mining Regulations.

(3) A landowner or occupant of land shall be required to obtain an Authorization for Quarry Exploitation if it wishes to exploit a Quarry on its land for commercial use. Exploitation of Quarry for its personal [domestic] needs shall be an exception to this rule. In such cases, the user shall be subject to all applicable laws and regulations regarding the protection of the environment and health and safety of work.

(4) The procedures and requirements of the application for an Authorization for Quarry Exploitation, including the time limits for processing such applications, shall be established in the Mining Regulations, which shall include:

- 1- Evidence of the applicant's financial capability;
- 2- A development plan, including proposed investments and socio-economic contributions of any type for the communities concerned;
- (c) An Environmental Impact Assessment (EIA), including a social impact assessment; [and]
- (d) An Environmental Management Plan (EMP), including social mitigation, rehabilitation of the sites to be exploited and Quarry closure plan.

(5) Subject to Mineral Rights already registered, applications for Authorizations for Quarry Exploitation for a given Perimeter shall be registered by the Mining Cadastre in chronological order, taking into consideration any reservations or restrictions placed upon such areas by the Ministry of Mines and Industries, unless an application is not admissible.

(6) As long as an application for an Authorization for Quarry Exploitation is being processed, no other application for Authorizations for Quarry Exploitation relating in whole or in part to the same Perimeter shall be processed.

(7) In the event that an application for the transformation of an Authorization for Quarry Exploration into an Authorization for Quarry Exploitation is being processed at the time when the validity of the Authorization for Quarry Exploration expires, the validity of said rights shall be deemed to be extended, as long as no decision is rendered in connection with said application.

### ***Article forty seven: Rights of Holders of Authorizations for Quarry Exploitation***

(1) The Authorization for Quarry Exploitation (whether temporary or permanent) entitles its Holder to the exclusive right to carry out, within the

Perimeter over which it has been granted, and during its term of validity, exploration, development, and exploitation works in connection with the Quarry Materials.

(2) In addition, the Holder, subject to the Mining Regulations and other legislation, may:

1- Build installations and infrastructure required for exploitation and processing;

(c) Have, hold, use, transport and sell the Quarry Materials extracted from within the exploitation Perimeter, and the concentrates;

(d) proceed with Processing or Transformation of the Quarry Materials extracted from Deposits within the exploitation Perimeter;

(3) As long as a Perimeter is covered by an Authorization for Permanent or temporary Quarry Exploitation, no other application for a Quarry Authorization or an Authorization for Tailings Exploitation for all or part of the same Perimeter can be processed, except in the circumstances contemplated by Articles 20 of this Law.

### ***Article forty eight: Duration of the Authorization for Quarry Exploitation***

(1) The term of the validity of the Authorization for Permanent Quarry Exploitation is ten years from the date of registration thereof by the Mining Cadastre. It is renewable of right for consecutive periods of five years until exhaustion of the Deposits being exploited, subject to the timely payment of annual surface rents and compliance by the Holder of its obligations under this Law, the Mining Regulations and the Authorization.

(2) The term of validity of the Authorization for Temporary Quarry Exploitation shall be established in the terms of the Authorization, but shall not exceed a maximum of two years from the date of registration thereof by the Mining Cadastre. An Authorization for Temporary Quarry Exploitation cannot be renewed. The Holder of an Authorization for Temporary Quarry Exploitation is entitled to apply for a new Authorization for Temporary Exploitation for the same Perimeter.

## ***Article forty nine: Surface Area and Demarcation***

(1) The surface area of the Perimeter covered by the Authorization for Quarry Exploitation is defined in the Authorization, but the maximum amount shall be as follows:

1- The Perimeter for which an Authorization for Permanent Quarry Exploitation may be granted is two square kilometers

2- The Perimeter for which an Authorization for Temporary Quarry Exploitation may be granted is one hectare (10,000 square meters).

(2) The Holder of an Authorization for Quarry Exploitation shall be required to survey and demarcate the Perimeter in accordance with the Mining Regulations and the experience that is obtained. Otherwise, the Mining Inspectorate shall execute the survey and/or demarcation at the expense of the Holder.

(3) A Person, its partners and Affiliates cannot hold more than ten (10) Authorizations for Permanent Quarry Exploitation or twenty (20) Authorizations for Temporary Quarry Exploitation simultaneously. The state shall be an exception to this rule.

## ***Article fifty: Obligations of Holders of Authorizations for Quarry Exploitation***

(1) The Holder of an Authorization for Quarry Exploitation shall be required to pay Surface Rights Fees for its Perimeter in the amounts and at the times established in the Mining Regulations.

(2) The Holder of an Authorization for Quarry Exploitation shall be required to commence Exploitation within six (6) months from the date of registration.

(3) The Holder of an Authorization for Quarry Exploitation may extract and exploit the Deposits within the Perimeter in accordance with the development plan and the Environmental Management Plan. Any deviation of the work from such studies and plans shall require the prior approval of the Ministry of Mines and Industry, as provided for in the Mining Regulations.

The Holder of an Authorization for Quarry Exploitation must comply with all applicable laws and regulations regarding health, safety of labor, human rights, use of water, protection of the environment and protection of affected communities.

(4) The Holder of an Authorization for Quarry Exploitation shall be required to maintain written records of its activities, and to, not less than annually, submit periodic progress reports to the Ministry of Mines and Industries, including a description of its activities, investments, production, sales, revenue, assessed reserves data and such other information as may be required in the Mining Regulations.

### ***Article fifty one: Exploitation of Tailings and Artificial Deposits***

(1) An Exploitation License includes the right to exploit Tailings and Artificial Deposits of Mineral Substances located within its Perimeter, unless the Exploitation License expressly excludes the exploitation of Tailings and Artificial Deposits.

(2) An Authorization for Quarry Exploitation includes the right to exploit Mineral materials located within its Perimeter, unless the Authorization expressly excludes the exploitation of Tailings and Artificial Deposits.

(3) The Holder of an Exploitation License or an Authorization for Quarry Exploitation may transfer the right to exploit Tailings and Artificial Deposits of Minerals located within its Perimeter to a third party. In such a case, the other rights under its Exploitation License or Authorization for Quarry Exploitation shall remain with the Holder.

The Holder of the Exploitation License or Authorization for Quarry Exploitation may take action for the partial transfer of its License or Authorization for exploitation or its transformation to a third party in accordance with the Mining Regulations.

(4) Mineral Rights to exploit Tailings or Artificial Deposits of Quarry materials that are not subject to an existing Exploitation License or Authorization may be obtained by applying for an Exploitation License or Authorization for the Perimeter where such Tailings or Artificial Deposits are located.

### ***Article fifty two: Artisanal Exploitation***

(1) If the technical and economic factors characterize certain Deposits of Mineral Substances as not permitting industrial or semi-industrial exploitation, such Deposits may be extracted by artisanal [exploitation] on the basis of an Authorization for Artisanal Exploitation.

(2) An Authorization for Artisanal Exploitation shall be granted by the Ministry of Mines and Industries to any eligible Person who has presented an application for such an Authorization, in accordance with this law and the Mining

Regulations. The procedural requirements of the application for an Authorization for Artisanal Exploitation, including the time limits for processing such applications and relevant other actions, shall be established in the Mining Regulations.

(3) Subject to any existing Mineral Rights already registered in respect of a given area including existing Authorizations, Licenses and any reservations or restrictions placed upon such areas by the Ministry of Mines and Industries), applications for Authorizations for Artisanal Exploitation for a given Perimeter shall be registered by the Mining Cadastre in chronological order, unless an application is rejected.

(4) An Authorization for Artisanal Exploitation over a Perimeter that is covered by one or more existing Mineral Rights shall not be granted without the prior consent of the existing Holders of Mineral Rights over such Perimeter. The Ministry of Mines and Industries may, reject an application for Authorization for Artisanal Exploitation if he such Authorization for Artisanal Exploitation would impede or conflict with existing Artisanal Exploitation operations.

(5) An annual fee for the issuance or renewal of an Authorization for Artisanal Exploitation shall be determined in accordance with the Mining Regulations.

(6) The term of validity of the Authorizations for Artisanal Exploitation is two years, renewable indefinitely for successive two year periods, subject to the timely payment of applicable annual fees and Mineral Royalties, permission of other Holders of Mineral Rights over the same Perimeter, if any, and compliance by the Holder of the Authorization for Artisanal Exploitation of its obligations under this Law and the Mining Regulations.

### ***Article fifty three: Rights of Holders of Authorizations for Artisanal Exploitation***

(1) The Authorization for Artisanal Exploitation entitles its Holder to conduct Artisanal Exploitation of the Mineral Substances covered by the Authorization within the Perimeter covered by the Authorization, subject to the conditions and obligations contained in this Law, the Mining Regulations and in the Authorization.

(2) In addition, the Holder may carry out the following activities:

1- To conduct operations [related to] production in the Perimeter covered by the authorization;

2- To have, hold, use, transport and freely sell the products of Artisanal Exploitation extracted from within the relevant Perimeter, or to concentrate such materials, or other substances derived therefrom.

(3) An Authorization for Artisanal Exploitation is not an exclusive right and, does not confer upon its Holder any priority right to receive Mineral Rights with respect to its Perimeter. Paragraph 4, Article 55 shall be an exception to this rule.

#### ***Article fifty four: Surface Area for Artisanal Exploitation***

(1) The surface area of the Perimeter covered by the Authorization for Artisanal Exploitation is defined in the Authorization, but the maximum Perimeter for which an Authorization for Artisanal Exploitation may be granted is two thousand (2,000) square meters.

(2) The Holder of an Authorization for Artisanal Exploitation shall be required to survey and demarcate the Perimeter in accordance with the Mining Regulations. In the event that the survey and [or] demarcation is not carried out, the Mining Inspectorate shall execute the survey and [or] demarcation at the expense of the Holder.

(3) A Person cannot hold more than two Authorizations for Artisanal Exploitation.

#### ***Article fifty five: Obligations of the Holder of the Authorization for Artisanal Exploitation***

(1) The Holder of an Authorization for Artisanal Exploitation must comply with all applicable laws and regulations regarding health, safety of labor, human rights, use of water, and protection of the environment and protection of affected communities.

(2) The Holder of an Authorization for Artisanal Exploitation must compensate the farmers, landowners and Holders of other Mineral Rights over the same Perimeter for any damage caused by its activity.

(3) In the event that the Holder of an Authorization for Artisanal Exploitation discovers a Deposit of Mineral Substances within its Perimeter that is or may be capable of industrial or semi-industrial exploitation, such Holder shall be required to report the discovery of the Deposit to the Mining Inspectorate within thirty days.



After confirmation of the existence of the Deposit, the Ministry of Mines and Industries shall establish conditions under which the Deposit may be exploited, and shall withdraw the Authorization for Artisanal Exploitation in accordance with Article 56, paragraph one.

(4) If the discovered Deposit does not lie within the Perimeter of another existing Mineral Right, the Holder of the Authorization for Artisanal Exploitation shall have automatic priority right to apply for an Exploitation License covering the Deposit.

(5) If the discovered Deposit (mentioned in paragraph 3) lies within the Perimeter of another existing Mineral Right, the Holder of the Authorization for Artisanal Exploitation shall not have any priority right to apply for the Mineral Rights for Exploitation of such Deposit, but shall be entitled to compensation for the costs incurred in making the discovery from the Holder of the Mineral Right that becomes entitled to exploit the Deposit. The method of calculating such compensation shall be established in the Mining Regulations.

### ***Article fifty six: Withdrawal of the Authorization for Artisanal Exploitation***

(1) The Ministry of Mines and Industries shall withdraw an Authorization for Artisanal Exploitation in the following circumstances:

- 1- If the factors which justified the issuance of an Authorization for Artisanal Exploitation have ceased to exist;
- 2- If a new Deposit which may be exploited using industrial or semi-industrial methods has been discovered within its Perimeter

In such circumstances, the Mining Cadastre shall inform the Holder of the withdrawal of an Authorization for Artisanal Exploitation.

The Holder shall be obliged to vacate the Perimeter covered by its Authorization within sixty days of the date the notification of the decision to withdraw the Authorization has been given.

(2) The Authorization for Artisanal Exploitation shall be withdrawn by the Ministry of Mines and Industries if the Holder of the Authorization does not remedy a breach of its obligations under this Law and the Mining Regulations within a period of thirty days. A Person from whom an Authorization for Artisanal Exploitation has been withdrawn for breach of its obligations is not eligible to obtain a new Authorizations for Artisanal Exploitation for three years, unless such Holder completes a training course in appropriate techniques for Artisanal Exploitation, organized by the Ministry of Mines and Industries.

(3) Withdrawals of Authorizations for Artisanal Exploitation are subject to the right to objection provided for in chapter 11 of this Law.

***Article fifty seven: Organization of training courses in Artisanal Exploitation techniques.***

The Ministry of Mines and Industries shall organize training courses in Artisanal Exploitation techniques, in accordance with separate Procedures.

## **Chapter five**

### **Other Mineral Activities**

***Article fifty eight: Authorization for construction of infrastructure***

(1) Holders of Mineral Rights shall be entitled to build and maintain the infrastructure [required] for its activities.

(2) Construction of infrastructure by the Holder is subject to the following conditions:

1- The prior approval by the Mining Inspectorate, after consultation if necessary with the local authorities which have territorial jurisdiction over the Perimeter of the infrastructure;

2- Compliance with laws and regulations relating to public health and safety of labor, human rights, protection of the environment and protection of affected communities.

***Article fifty nine: Processing or Transformation of Mineral Substances***

(1) Processing or Transformation of Mineral Substances may be performed by Holders of an Authorization for Processing or Transformation.

(2) Persons who wish to transform or process Mineral Substances must apply for and obtain an Authorization for Processing or Transformation in accordance with this law and the Mining Regulations.

(3) Exploitation Licenses and Authorizations for Quarry Exploitation shall be deemed to also constitute Processing or Transformation Authorizations for the Minerals and Mineral Substances obtained from the relevant Perimeters.

(4) The installation and operation of plants for the Processing or Transformation of Mineral Substances are subject to the requirements of this Law and other applicable laws regarding public health, safety of work, human rights, protection of the environment and protection of affected communities.

### ***Article sixty: Transportation and Storage of Products deriving from Mineral Rights***

(1) A Holder of an Exploitation License or an Authorization for Quarry Exploitation has the right to transport, or to have transported, the Substances extracted or originating from its exploitation Perimeter.

(2) A Holder of Mineral Rights also has the right to store its products on specific sites or locations from where they are to be transported, subject to compliance with the requirements of this Law and other applicable laws relating to public health, safety of work, human rights, protection of the environment and protection of affected communities.

### ***Article sixty one: Sale of Minerals and Mineral Substances***

(1) Subject to the provisions of paragraph 2 of this article, a Holder of an Exploitation License, an Authorization for Quarry Exploitation or an Authorization for Artisanal Exploitation may freely sell its products or export its products outside the National Territory, in accordance with the customs law.

(2) If so specified in the Mining Regulations, The Ministry of Mines and Industries shall grant a prior authorization to export Metals, Coal, Gemstones, Ornamental Stones, and for Processing and Transformation, in accordance with the following conditions: .

- 1- If any requirements for domestic assaying or evaluation of them as established in the Mining Regulations are complied with;
- (b) If the use of unprocessed or semi-processed Metals or uncut or semi-processed Gemstones, or Ornamental Stones is not possible in the National Territory at a cost which is economically viable.

### ***Article sixty two: Declaration of Other Mineral Activities***

(1) Any Person shall have the right to conduct Prospecting for Mineral Substances within the National Territory, except within Prohibited Areas, areas which are restricted for Mineral Activities in accordance with Articles 13(1) or 67(3) of this Law, or Perimeters which are already subject to valid Mineral Rights, without obtaining a Mineral Right, provided that:

- 1- Such Person obtains the consent of landowners or occupants if the Prospecting requires the Person to enter their land;
- 2- Such a person makes a declaration of the Prospecting activity to the Ministry of Mines and Industries, and registers its name, address and a description and location of the area for Prospecting in the Mining Inspectorate in accordance with the Mining Regulations;

(2) Any Person engaged in operations of the purchase, sale, Processing, Transformation, use, transport, storage, packaging, keeping, export or import of Mineral Substances or any other operation relating to concentration of Mineral Substances that does not [otherwise] hold a Mineral Right shall make a declaration of such activity to the Ministry of Mines and Industries, and shall register such a declaration in the Mining Inspectorate in accordance with the Mining Regulations.

### ***Article sixty three: Maintaining of Capacity for Mining Industry***

A Holder of a Mineral Right shall have the capacity and adequate experience and shall conduct its Mineral Activities in accordance with the provisions of this Law, the Mining Regulations and all other applicable laws.

### ***Article sixty four: Payment of Surface Rights Fees***

(1) The Holder of a Mineral Right shall be required to pay Surface Rights Fees with respect to the relevant surface area. The conditions, amounts and the times of the fees shall be established in the Mining Regulations according to the type of Mineral Substances and Mineral Rights in question.

(2) Surface Rights Fees referenced in paragraph (1) of this article shall be collected by the Mining Cadastre and deposited to the State Revenue Account in the bank [paid to the State Treasury.]

### ***Article sixty five: Reporting***

Holders of Mineral Rights are required to accurately maintain the relevant books and records, and to prepare and submit periodic reports of their Mineral Activities, in accordance with provisions of the Mining Regulations.

### ***Article sixty six: Inspections***

Holders of Mineral Rights are required to cooperate and comply with the inspections carried out by authorized officers and representatives of the Ministry of Mines and Industries.

### ***Article sixty seven: Occupation of Land***

(1) A Mineral Right authorizes its Holder to occupy land within its Perimeter to the extent required to conduct the Mineral Activities according to the conditions established in the Mining Regulations.

(2) At the request of a landowner, occupant of land or the Holder of a Mineral Right, or in the public interest, the Ministry of Mines and Industries may intervene in cases of disputes, in accordance with the provisions of this law. .

(3) Except with the authorization of the Ministry of Mines and Industries, no Person may conduct Mineral Activities on areas:

- 1- Reserved for cemeteries;
- 2- Containing archaeological and cultural remains or a national monument;
- 3- Situated on or less than one hundred (100) meters from a dam or a building belonging to the State;
- 4- Used for national defense or owned by the national defense institutions;
- 5- Within an airport;
- 6- Reserved for railway or pipeline projects;
- 7- Reserved for the planting of young trees or forest plantations;
- 8- Situated less than one hundred (100) meters from the boundary of a village, a town, a municipality or a city;
- 9- On streets, roads, motorways, bridges and other public infrastructure;

- 10- within a national park;
- 11- Designated by the Ministry of Mines and Industries as areas subject to unresolved claims; or
- 12- Designated as off-limits to Mineral Activities by a Decree of the State.

(4) Unless there is consent from the landowner or other legal occupant of the land, no Person may conduct Mineral Activities on following lands:

- 1- Houses or buildings situated less than two hundred (200) meters from areas of Mineral Activities;
- 2- Land located less than fifty (50) meters from agricultural farms; [or]
- (c) Land situated less than one hundred (100) meters from a farm breeding cattle, a reservoir of water, a dam or a private water reserve.

(5) The Ministry of Mines and Industries may order the construction of structures or zones of protection within a Perimeter of a Mineral Right subject to conditions or restrictions, for the protection of buildings and built-up areas, water sources, roads, civil engineering and public utility works, or for the general public interest. In such a case, the Holder of the Mineral Right shall not be entitled to claim any compensation whatsoever.

### ***Article sixty eight: Nationalization for public interest***

The Ministry of Mines and Industries shall have the power to nationalize [compulsorily acquire with payment of compensation], private land needed for the conduct of Mineral Activities, in accordance with law.

### ***Article sixty nine: Liability of Holders of Mineral Rights to Occupants of Land***

(1) A Holder of a Mineral Right is liable to pay compensation [to the occupants of affected lands] for the damages caused by its Mineral Activities.

(2) The type and method of calculating such compensation shall be established in the Mining Regulations.

## **Chapter six**

### **Relations between Holders of Mineral Rights**

#### ***Article seventy: Adjacent or Neighboring Mines or Quarries***

(1) In cases where it is necessary to carry out works of common interest for two or more adjacent or neighboring Mines or Quarries, the Holders of the Mineral Rights concerned cannot object to them. The Holders concerned shall each be obligated to participate therein, in proportion to the benefits they will receive. The procedures for carrying out the works and the amount of the benefits shall be determined by the Mining Regulations.

(2) The Ministry of Mines and Industries may arbitrate in any disputes among Holders of Mineral Rights upon their request. The Ministry of Mines and Industries may on its own initiative intervene to resolve the disputes if such intervention is in the public interest.

#### ***Article seventy one: Barriers***

The Ministry of Mines and Industries may, when needed, require the Holders of Licenses or Authorizations of Mines or Quarry materials [located] in adjacent or neighboring Perimeters to construct protective walls or other structures [separating their relevant areas] .

#### ***Article seventy two: Damage to Adjacent or Neighboring Mines***

A Holder of a Mineral Right is liable to pay compensation for the damages caused by its Mineral Activities to the Holders of Mineral Rights over adjacent and neighboring Mines or Quarries.

#### ***Article seventy three: Rights of way***

The Holder of Mineral Right shall have the right of way over the Perimeters covered by adjacent or neighboring Mineral Rights [to the extent necessary for] [such Holder] to carry out its Mineral Activities. [Such Holder] shall be liable to compensate the Holder of the adjacent or neighboring Perimeter if the right of way causes serious damage and diminution in productions of the Holder of the latter Mineral Rights.

The Mining Regulations establish the terms and conditions for the rights of way.

## **Chapter seven**

### **Infrastructure**

#### ***Article seventy four: Use of the infrastructure***

(1) If roads and other infrastructure is built by a Holder inside or outside the Perimeter of its Mineral Right, it may be used by the neighboring mining, industrial and commercial establishments, subject to the condition that fair compensation for such use is paid to the Holder. Public administrations and the residents of the area shall be an exception to this rule.

(2) At the request of a Holder or of a Mineral Right, or the opposite party, or when deemed warranted for public interest, the Ministry of Mines and Industries may intervene to mediate any disputes relating to the matters provided for in paragraph 1 of this article.

#### ***Article seventy five: The right of the State over the infrastructure***

All public utility infrastructure built by the Holder of a Mineral Right shall become property of the State upon expiration, withdrawal or termination of the Mineral Right.

#### ***Article seventy six: complying with the orders of the Mining Inspectorate***

(1) The Holders of the Mineral Rights must comply with the measures which are ordered by the Mining Inspectorate with a view to preventing or removing the causes of the dangers which Mineral Activities inflict on the public health,



safety of work, the preservation of the Deposits of waters, and public utility infrastructure.

(2) In the event of refusal by the Holders of Mineral Rights referred to paragraph (1) to comply with these measures and to take urgent corrective action, the corrections will be taken and implemented by the relevant public authorities without consultation with the Holder. Its expenses shall be collected from them.

(3) In the event of imminent danger, the authorities of the Mining Inspectorate are empowered to immediately take the measures required to remove the danger and may, if needed, draw the attention of the relevant local authorities, the Holders of Mineral Rights and any laborers.

(4) The authorities of the Mining Inspectorate have the authority to investigate any breach of the provisions of this Law, the Mining Regulations and their implementing measures concerning properties.

### ***Article seventy seven: Preparation of Health [and] Safety Plan***

(1) Holders of Mineral Rights must establish a Health and Safety Plan, taking into consideration its activities. The Health and Safety Plan shall be made known to the employees and other individuals who enter the mine site after it is approved by the Mining Inspectorate.

(2) The specific requirements of Health and Safety Plans, as referred to paragraph(1) of this article, shall be established in the Mining Regulations.

### ***Article seventy eight: Use of Explosive Substances***

Holders of Mineral Rights may use explosive substances. The use shall be in accordance with the provisions and conditions established by the relevant legislative documents and the Mining Regulations.

### ***Article seventy nine: Special Regulations***

Mineral Activities shall be conducted in accordance with applicable laws and international norms relating to labor, social protection and human rights. The use of Forced Labor or Harmful Child Labor in connection with Mineral Activities is prohibited.

## ***Article Eighty: Plan for Protection of the Environment during Exploration***

(1) Before commencing work, the Holder of an Exploration License or an Authorization for Quarry Exploration must prepare and obtain approval of its Mitigation and Rehabilitation Plan (MRP) from the Environmental Protection Department [for the proposed activity].

(2) Performance of the Mitigation and Rehabilitation Plan shall constitute a condition of the Exploration License or the Authorization for Exploration, [as the case may be], which shall be described in the Mining Regulations.

## ***Article Eighty one: Protection of the Environment During Exploitation***

(1) An applicant for an Exploitation License or an Authorization for Quarry Exploitation must submit an Environmental Impact Statement together with an Environmental Management Plan for the proposed activity, and implement it upon the approval of the Environmental Protection Department.

(2) The Environmental Impact Statement shall include the following before commencing Mineral Activities:

1- a description of the ecosystem , including the flora and fauna, soil and topography, air quality, underground and surface water, and a description of the social conditions in the area, and both the direct and indirect influence of the proposed Mineral Activities on them.

2- An analysis of the direct, indirect and cumulative environmental and social impacts and risks of the proposed Mineral Activities, the natural aspects of the ecosystem which are affected qualitatively and quantitatively by the Mineral Activity

3- [The effects of] the Mineral Activity on local populations, affected communities and existing social conditions, [if any].

(3) The Environmental Management Plan shall include the measures planned for the protection of the environment and local populations, mitigation of social impacts, an emergency response plan, the elimination or the reduction of pollution, Mine or Quarry closure plan, the rehabilitation and restoration of the sites upon cessation of Mineral Activities, and the protection, resettlement and/or compensation of affected local populations and affected communities [if any], and the description of the effectiveness of said measures.

(4) Other issues and conditions of Environmental Impact Statements and Environmental Management Plans are set forth in the Mining Regulations.

(5) Performance of the Environmental Management Plan shall constitute the main condition for the Exploitation License or the Authorization for Quarry Exploitation, [as the case may be].

### ***Article eighty two: Financial Security for Environmental Obligations***

The financial security that the Holder of Mineral Rights provides to guarantee its compliance with the environmental and social obligations shall include the obligations concerning site rehabilitation, resettlement, or compensation of affected communities, the conditions of which shall be determined in accordance with the Mining Regulations.

### ***Article Eighty three: Jurisdiction of the Environmental Protection Department***

(1) The Holders of the Mineral Rights must comply with the measures which are ordered by the Environmental Protection Department with a view to preventing and removing the causes of the dangers or damage that its Mineral Activities inflict on the environment.

(2) If the measures referred to paragraph (1) of this article are not implemented, the relevant public authorities may in the event of an emergency implement them without consultation at the expense of the Holder.

(3) In the event of imminent danger or disaster, the representatives of the Environmental Protection Department are empowered to immediately take the measures required to remove the danger and may, if needed, require the local authorities, the Holders of Mineral Rights and any employees or local populations to assist.

(4) The representatives of the Environmental Protection Department have the authority to enter property to investigate and ascertain any breach of the provisions of this Law and relevant regulations, and to implement the measures relating to the protection of the environment.

### ***Article Eighty four: Notification of accidents and hazards***

The Holder of a Mineral Right shall report any serious or dangerous accident that occurs, and any imminent hazard that arises, in connection with its Mineral Activities to the Mineral Inspectorate, Environmental Protection Department, and the relevant administrative and judicial authorities.

## **Chapter Eight:**

### **Protection of the Archeological and Cultural Heritage**

#### ***Article Eighty five: Declaration of archaeological and cultural indications***

(1) The Holder of a Mineral Right shall immediately inform the Mining Inspectorate and the Department for Archeological and cultural Heritage of the Ministry of Information, Culture and tourism, of the discovery of archaeological and cultural indications or items if the Mineral Activities of the Holder reveal the existence thereof.

(2) Fossils and rare minerals and any items contained in the Archeological and cultural Heritage list shall also be regarded as the items of historical or cultural significance.

(3) Holder of Mineral Rights can not move the items referenced in paragraphs (1) and (2) of this article. However, they may safe-keep and preserve such items on behalf of the State until they are removed by the State.

(4) If the items of paragraph 3 are not removed by the relevant public authority within a period of sixty days following notification of the discovery, then the direct costs incurred after such period for preserving the item shall be paid by the relevant administration of the State.

## **Chapter Nine**

# **TAXATION, CUSTOMS DUTIES AND MINERAL ROYALTIES**

### ***Article Eighty six: Taxpayers***

Holders of Mineral Rights and their [Sub-]contractors shall be obliged to pay taxes, customs duty and charges, mineral royalties and other taxes in accordance with the provisions of this law and the relevant applicable laws.

### ***Article Eighty seven: Mineral Activities Subject to Taxation and Customs Duty***

(1) Holders of Mineral Rights and their [Sub-]contractors conducting Mineral Activities in Afghanistan shall be subject to the generally applicable tax and customs laws of Afghanistan, unless provided for otherwise in this law.

(2) Holders of Mineral Rights shall present their balance [sheets] based on the income tax law and other applicable laws, in accordance with International Accounting Standards (IAS) as from time to time promulgated by the International Accounting Standards Board, unless provided otherwise in this law.

### ***Article Eighty eight: Collection of taxes***

(1) The Ministry of Finance is the sole public authority with jurisdiction to collect taxes and customs duty in accordance with the provisions of the laws on income tax, customs and the relevant regulations.

(2) The Ministry of Mines and Industries is the authority with jurisdiction to collect Mineral Royalties in accordance with the provisions of this law.

### ***Article Eighty nine: Authorization of the Ministry of Finance***

(1) For the purpose of promoting private investment in the Minerals sector, the Ministry of Finance may propose to the Government or the Inter-ministerial Committee, to adopt one or more of the following forms of relief in relation to taxes and customs duties applicable to Holders of Mineral Rights and Mineral Activities, on the basis of the special situation of the Holder:

- 1- Deferral of tax payment, to be carried forward over subsequent fiscal [tax] years;
- 2- Deferral of deductions for depreciation of assets, to be carried forward over subsequent fiscal [tax] years;
- 3- Deferral of deduction of accelerated depreciation of fixed assets, to be carried forward over subsequent fiscal [tax] years;
- 4- Amortization of Mineral Rights, Exploration and Exploitation expenditures;
  
- 5- Reduction of value-added or similar taxes and customs charges on equipment, machinery and other goods used in the Exploration or Exploitation of Mineral Substances or specific categories thereof;
- 6- deductibility of all or a portion of Mineral Royalties payable , and the deferral of such deductions over subsequent tax years;
- 7- stability of taxes and customs duties and charges in accordance with Article 86 of this law;
- 8- [partial] relief from taxes and customs duties that are inconsistent with those contained in a Mining Contract; [and]
- 9- Partial or complete exemption from business receipts tax payable on Mineral Substances.

### ***Article ninety: stability term of taxes***

The Ministry of Mines and Industries may with the agreement of the Ministry of Finance propose the following assurances to the inter-ministerial committee or the Government for the purpose of ensuring further confidence for private investment in the sector of Minerals:

- 1- Stability of taxes and Mineral Royalties and customs charges for the Holder of an Authorization pursuant to this law for a period not exceeding five years
- 2- stability of taxes and Mineral Royalties for the Holder of a License pursuant to this law for a period not exceeding eight years.

### ***Article ninety one: Mineral Royalties***

(1) Holders of Exploitation Licenses, Authorizations for Quarry Exploitation, Authorizations for Tailings Exploitation and Authorizations for Artisanal Exploitation shall pay Mineral Royalties on all extracted or other exploited Mineral Substances at the rates or in the amounts, set forth in the attached table of this Law. The Inter-ministerial-committee may amend the table on the proposal of the Ministry of Mines and Industries.

Holders of Exploration Licenses or Authorizations for Quarry Exploration, or any other Person engaging in the Exploitation of Mineral Substances shall pay the

specified Mineral Royalties in respect of any Mineral Substances extracted, sold, shipped for sale, or otherwise used by them.

(2) Holders shall be liable for payment of Mineral Royalties on Mineral Substances extracted and exploited, as of the Start of Commercial Production, unless provided otherwise in the contract.

(3) Mineral Royalties shall be paid to the State Treasury. The specific particulars for assessment and calculation of Mineral Royalties, and the times and places of payment therefore, shall be established in the Mining Regulations, unless provided otherwise in the contract.

(4) The Ministry of Mines and Industries and the Ministry of Finance shall each have the power to audit and inspect the operations, books and records of Holders of Mineral Rights.

(5) Holders of Mineral Rights shall be obliged to submit quarterly reports to the Mining Inspectorate, including production, revenue and other financial data [information] specified in the Mining Regulations.

## **Chapter ten**

### **PROTECTION OF INVESTMENTS**

#### ***Article ninety two: Foreign Exchange***

Holders of Mineral Rights and their Sub-contractors shall be subject to the bank related legislation of Afghanistan, and such Holders and their Sub-contractors shall have the right, after payment of all applicable taxes, duties and other State charges, to carry out the following:

- 1- Import foreign currencies necessary to perform Mineral Activities;
- 2- Transfer foreign currencies abroad in order to repay loans to finance its Mineral Activities and to pay foreign suppliers for goods and equipment necessary for the conduct of Mineral Activities;
- 3- Transfer foreign currencies abroad for the payment of dividends, profits [or other amounts] arising out of its Mineral Activities to non-resident shareholders
- 4- Transfer foreign currencies abroad [for the repatriation or export of foreign capital] invested in its Mineral Activities,

- 5- Transfer foreign currencies for the repatriation or export of assets, or proceeds of sale of contractual assets or of compensation of damages related to foreign investment;
- 6- Freely purchase Afghanis and foreign currencies at the market rate of exchange;
- 7- Maintain bank accounts in Afghanistan denominated in Afghanis or foreign currencies or both; [and]
- 8- Maintain bank accounts abroad denominated in foreign currencies, subject to compliance with the legislation of Da Afghanistan Bank.

### ***Article Ninety three: State Guarantees***

Subject to compliance with this Law, the Mining Regulations and other applicable laws and regulations of Afghanistan, the State guarantees to the Holders of Mineral Rights are:

- 1- The right to organize their assets and their businesses as they deem fit;
- 2- The right to employ Sub-contractors and to recruit personnel needed to carry out Mineral Activities, provided that priority shall be given to employing Afghan Persons with equal qualification in terms of education and experience;
- 3- Access to raw materials and water within the limits of the Mineral Rights, subject to compliance with Law;
- 4- Free circulation within the National Territory for their personnel and those of their Sub- contractors, in compliance with law;
- 5- The freedom to import goods and services necessary for their Mineral Activities, provided that Afghan Persons are given priority for any contract to procure such goods and services, under conditions which are equivalent in terms of quantity, quality, price and delivery dates;
- 6- The freedom to sell the products in the internal markets and to export and sell the products on the external market, in compliance with this law and customs law; [and]
- 7- To facilitate the procurement of all documents required for their foreign personnel and those of their Sub-contractors to access the places of [Mineral] Activity, in compliance with the provisions of the relevant laws.

### ***Article ninety four: Compensation for Damages***

The Mineral Substances extracted or the assets used by the Holder of a Mineral Right in conducting Mineral Activities may not be compulsorily expropriated by the State except in circumstances of public necessity, in



exchange for the payment of fair compensation to the Holder in accordance with the applicable laws of the country and international norms.

## **Chapter eleven:**

### **Dispute resolution in connection with Mineral Activities**

#### ***Article ninety five: Authorities for resolution of disputes***

Disputes arising in connection with Mineral Activities shall be resolved through administrative or arbitration authorities provided in this law or judicial authorities in accordance with the applicable laws of the country. The parties to a dispute, including Persons and the State shall have the right to object [such resolution].

#### ***Article ninety six: submission of disputes to Administrative authorities***

The procedures for administrative appeals and the remedies available through the administrative appeal process shall be established in the Mining Regulations. The Mining Regulations shall specify the procedures by which disputes between landowners and Holders or between Holders of Mineral Rights, may be resolved.

#### ***Article ninety seven: Arbitration***

(1) A dispute that may arise between a Holder of a Mineral Right and the State or between a Holder of a Mineral Right and a third party relating to Mineral Rights shall be resolved in the following manner:

- 1- Any dispute between the parties may be settled by administrative authorities or arbitration, as agreed between the parties;
- 2- If the parties agree, by the application of the laws of a jurisdiction other than Afghanistan

3- if the parties agree, it may be resolved outside of Afghanistan, by the International Centre for Settlement of Investment Disputes ("ICSID") or if ICSID rules preclude the parties from arbitrating before ICSID by arbitration in accordance with Arbitration Rules of the United Nations Commission on International Trade Law (the "UNCITRAL Rules").

***Article ninety eight: submission of disputes to Judicial authorities***

If any one of the parties is not consent to the executions of article ninety six and ninety seven of this law, that party may submit their dispute to judicial authorities. The judicial authorities shall take action to resolve it in consideration with the provisions of the civil and penal codes and the applicable laws.

***Article ninety nine: Representation of the State***

Where the State is a party to a proceeding involving Mineral Rights, The Ministry of Mines and Industries is empowered to represent the State, in any administrative, arbitative or judicial proceedings, both within the country and abroad.

Any papers or instruments related to the case in such a proceeding shall be presented to the Ministry of Mines and Industries.

**Chapter twelve:**  
**Miscellaneous provisions**

***Article one hundred: Obligation of Transparency***

(1) No Person shall, directly or indirectly, during the execution or award of any Mineral Right or for a related activity, provide any gratuity, gift or any other favor to any public official, employee or agent of the State or any other public agency or to any member of their families .

(2) Decisions taken by the Ministry of Mines and Industries, its constituent departments with regard to the rejection of applications for Mineral Rights, the withdrawal, termination or rescission of Mineral Rights of Holders shall be comprehensively studied in accordance with this law and the Mining Regulations, and shall be presented in a written opinion providing the reasons for such decision, and be subject to appeal.

(3) The Ministry of Mines and Industries shall collect, not less than annually, and publish reports concerning State revenues and other direct or indirect economic benefits received by the State from Mineral Activities in accordance with internationally accepted norms respecting transparency in the extractive industries;

(4) The ministry of Mines and Industries shall be authorized to, for the purposes of preparing such reports, require Holders of Mineral Rights and all State or public agencies and public officers to, not less than annually, submit data, including production, financial data, and other direct or indirect economic benefits received by them and all amounts paid by them in connection with Mineral Activities.

### ***Article one hundred and one: Violations and Penalties***

(1) Without prejudice to the provisions of the civil, commercial and penal laws, Holders of Mineral Rights shall be obliged to compensate damages and pay liquidated penalties as provided for in the Mining Regulations for violations of this Law and the Mining Regulations.

(2) Compensation of damages or payment of liquidated penalties referenced in paragraph (1) of this article, as the case may be, shall be enforced by the Mines Inspectorate which may be applied singly or together.

(3) Criminal penalties may include imprisonment, prohibition from Mineral Activities, withdrawal, rescission or termination of Mineral Rights and the seizure and confiscation of property, which shall be applied by the relevant Authorities in accordance with law.

### ***Article one hundred and two: Maintaining cadastral maps***

(1) The records relating to Mineral Rights, including the registers relating to Mineral Rights and the Cadastral Survey Map, created by the Mining Inspectorate, the Geological Survey or the Environmental Protection Department, shall be made available for information to the public at those administrations in accordance with this law and Mining Regulations.

(2) The information referred to in paragraph one of this article and its collection shall be subject to payment of the charges set forth in the Mining Regulations.

### ***Article one hundred and three: Confidentiality***

(1) Applicants for Mineral Rights and Holders thereof may request the confidential treatment of technical, geological and mining information submitted to the Ministry of Mines and Industries. Such information may be treated as confidential by the Ministry of Mines and Industries until expiration or termination of the relevant Mineral Right. After this period, such information may be made available to the public.

(2) Prior to the expiry of the period of confidential treatment, such information may be used by the Ministry of Mines and Industries for purposes of compiling public records, data and statistics, which may be published without disclosing the confidential parts of the information.

### ***Article one hundred and four: Enactment of Mining Regulations***

(1) The Ministry of Mines and Industries shall draft and process Mining Regulations in order to better implement the provisions of this law.

(2) Provisions and matters not expressly stipulated by the provisions of this Law shall be governed by Mining Regulations, which shall not contradict the provisions of this Law.

### ***Article one hundred and five: compliance with international conventions***

(1) If Afghanistan signs an international treaty which has any relation to Mineral Activities and is inconsistent with the provisions of this law, the provision of such international treaty shall prevail.

(2) If there shall be any discrepancy between the provisions of this law and other laws concerning the standards, the obligations to protect the environment, and the social conditions, the provisions of the specific laws shall prevail.

***Article 115: Establishment of the Cadastral Survey Map and specifying prohibited areas***

The Ministry of Mines and Industries shall, within eighteen months of the date this Law comes into force, complete an inventory of its geological data and mineral title records, and acquire the technical capabilities to implement the Cadastral Survey Map and the registry system to be maintained by the Mining Cadastre, and to delineate on maps of appropriate scale, the Prohibited Areas.

The government may, if required for public interest, extend such period up to three years.

***Article one hundred and seven: Existing Mineral Activities***

The Ministry of Mines and Industries shall, within one year of the date this Law comes into force, complete an inventory of Mineral Activities currently conducted by the State or agencies of the State and the Mineral Rights currently held by the State or agencies of the State.

***Article one hundred and eight: Existing Mineral Rights***

(1) Persons conducting Mineral Activities under the laws in effect prior to the date this Law comes into force shall have a period of eighteen (18) months from the date this Law comes into force to submit applications to the Mining Cadastre for re-registration under this Law.

If such an application has been duly submitted to the Mining Cadastre within the applicable time period therefore, no other Person may apply for Mineral Rights covering such pre-existing claims until such application has been disposed of by the Claims Commission constituted under paragraph (2) of this article.

At the end of such [eighteen (18) month] period, the Mining Cadastre shall not accept any such applications, and any prior claims for which a pending application has not been duly submitted, shall expire automatically and shall be of no force and effect, without any right of compensation to the holder thereof.

(2) A commission shall be created for the confirmation of existence and validation of pre-existing claims and for the resolution of claims or disputes relating to taxes, Mineral Rights, or Mineral Activities prior [to the date this Law comes into force]. The composition of the Claims Commission shall be as follows:

- 1- The Minister of Mines and Industries, as Chair of the commission;
- 2- The deputy Minister of Finance, as Vice-Chair of the commission;

- 3- The deputy Ministers of Economy, Commerce, Energy and water, and the Head of the National Agency for Protection of Environment as members;
- 4- Non-voting representation from the Presidents of the Mining and Petroleum and Gas [Hydrocarbon] Departments.

(3) a Person whose pre-existing claim to conduct Mineral Activities is validated by the Claims Commission shall be entitled to a priority right to apply for a Mineral Right in respect of such claims, provided that such Person shall be required to comply with all other applicable requirements of this Law and the Mining Regulations, and to submit an application for such Mineral Rights in accordance with the provisions of this Law within ninety (90) days from the date its pre-existing claim has been validated by the commission.

If a new Mineral Right issued in accordance with this Law conflicts with a pre-existing claim that has been validated by the commission constituted, then such new Mineral Right shall remain valid and unencumbered by such pre-existing claim, but the Holder of such new Mineral Right shall be required to compensate the holder of such validated pre-existing claim.

### ***Article one hundred and nine: Entry into Force***

This Law shall come into force upon signature [endorsement] by the president and shall be published in the official gazette. Upon its enforcement, the Minerals Law, dated 15, 01, 1375, published in official gazette # 782, and other provisions inconsistent with law shall be null and void.