

## COMMENTS ON THE 5<sup>TH</sup> DRAFT OF MINERAL LAW

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Given a short time of reviewing the 5<sup>th</sup> Draft of Minerals Law, I have following comments focusing on main substantial issues of the Draft:

1. Accessibility right to mineral resources information: Given the fact that accessing to any mineral resources information, including approved master plans, reserves, etc. is very difficult now, and the Draft stipulates auction mechanism, I would suggest to establish a mineral resources information gate, which can be a one-stop office and/or a website under the Ministry of Natural Resources and Environment. This wills public all approved information on mineral resources, auction plan, exploration and processing license, etc.

2. Investor's Equity requirement (Article 39.3 and 49.3):

*Article 39.3: "Financial Capacity Requirement: Having owner's equity equal to at least 50% of the total investment capital to implement the mineral exploration project."*

*Article 49.3: "Those presenting owner's equity equal to at least 30% of the total investment capital to implement a mineral mining project."*

The above provisions are not consistent with the Law on Enterprise, which already abolished the requirements on Investor's equity requirement. Furthermore, the above provisions would limit investors to invest in deep processing projects, which require huge investment.

Should the Law would prescribe legal capital, then it should stipulate legal requirements based on the kind and scale of projects. The Law can also assign to the Government to provide detailed guidelines.

3. Mineral mining license (Art. 50.3): The license term should be parallel with mining reserve and exploration capacity. The fixed term of 30 years with another 20 year extension maximum does not reflect the objective substances of the mine. I would recommend that the license term must base on the mine reserve, exploration technology, etc. The first term can be 50 years maximum, and then can be renewed.
4. Consistent regulation: Recently, a number of provinces issuing their own regulations stipulating additional requirements (Ninh Thuan, Binh Thuan for instance), including financial and non-financial ones, which make the national mineral legal system becomes

distortion. This situation looks similar with situation few years ago when provinces issue tax incentives for their own. Therefore, I would propose to add a provision in the Mineral Law prescribing that provincial authority is not allowed to issue any additional requirement to investor, including financial and non-financial requirements.

The above is my personal comments on the 5 Draft. Nothing here reflects the official view of Saigon Investment Group or its subsidiaries/affiliates./.