

**MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT**

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**MINERAL LAW (AMENDMENTS)**

**2.2<sup>nd</sup> draft (17.11..09)**

**Hanoi, November 2009**

**MINERAL LAW (amendments)**

**NATIONAL ASSEMBLY TERM XII, SESSION \_\_\_\_  
NO. \_\_\_\_/\_\_\_\_/QH12, PASSED ON DATE \_\_\_\_ MONTH \_\_\_\_ YEAR \_\_\_\_**

*Pursuant to the Constitution of the Socialist Republic of Vietnam of 1992 with partial amendments and supplements under Resolution No. 51/2001/QH10,*

*The National Assembly ratifies this Mineral Law (amendments).*

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1. Governing scope**

This Law regulates the administration, protection, basic geological studies of mineral resources and mineral-related activities involving minerals in solid and gaseous forms, mineral water and natural thermal water, except oil and gas and other natural water, which are subject to other legislations.

**Article 2. Affected entities**

- 1. State management agency of minerals;*
2. Entities conducting geological baseline studies of mineral resources; domestic organizations and individuals, foreign entities and individuals, Vietnamese residing overseas involved in mineral-related activities in Vietnam;
3. Other entities and individuals involved in the administration and protection of mineral resources and mineral activities.

**Article 3. Applicable laws**

- 1. Administration, protection of mineral resources; geological baseline studies of mineral resources; mineral activities in Vietnamese territories are subject to the provisions of this Law. Mineral-related activities not addressed in this Law shall be subject to other relevant laws.*
- 2. In case any international treaties which the Socialist Republic of Vietnam is a*

**Notes:** *The texts in italics are amendments and supplements. The normal texts are original text from the existing Mineral Law (1996 and 2005).*

#### Article 4. Definitions

In this Law, the following terms and terminologies shall have the meanings ascribed to them hereunder.

1. **Mineral resources refer** to natural resources that exist in the ground or on the surface in the form of natural mineral deposits or useful minerals in either solid, liquid or gaseous status which exist underground or on the ground and may be extractable in a present or future time. Mining wastes which may be re-exploited later are also deemed mineral *resources*.
2. **Mineral water** means natural ground or surface water containing ingredients, attributes or certain typical features in accordance with Vietnamese standards or international standards which are allowed to apply in Vietnam.
3. **Natural thermal water** means natural ground or surface water, as the case may be, with a constant temperature in accordance with Vietnamese standards or international standards which are allowed to apply in Vietnam.
4. **Geological baseline studies** are activities of research and assessment of the structure, material composition, history of evolution and development of the Earth's crust and related mineral generation conditions and rules.
5. **Geological baseline studies of mineral resources** are activities of general assessment of mineral resources potential based on geological baseline studies as the scientific grounds guiding mineral prospecting and exploration.
6. *Mineral-related activities include mineral exploration, mining and processing activities.*
7. **Mineral exploration** refers to activities to discover and identify minerals reserves and quality, and conditions for mining and *processing*;
8. **Mineral mining refers** to activities of mine development, excavation, production and other related activities to obtain the minerals.
9. **Mineral processing means activities of classification, enrichment of original minerals, and other activities in order to obtain minerals with higher value and quality.**

#### Article 5. Ownership of mineral resources

1. Mineral resources on land, islands, inland waters, territorial sea, special economic zones and continental shelf of the Socialist Republic of Vietnam are properties of the public whose ownership is represented *and administered by the state*.

2. *The state exercise its ownership through making decision on strategy and policy of mineral resources development, exploration, mining, processing; valuation of [untapped mineral resources](#) .*

#### **Article 6. State policies on mineral**

1. The state invests and implements geological baseline studies in line with master plans and specific plans; training and human resources development; technological application and development in mineral resources geological baseline studies. *The state encourages both domestic and foreign entities and individuals to invest and cooperate with state-run geological organizations in performing mineral resources geological baseline study projects.*

2. *The state invests in the exploration for some kinds of mineral for which investment from other funding sources cannot be mobilised; in order to meet the country's socio-economic development requirements or to lay the groundwork for auctioning mineral activities rights.*

3. The state encourages entities and individuals to invest in *mining projects associated with investment in processing minerals into alloys or pure metals* in disadvantaged or extremely disadvantaged areas; processing projects using imported minerals.

4. The state shall restrict export of minerals in the form of crude materials or ore concentrates. *The government shall issue the list, requirements and criteria of minerals permitted to be exported and the lists of minerals restricted or temporary banned for export over time.*

5. *The state shall protect the legitimate right and interests of the local residents where the minerals are extracted or processed; protect the legitimate rights and interests of entities and individuals involved in mineral-related activities under the provisions of this Law and other relevant laws; and encourage entities and individuals to engage in the provision of insurance services attributed to mineral prospecting, mining and processing.*

#### **Article 7. Principles of mineral-related activities**

1. Mineral resources shall be protected, explored, produced and utilized in a rational, economical and efficient manner to meet the needs for both immediate and long term sustainable socio-economic development.

2. *Mineral-related activities shall comply with strategy and master plan approved by the competent government agency; guarantee workplace safety and hygiene and be closely connected with environmental protection, the landscape and historical and cultural sites; enable development of infrastructure; stabilize and improve the local living conditions where*

mineral are produced, processed; and ensure national defence, security, social order and safety.

*3. The mining and processing scales and technologies must be relevant to the specific features of each mineral mines, mineral types, taking the socio-economic and environmentally protective efficiency as the prerequisites for making investment decisions; Relevant advanced technologies shall be applied in order to maximise the recoverage of the primary mineral, secondary minerals and the value of the processed products; raise efficiency, quality, value and competitiveness of the mineral products after mining and processing .*

#### **Article 8. Entities and individuals eligible for mineral-related activities**

*1. Entities and individuals eligible for mineral-related activities satisfying in full the requirements provided in this Law and other relevant laws.*

*2. The Government shall specify financial and technological requirements and other conditions for entities and individuals eligible for mineral activities.*

#### **Article 9. Interests of local residents where mineral mining and processing activities take place**

*1. Based on state's revenue from mineral mining and processing activities, on an annual basis, the state shall set aside a budget amount for the purpose of supporting local socio-economic development where minerals are exploited and processed, and stabilizing business activities and lives of the local residents, who have to relocate due to minerals exploitation and process activities, .*

*2. Entities and individuals having mineral rights shall link the needs for mineral exploitation and process and development of infrastructure, protection and restoration of environment in accordance with the approved project proposal of exploitation and processing; and give preferences to employment of local labour in the mining and mineral processing area and related services.*

*3. Compensation, assistance and relocation for entities and individuals having legitimate use rights on the land withdrawn for mineral mining and processing projects shall be made in line with land laws and regulations and the relevant provisions of laws.*

*4. The government provides in details the responsibilities of mineral mining and processing entities or individuals and People's Committees of various levels in order to secure the legitimacy interests of the local residents where mineral-related activities take place.*

#### **Article 10. State management on minerals**

1. Issuance *and* implementation of mineral-related legal documents;
2. *Establishment of strategies for the development of mineral resources*, protection, rational, economical and efficient use of mineral resources and development of the mineral mining and processing industry; development, approval and implementation of mineral master plans;
3. Granting, extending, withdrawing, permitting surrender of mineral-related licenses; permitting relinquishment of parts of exploration or mining areas; provide the security of tenure in *of inheritance, succession, transfer of mineral activity related rights*; *holding auctions for mineral exploration and mining rights*, registration of geological baseline studies of mineral resources;
4. *Assessment of projects and evaluation and approval of mineral reserves in mineral exploration reports; Statistics and inventory of mineral resources reserves*;
5. Inspection and audit of mineral-related activities; resolution of disputes, complaints, accusations pertaining to mineral-related activities and sanction by appropriate jurisdiction violation of mineral-related laws and regulations;
6. Implementation of relevant policies for local residents where mineral extraction, processing takes place and where toxic minerals are located;
7. Taking protective measures for mineral resources;
8. Storage and protection of mineral-related documents, specimens and state secrets; *development, management of information database of baseline geological studies of mineral resources, mineral activities*;
9. Training mineral-related scientists and managers; international cooperation in geological and mineral baseline studies and mineral-related activities.

#### **Article 11. Governance authority on minerals**

1. *The government exercises uniform state management on minerals.*
2. *The Ministry of Natural Resources and Environment is responsible to the Government for performing the state management on minerals nation-wide.*
3. *People's Committees of various levels perform the state management for minerals located in their respective local areas in conformity to their authority.*
4. *Ministries and ministerial-level agencies, within their duty and powers, are responsible to cooperate with the Ministry of Natural Resources and Environment, provincial/central municipal People's Committees in the state management of minerals.*

5. *The government provides in details management tasks and jurisdiction of the Ministry of Natural Resources and Environment, People's Committees of various levels ,Ministry of Industry and Trade, Ministry of Construction, and related ministries in performing state management on minerals;*

## **Article 12. Licensing authority on Mineral activity**

Authorities on *issuance of licenses for minerals activities are provided for as follow:*

a. *Ministry of Natural Resources and Environment is in charge of issuance of mineral exploring license; issuance of mining license and mineral processing license, except for the minerals specified in paragraph b of this Article.*

b. *Provincial/central municipal People's Committees are in charge of issuance of mining license and mineral processing license for minerals which are common construction materials and peat; and depletive mining rights.*

c) *The same jurisdiction granting licenses for a specific mineral-related activity shall be authorized to extend, revoke, accept surrender of the license; accept surrender of a part of the licensed exploration and mining areas, allow continuation of the mineral rights in inheritance, succession, transfer of mineral activity related rights stipulated in that license under relevant provisions of the law.*

2. *The Government specifies application content, process and procedures for granting, extending, withdrawal, accepting surrender of mineral-related activities licenses; accepting partial surrender of the licensed exploration or mining areas; allowing continuation of the mineral-related rights in cases of inheritance, succession, transfer of mineral activity related rights*

## **Article 13. Prohibited conducts**

1. *Mineral resources baseline studying activities, and Mineral-related activities not allowed by relevant jurisdictions; illegal storage, trading and transport of minerals;*

2. *Disclosure of mineral-related information classified as state secrets;*

3. *Illegal storage, destruction, sales or degradation of geological samples, minerals of special scientific value or rare categories;*

4. *Mineral-related activities against mineral mater plans approved by the competent state authority; mineral-related activities within forbidden or temporarily forbidden areas, national mineral reservation areas without approval of the competent authority;*

5. Abuse of positions, power by authorized persons for divergence from mineral-related legislative provisions.

6. Other conducts that are prohibited by the provisions of laws

**Article 14. Provision and utilization of materials and information in the area of geology and minerals**

1. *The state shall provide favourable conditions for entities and individuals, both domestic and foreign, to reference, study and utilize materials and information from geological baseline studies of mineral resources and mineral-related activities according to the provisions of laws*

2. *The management agency for database on geology and minerals are responsible for facilitating entities and individuals to reference, study and use of the database according to the relevant regulations;*

3. *Any entities and individuals referring, studying and using information from geological baseline studies of mineral resources and mineral-related activities shall be responsible to reimburse certain fees as required.*

## CHAPTER II

### PROTECTION OF MINERAL RESOURCES

**Article 15. Protection of unexploited mineral resources**

1. *The Government develops policies and measures to protect untapped mineral resources..*

2. *The state agency of mineral management is responsible for determining areas where untapped mineral resources are located ; coordinating with the relevant ministries and agencies and local governments in protection of untapped mineral resources .*

2. *The People's Councils and People's Committees of various levels, within their duties and powers, shall be responsible to exercise necessary measures in protection of untapped mineral resources in the local area.*

3. *Government agencies, political and social entities, economic organizations, civil societies, armed forces and every citizen are entitled and responsible of protecting and keeping confidentiality of unexploited mineral resources.*

4. *Entities and individuals with mineral exploration and mining rights are responsible to protect unexploited mineral resources located within their licensed areas.*

5. *The process of developing master plans, designing and construction of residential areas, industrial works, water resources works and other permanent construction works should be approved in writing by the state agency for mineral management; other works of national defense or security puposes should be otherwise stipulated*

6. Any entities and individuals using land and water surface hired under the land law are responsible to protect mineral resource within the hired area. It is prohibited to carry out mining activities within the areas until receiving written approval from a state authorized agency as stipulated in this Law.

7. The state shall set aside a part of the state budget for protection of unexploited mineral resources.

8. Entities and individuals licensed to mineral-related activities are responsible to protect untapped mineral resources within their licensed areas.

#### **Article 16. Protection of mineral resources under exploration**

Entities and individuals licensed to perform mineral exploration shall make a summary evaluation and full report on all types of minerals discovered in the licensed area to the relevant mineral jurisdiction.

#### **Article 17. Protection of mineral resources in mining and processing**

1. The entities and individuals permitted to mine and process minerals shall apply appropriate technologies to extract to the maximum the minerals licensed for mining and processing.

2. Any new types of minerals discovered during the process of mining within the mining area shall be duly reported by the mining entities or individuals to relevant mining jurisdictions for consideration and decision.

4. The entities and individuals licensed for mineral mining and processing are responsible to store and preserve mined but unused minerals; take appropriate measures in management and protection of any minerals which are still not collected after processing.

### **CHAPTER III**

#### **GEOLOGICAL BASELINE STUDIES OF MINERAL RESOURCES**

#### **Article 18. Content of geological baseline studies of mineral resources**

Geological baseline studies of mineral resources include:

1. Surveys and detection of mineral resources potentials simultaneously with development of various types of maps for local geology, geology-related disasters, environmental geology, maritime mineral geology; specialized geological and mineral-related maps and researches;

2. Assessment of mineral resources potentials by type or category of minerals and geological structures of prospect to find new mines.

**Article 19. Management of geological baseline studies for mineral resources**

1. Geological baseline studies for mineral resources are conducted concurrently with geological baseline surveys and in line with the government's master plans and detailed plans.

2. Based on the master plan for geological baseline studies of mineral resources approved by the Prime Minister and state budget plan, relevant Ministries or ministerial level agencies shall be responsible for review and approval of proposals and reports of geological baseline studies for mineral resources conducted by affiliated entities.

3. The Ministry of Natural Resources and Environment specifies the content of geological baseline studies for mineral resources, national geological archives and geological museum; and develops for issuance of standards, technical criteria, cost norms and unit prices in geological baseline studies for mineral resources as provided by law.

**Article 20. Rights and liabilities of entities conducting geological baseline studies of mineral resources**

1. The entity conducting geological baseline studies of mineral resources are entitled to:

a) Prerogatives in conducting geological baseline studies of mineral resources in line with proposals approved and plans assigned by relevant jurisdictions;

b) government's commendation and awards for good performance in geological and mineral-related researches and discoveries;

c) sending samples abroad for testing purposes in accordance with the approved project proposal;

2. The entity conducting geological baseline studies of mineral resources have obligation:

a) to make national registration of geological baseline studying of mineral resources at the state management agency before conducting the study.

b) to comply with standards, technical norms, and stipulated unit prices in the process of geological baseline studying of mineral resources;

c) to ensure the integrity, completeness, scientific soundness and comprehensiveness in accumulating and consolidating geological and mineral-related materials and information; to secure state secrets for geological and mineral-related information as specified by the laws;

d) to protect the environment, mineral resources, other resources during the study;

dd) to submit the geological and mineral baseline study report to geological archives and characteristic geological and mineral samples to the Geological Museum.

***Article 21. Geological baseline studies on mineral resources based on the state master-plans and plans***

*1. Geological baseline studies on mineral resources shall be conducted by state geological entities based on the government's master plans and annual plans or upon request of relevant governing agencies.*

*4. The funding for geological baseline studies on mineral resources based on the national master plans and specific plans shall be guaranteed by the Government*

***Article 22. Geological baseline studies on mineral resources for construction of permanent structures and residential areas***

*1. Land zoning for development of structures and residential areas with an area of up to 1,000 ha shall be based on 1:10,000 geological baseline studies on mineral resources' results; and 1:25,000 geological baseline studies on mineral resources' results for areas of more than 1,000 ha in size.*

*2. For areas where structures and residential facilities are to be developed without 1:10,000 – 1:25,000 geological baseline studies on mineral resources, the project owners shall be responsible to finance the studies on those areas. The study plan and the report on result of geological baseline study on minerals should be reviewed and verified by Ministry of Natural Resources and Environment before being submitted to the geological archives as provided.*

*3. The content of geological baseline study on minerals for zoning purposes of structures and residential areas should clarify the geological structure, existence of various minerals, locations with geological legacy potential within the studied land, possible geology-related disasters and environmental and geological elements that may adversely affect the structure and residential area shall be reviewed.*

***Article 23. Socialization of capital made for geological baseline study on mineral resources***

*1. Both national and foreign entities and individuals are entitled to fund geological baseline study on mineral resources.*

*2. Scheme of baseline geological study on mineral resources using capital funded by entities and individuals referred to in paragraph 1 of this Article should be set up, verified and approved by the state geological agencies under the relevant regulations.*

3. At the completion of the approved geological baseline study, within the studied area, entities and individuals referred to in paragraph 1 of this Article shall be given priority in outlining the area for application of exploration licenses under the provisions of this Law.

Where the priority area of application for exploration permit falls in the national reserve areas, forbidden or temporarily forbidden areas, the entities and individuals shall be reimbursed by the State with studying and evaluating fees according to relevant regulations.

**Article 24. Archives of results of geological baseline studies on mineral resources**

*1. The final report of geological baseline studies for mineral resources and geological and mineral specimens shall be registered and archived at the Geological Archives and Geological Museum of the Ministry of Natural Resources and Environment.*

*2. The Geological Archives and Geological Museum are responsible for preserving state secrets pertaining to data and information on mineral resources, geological and mineral specimens; and providing favourable conditions for entities and individuals in referencing and utilizing mineral resources data and information in line with prevailing laws.*

CHAPTER IV

**AREAS OF MINERAL-RELATED ACTIVITIES**

**Article 25. Areas of mineral-related activities**

Areas of mineral-related activities include:

1. Areas subject to auction of mineral exploring-mining rights, and mining rights.
2. Areas of restricted mineral-related activities;
3. Normal areas including areas not specified in paragraphs 1 and 2 of this Article .

**Article 26. Limited area of mineral activity**

1. Limited areas for mineral activities include areas where mineral activities are only allowed with the following limitations:

- a) Limitation on who are allowed to mine;
- b) Limitation on mining output ;
- c) Limitations on methods of mining and mining depth.

2. The Government stipulates authority in delineation, approval and publication of limited areas for mineral activities.

**Article 27. Areas of banned, temporarily banned mineral-related activities**

1. Areas of banned mineral-related activities fall under one of the following categories:

a) Areas where recognized historic and cultural sites, landscapes or protected areas decided by the law on cultural heritage are situated;

b) Areas with specialized forests, protective forests or protective forest land, fledging warps *with natural renewable mangrove forests*; geological reserves areas;

c) Areas specifically delineated for national defence and security purposes or where mineral-related activities may affect implementation of national defence and security missions;

d) Religion specific areas;

*dd) Safety corridors or zones of public traffic infrastructure works, safety corridors of high voltage grids, irrigation works, dykes, communication works;*

*e) Urban, commercial, tourist areas or important infrastructure facilities; industrial zones, except for areas used for mineral processing.*

2. Areas of temporarily banned mineral-related activities include the following:

a) Areas so defined by contingent national defence and security needs;

b) Areas so defined for the purpose of preservation of nature, historic and cultural sites, landscapes under government's review, recognition or those discovered during mineral prospecting and mining process;

c) Areas so defined by disaster control and responses needs.

3. In the case the areas where legal mineral activities are happening are publicized as banned or temporarily banned areas for mineral activities, the Government should resolve satisfactorily the damage caused by the ban to the entities and individuals operating in the areas .

3. The government defines the jurisdiction for zoning, approving and declaring areas of banned, temporarily banned and *limited mineral-related activities*.

**Article 28. Areas with toxic minerals**

1. *Areas with toxic minerals are locations where minerals containing radiative metals and radiative or toxic substances .*

2. *The Ministry of Natural Resources and Environment is responsible to delineate areas with toxic minerals, and notify provincial/central municipal People's Committees for management under relevant regulations*

**Article 29. Areas of national mineral resources reserves**

1. *Areas containing minerals identified by the government as national mineral resources reserves include the following:*

a) *Areas that have been surveyed and assessed or explored for reserve purpose to serve sustainable development objectives;*

c) *Areas with geological potential that have not been fully assessed or explored, or got approval of deposit.*

2. *The Ministry of Natural Resources and Environment shall, in cooperation with the Ministry of Industry and Trade and Ministry of Construction, locate and seek the Prime Minister's approval of areas of national mineral resources reserves; inform Provincial/central municipal People's Committees for management and protection.*

3. *Mineral exploration and mining within national mineral resources reserves shall only be allowed upon approval of the Prime Minister.*

**CHAPTER V  
ENVIRONMENTAL PROTECTION AND USE OF LAND, WATER AND  
INFRASTRUCTURE IN MINERAL ACTIVITIES**

**Article 30. Environmental protection in mineral activities**

1. Entities and individuals permitted to conduct mineral-related activities shall employ relevant technologies, equipment, materials and comply with other regulations specified in the Environmental Protection Law to minimize possible adverse effects to various environmental elements; take steps for restoration of environment and land at the end of each phase of or the entire mineral-related activity.

2. Entities and individuals permitted to conduct mineral-related activities shall bear all costs related to the protection and restoration of environment and land. The costs for protection and restoration of environment, habitat and land shall be identified in the environmental impact assessment report *or environment protection commitment in mineral mining or processing project or mineral exploration proposal*. Entities or individuals licensed for mineral mining shall deposit an amount for Environment rehabilitation fund as a guarantee to the restoration of environment and land after mine closure.

**Article 31. Utilization of land in mineral-related activities**

1. Entities and individuals permitted to conduct minerals mining or processing are required to conclude land lease agreements for mineral-related activities purposes in accordance with prevailing land laws and regulations and this Law.

Upon the expiry of validity of a mineral mining or processing license, the land lease agreement shall also terminate; upon the partial relinquishment of the mining area, the land lease agreement shall alter accordingly. In the event of any change of the entity or individual permitted to conduct minerals mining or processing, a new land lease agreement shall be secured.

2. If the mineral exploration activities do not frequently use land and do not affect utilization of the land by existing legitimate entity or individual, entities and individuals permitted to explore for minerals shall not be required to rent the land on which such mineral exploration activities are to take place, but shall pay compensation for any damage caused by the exploration activities.

In the event that the exploring activity requires frequent use of the land, the entity or individual permitted to conduct such exploring activity shall rent the required land in accordance with the provisions of the Land Law.

3. Entities and individuals permitted to conduct mineral-related activities shall compensate any damages caused by the utilization of land for the purposes of their mineral-related activities in accordance with land laws and regulations and other relevant laws and regulations.

### ***Article 32. Use of water in mineral-related activities***

1. Entities and individuals permitted to conduct mineral-related activities are entitled to using natural water sources in their mineral-related activities in accordance with legislations on water resources and this Law.

*2. The water sources, volume and utilizing method in mineral-related activities shall be studied and defined in the mineral exploration proposal, project proposal on mineral exploitation and processing, and mine design; Entities and individuals permitted to conduct mineral-related activities have to treat used water in accordance with required standards and technical criteria specified by relevant laws. The discharging of used water into the environment should be in accordance with provisions of law on water resources; pay compensation in case of causing damage*

### **Article 33. Use of infrastructure in mineral-related activities**

1. Entities and individuals permitted to conduct mineral-related activities may use transportation and communication systems, electricity and other physical infrastructure facilities needed in their mineral-related activities in compliance with relevant laws.

2. Entities and individuals permitted to conduct mineral-related activities are responsible for renovation, upgrading, restoration or new construction of physical infrastructure in accordance with the exploration proposal, project proposal of mineral mining, processing approved by the licensing authorized agency.

## **Article 34. Insurance in mineral-related activities**

Entities and individuals permitted to conduct mineral-related activities shall purchase insurance for equipment and facilities used in their mineral-related activities; environment insurance, social security, working incident insurance and other types of insurance in accordance with relevant laws.

## *CHAPTER VI* **MINERAL MASTER PLAN**

### **Article 35. Mineral master plans**

*1. Mineral master plans shall be developed by territories or types of minerals, including:*

- a) Master plans for geological baseline studies of mineral resources;*
- b) Master plans for mineral exploration;*
- c) Master plans for mineral mining, processing and utilizing.*

*2. Mineral master plans are made periodically at the central level and local level with planning intervals that correspond to the socio-economic development planning time frame.*

### **Article 36. Principles for master plan development**

*1. Principles for master plan development in geological baseline studies for mineral resources*

*a) Correspond to strategy, master plan, plan for socio-economic development in the respective period.*

*b) Ensure that result of geological baseline studies for mineral resources can provide scientific foundation for the direction of prospecting, exploration, mining and processing of minerals.*

*2. Principles for master plan development in mineral exploration, mining, processing and utilization*

*a) Mineral exploration, mining and processing master plans shall be developed based on the type and categories of minerals.*

*b) Mineral resources shall be extracted and utilized in a rational, economical and efficient manner to serve the immediate needs while taking into consideration the potentials for development of mineral-related sciences, technologies and needs in the future.*

c) Protection of the environment, natural landscape, historic and cultural sites, scenic locations and other natural resources shall be warranted.

d) *Mineral exploration, mining and processing master plans shall correspond to industry master plan and local, territorial and national socio-economic development master plan.*

dd) *Local mineral exploration, mining, processing and utilization master plans shall correspond to the approved national mineral prospecting, mining, processing and utilization zoning plan.*

**Article 37. Master plans for geological baseline studies on mineral resources**

1. *The fundamentals for developing a master plan include:*

a) *the country's socio-economic, national defence and security strategy, master plan, plans;*

b) *Results of completed mineral studies and assessments; characteristics of geological structures with mineral potential and prospect.*

2. *A master plan shall contain the following items:*

a) *A 1:50,000 geological and mineral map, using VN2000 coordinate system, central meridian 105°; azimuth 6°; development of geological and mineral data and information systems;*

b) *Assessment of surface and ground mineral potentials for each type and category of minerals; identification of areas with mineral resources prospect;*

c) *Definition of investment scale and needs for equipment, technology, analyzing and experimenting approach used in the mineral resources geological baseline study;*

d) *approach and progress of master plan implementation.*

3. *The Ministry of Natural Resources and Environment shall compile and submit to the Prime Minister for approval the master plan for mineral.*

**Article 38. Master plans of mineral exploration**

1. *The fundamentals in development of master plan of mineral exploration include:*

a) *the country's socio-economic, national defence and security strategy, master plan, specific plans;*

b) *results of previously completed geological mineral baseline studies; available mineral exploration and mining results in the area;*

c) *technological advancements in exploration;*

*d) mining industry development orientation and mineral demand of the economy over time;*

*2. Key specifics in a master plan include:*

*a) Assessment of natural and socio-economic conditions; current status of mineral exploration, mining, processing activities at the time the master plan is made;*

*b) Assessment of mineral demand of the economy in the master plan time frame*

*c) Identification of location of potential area, mine and type of minerals to be explored*  
*d) Identification of the boundaries of exploration areas by lines connecting corner points located using the VN2000 coordinate system, central meridian of 105<sup>0</sup>, at 6<sup>0</sup> projection in a 1:50,000 map*

*dd) Estimation of total capital need, funding sources to be tapped and progress of prospecting proposals;*

*e) master plan implementing approach and progress.*

*3. The Ministry of Natural Resources and Environment shall compile and submit to the Prime Minister for approval the master plan for mineral exploration.*

### ***Article 39. Master plan of mineral mining, processing and utilizing***

*1. The fundamentals in development of the master plan include:*

*a) the country's socio-economic, national defence and security strategy, master plan, specific plans;*

*b) local natural and socio-economic conditions where the mineral is located and market demand;*

*c) technological advancements in mineral mining and processing;*

*d) achievements in similar previous master plans for mineral mining and processing.*

*2. Key specifics in a master plan include:*

*a) Summary and assessment of natural and socio-economic conditions; and mineral mining, processing and utilizing situation;*

*b) Review and analysis of similar previous mineral mining, processing and utilization; targets of mineral mining and processing and determining mineral needs in the respective period;*

*c) Identification of location of the area, mine and type of minerals to be mined and processed;*

*d) Identification of areas of limited mineral-related activities and areas of exploration-mining right and mining right auction;*

- dd) Identification of location of national mineral resources reserves areas;*
- e) Delineation of location of banned and temporarily banned mineral-related activities approved by relevant jurisdictions;*
- g) Direction and vision on mineral exploration, mining and processing investment and technologies;*
- h) Master plan implementing approach and progress.*

*3. The Ministry of Industry and Trade shall compile and submit to the Prime Minister for approval the master plan for mineral mining and processing, except for minerals specified in paragraph 4 of this Article.*

*4. Provincial/central municipal People's Committees shall develop and approve master plans for mining and processing minerals used as common construction materials and peat upon receipt of written feedback from the Ministry of Natural Resources and Environment, Ministry of Industry and Trade and Ministry of Construction.*

#### ***Article 40. Adjustment and declaration of mineral master plans***

- 1. A mineral master plan shall be adjusted when there are changes in one of the fundamentals of the plan.*
- 2. The agency approving the mineral master plan shall make decision on adjustments of the approved master plan.*
- 3. Within 30 days since the mineral master plan is approved or adjusted, the master plan approving agency shall publicize the mineral master plan.*

## **CHAPTER VII MINERAL EXPLORATION**

#### ***Article 41. Selection of location for mineral exploration***

*Eligible entities and individuals stipulated in Article 8 of this Law in need of preparing a mineral exploration proposal shall be entitled to field surveys and collection, analysis of surface specimens for demarcation of the proposed mineral exploration location upon the approval of the provincial/central municipal People's Committee where the proposed exploration area is to be located.*

#### ***Article 42. Boundaries of mineral exploration area***

1. *The boundaries of the exploration area are limited by lines parallel with longitude and latitude lines using the VN2000 coordinate system, central meridian of 105<sup>0</sup>, at 6<sup>0</sup> projection.*

2. *The size of the exploration area*

a) *The exploration area for a specific exploration license for metallic (except bauxite) and gemstone minerals (diamond, ruby, sapphire, and emerald) shall not exceed fifty square kilometres (50 km<sup>2</sup>);*

b) *The exploration area for an exploration license for coal, bauxite and non-metallic minerals (except minerals to be used as common construction materials) on land, with or without waters, shall not exceed one hundred square kilometres (100 km<sup>2</sup>);*

c) *The exploration area for an exploration license for assorted minerals (except minerals to be used as common construction materials) in shelf sea shall not exceed two hundred square kilometres (200 km<sup>2</sup>);*

d) *The exploration area for an exploration license for minerals to be used as common construction materials on land shall not exceed two square kilometres (02 km<sup>2</sup>), and shall not exceed one square kilometre (01 km<sup>2</sup>) for a surface water area.*

dd) *The exploration area for an exploration license for mineral water or natural hot streams shall not exceed two square kilometres (02 km<sup>2</sup>).*

#### **Article 43. Mineral exploration proposal**

1. *A mineral exploration proposal should meet the following requirements:*

a) *Exploration approach shall ensure reliable determination of mineral deposit, quality, mining conditions, processing and consumption potential for all the minerals found in the exploration area;*

b) *Exploration equipment and technology, sample analysis and work volume in the exploration proposal shall ensure reliable information, workplace safety, hygiene and environmental protection;*

2. *The cost estimates in the exploration proposal shall conform to the norm unit prices set by the Government.*

3. *The exploration proposal shall be reviewed and accepted by relevant mineral state management agencies before licensing. In case of changes in the exploration approach and work volume specified in the approved proposal, the entity or individual licensed for exploration shall duly report to the licensing jurisdiction for decision.*

#### **Article 44. Mineral exploration license**

##### *1. Grounds to grant mineral exploration licenses*

- a) *Mineral exploration master plans approved by relevant jurisdictions;*
- b) *The legal status of the applicant of exploration license in line with prevailing laws;*
- c) *The exploration proposal appraised and accepted by relevant exploration licensing agency.*

##### *2. Principals in granting an exploration license*

a) Exploration licenses are granted to entities and individuals eligible under the provisions but not more than five licenses, regardless of the expired exploration licenses previously granted to that entity or individual ; total area of exploration licenses for a mineral is not exceeding twice of the area granted to a exploration license as provided in paragraph 2 of this Article.

b) A mineral exploration license shall be issued for areas where no entities or individuals are conducting legitimate mineral exploration or mining activities; *and which are not overlapped with areas where geological baseline studies on mineral resources are taking place by the government for the particular type of mineral being applied for .*

*3. The validity of a mineral exploration license shall be no longer than 48 months. The license may be extended for multiple times providing that the accumulated extended period shall not exceed 24 months.*

#### **Article 45. Rights and obligations of entities and individuals licensed for mineral exploration**

1. Entities and individuals licensed for mineral exploration are entitled to:

a) using available national mineral data and information associated to the exploring purposes and the area allowed for exploration;

b) conducting exploration activities in compliance with the exploration license ;

c) taking away from the exploration area, including to a foreign country, samples with volume and types in conformity with the nature and requirements of analyses and experiments;

*d) first refusal right for exploitation of minerals on the explored area under the conditions provided by the Government;*

dd) applying for renewal or surrender of the mineral exploration license or partial relinquishment of exploration area under the provisions of the Government;

e) transfer of mineral exploration rights to other entities and individuals in line with the government's regulations;

g) bequeathing the exploration right in line with prevailing laws in case of individual license holder;

h) Inheritance of rights for mineral exploration from other entities and individuals to continue mineral exploration right in the case of legal sale or security under the provisions of law;

i) lodging a complaint or initiating legal actions against inspectors' verdicts, decisions to suspend or revoke the mineral exploration license or other judgment of state agencies in accordance with the law;

k) other relevant rights in accordance with the provisions of this Law.

*2. Entities and individuals licensed for mineral exploration are responsible:*

a) to pay licensing fee, exclusive exploring fee, fee for using national mineral resources data and information and other financial liabilities as specified by the law;

*b) to pay deposit as stipulated by provisions of laws ;*

c) to execute the mineral exploration project approved by relevant licensing jurisdictions and be responsible before the law for the reliability, integrity and completeness of related documents;

d) to protect mineral resources; *comply fully with regulatory provisions* on environmental protection, workplace safety and hygiene;

dd) to compensate for any damages caused by the exploration act;

e) to inform the exploration plan to the respective provincial/central municipal People's Committee where the exploration is allowed prior to commencement;

g) to compile and preserve mineral resources data and information and report exploration results to relevant mineral jurisdictions; report other related activities to competent administrative agencies as defined by the law;

h) to submit the final report on exploration results to relevant mineral jurisdictions before the exploration license expires;

i) to perform the tasks required as the validity of the exploration license ends as specified in paragraph 2, Article 47 of this Law;

k) to abide by regulations on governance, social order and security;

l) to perform any other related obligations as specified by this Law.

#### **Article 46. Toxic mineral exploration**

*When toxic minerals are being explored, besides fulfilment of obligations in Clause 1 of Article 45 of this Law, entities and individuals allowed for exploration shall take measures to prevent environmental pollution or harmfulness to human health, identify fully polluting factors in the exploration process, identify measures for mitigation.*

*In the case of exploration on radiative minerals, entities and individuals should comply with the Law on Atomic Energy and relevant laws.*

**Article 47. *Withdrawal and termination of exploration license validity***

1. Mineral exploration license shall be withdrawn upon the occurrence of any of the following circumstances:

a) Within six months since the license comes into effect, the entities and individuals licensed for exploration fail to commence the exploration activities without plausible reasons.;

b) The entity or individual licensed for exploration is in breach of one of the provisions specified in Clause 2 of Article 45 of this Law and fails to provide remedy within a time frame set by relevant authorities since the date of written notice by the relevant mineral jurisdiction;

c) The area permitted for exploration is declared an area of banned or provisionally banned mineral-related activities or national mineral resources reserves in accordance with Article 27 of this Law;

d) The individual with exploration right dies without anyone claiming inheritance of the right or the entity with exploration right is dissolved or goes bankrupt without any other entity or individual successor to take over the right and liabilities.

2. A mineral exploration license shall become invalid upon the occurrence of one of the following circumstances:

a) *The license is withdrawn.*

b) The license is expired.

c) The license is surrendered.

3. Once an exploration license becomes invalid,

a) *any rights* specified in the permit also become void;

b) *within six months since the invalidity of the exploration license*, the entity or individual licensed for mineral exploration shall remove all assets of their own and related parties from the exploration area. In case of withdrawal or surrender of the exploration license, the subject entity or individual shall duly perform levelling and filling work to render the exploration area to a safe state; prevent mineral resources; restore the environment, habitat and land; turn in specimens and any accumulated mineral resources data and information to relevant mineral jurisdictions.

The provisions in item b, paragraph 3 of this Article do not apply to areas that the exploration entity or individual has legitimately applied for exploration license extension or a mining license which is being under consideration.

**Article 48. Appraisal and assessment of mineral exploration results**

*1. The exploration results in the mineral exploration reports shall be appraised, approved or assessed according to relevant regulations of the Government.*

CHAPTER VIII  
MINERAL MINING

**Part 1**

MINERAL MINING

**Article 49. Mineral mining area**

*1) The boundaries of the mining area is limited by by lines connecting corner points located using the VN2000 coordinate system, central meridian of 105<sup>0</sup>, at 6<sup>0</sup> projection.*

*2) The area and boundary of a mining license defined by the depth of the mining area shall be considered on the basis that the investment project is compatible with the mineral reserves allowed for mining design*

**Article 50. Mining license**

1) Grounds to grant mineral mining licenses

a) The State's strategy for socio-economic development; development strategy of – mineral-related industries ;

b) The State's policy on mineral resources; the master plan for mining, processing and utilizing of mineral resources approved by the state competent authorized agency;

c) The Socio-economic effectiveness of each mineral-related project in line with the requirement of protection of environment, natural landscape, historic and cultural sites, and national security;

d) Legal status of the applicant of the mining license;

dd) Mineral reserves, the mining investment project and report of environmental impact assessment or environmental protection commitments approved or certified in accordance with the law.

e) Mining license for toxic minerals should be approved by the Prime Minister in writing;

## 2) Principles to grant mineral mining license

a) Mining Licenses are granted only to entities and individuals who are eligible under the provisions of the Government and to the reserves that were approved and evaluated by state competent agencies ;

b) Exploitation licenses are issued for areas where no entities or individuals are implementing legal exploration or mining activities on ;

c) In case a foreign entity or individual or a joint venture with a foreign party applies for a mineral mining license, the license shall be issued simultaneously or subsequent to the issuance of an investment license in accordance with foreign investment laws of Vietnam.

3. Within the period of exclusive right in application of mining license stipulated by the Government, entities and individuals licensed to exploration do not submit application for mining licenses in the explored area, the state authorized reserve the right to grant the mining licenses to other entities and individuals.

4. The valid term of a mining license shall be set based upon the mining investment project but not exceeding thirty (30) years for a new issuance and may be extended multiple times; the accumulated extension period does not exceed twenty (20) years. The valid term of a mining license includes the time needed for construction, production and mine closure.

### **Article 51. Rights and obligations of entities and individuals licensed for mineral mining**

1. Entities or individuals with mining rights are entitled to:

a) using national data and information on mineral resources pertaining to the mining and the eligible mining area in line with applicable laws;

b) conducting mineral mining or processing activities in accordance with the mining license; *further exploring mineral deposit within the licensed area without applying for a new exploration license;*

c) storage, transport, in-country sales and export of the exploited minerals in accordance with prevailing laws, *including minerals found in sluiced debris and waste* providing that all related liabilities have been fulfilled in line with the provisions of laws;

d) applying for renewal or surrender of the mining license or partially relinquishing the mining area; *transfer of the mining right to other entities or individuals if meeting conditions* in accordance with the regulations provided by the Government;

dd) bequeathing the mining right under prevailing regulations in case of individual licensed for mining;

e) *Make concession on the mining right to another entity or individual for continued exercising of the mining right in case the mining enterprise is sold in line with relevant laws;*

g) lodging a complaint or initiating legal actions in line with relevant laws against a decision to withdraw the mining license or other decisions of governing jurisdictions;

h) lease of land for mining purposes based on mining schedule stated in the feasibility study and in line with land laws; using surface and ground water in mineral mining in line with water resources laws;

i) other related rights in accordance with this Law.

2. Entities and individuals permitted to mine minerals shall have the following obligations:

a) Pay license fees, *fee for exclusive right in mining license application*, *compensation fee for utilization of mineral resources*; fees for the use of information and data on mineral resources; pay royalties and other financial obligations in accordance with relevant laws;

b) Ensure the progress of mine development and production activities in accordance with the approved mining investment project and mine designs;

c) *recover to the maximum the mineral licensed for mining*; protect the mineral resources; ensure working safety and hygiene; take measures to protect the environment in accordance with the approved report on environmental impact assessment ;

d) collect and storage data and information on mineral resources; report the results of mineral mining activities to relevant mineral governing bodies and report other related activities to competent agencies in accordance with the law;

dd) notify the commencement date for infrastructure construction and production with the mining licensing agency and inform the provincial/central municipal People's Committee where the mine is located of the mining plan;

e) fulfil obligations for guaranteeing the interests of the local residents where the mining takes place in accordance with paragraph 2, Article 7 of this Law;

g) pay compensation for damages caused by the mining activities;

h) create favourable conditions for scientific researches authorized by the state within the mining area; construction of transportation works, water pipelines, power grids and communication lines passing by the mine area as authorized by competent jurisdictions provided that the legitimate rights and interests of the entities and individuals licensed for mining are secured;

i) Submit annually a mining performance report and, prior to the expiry of the mining license, a summary performance report of mining activities to the state management agency; implement mine closure, recovery of environment and land upon end of mining license validity as specified in paragraphs 2b, 2c, and 2d of Article 40 of this Law;

k) comply with regulations in relation to administrative management, social order and security;

l) fulfil obligations specified in the mining license and other obligations in accordance with laws and regulations.

**Article 50. Working safety and hygiene in mining operations**

1. Entities and individuals licensed to mineral mining and other persons working in mines must implement the provisions of law on working safety and hygiene .

2. The working rules of the mine should be developed and promulgated in accordance with the labor codes. Regulations on working safety and hygiene have to comply with standards, technical norms on working safety and hygiene promulgated by competent state agencies .

3. When the working safety is threaten, mine manager must immediately implement the necessary measures to eliminate the causes of the threat.

4. When incidents occur on working safety, the mine manager must immediately implement emergency measures to eliminate the cause of the incidents, evacuate people from dangerous areas; promptly report to the competent State agency; protect assets, protect the scene in accordance with the law.

5. Local governments, state agencies, socio-political organizations, economic organizations, the armed forces and all citizens are responsible to support the evacuation and repair the consequence of the incident in the mining area.

6. Entities and individuals licensed to mineral mining should comply with the reporting regime on periodic reports, irregular reports of working safety and hygiene in mining activities in accordance with the provisions of law.

**Article 53. *Withdrawal and termination of mining license validity***

1. Mineral mining licenses shall be withdrawn upon the occurrence of any of the following circumstances:

a) Within 12 months since the license comes into effect, the entities and individuals licensed for mining fail to commence mine infrastructure development, *with the exception of legitimate reasons.*

b) Within 12 months since the proposed commencement date of production stated in the approved feasibility study on mineral mining, the entities and individuals licensed for mining fail to commence mining activities, *with the exception of legitimate reasons.*

c) The entity or individual licensed for mining is in breach of one of the provisions specified in Article 33 of this Law and fails to provide remedy within a time frame set by relevant authorities since the date of written notice by the relevant mineral jurisdiction;

d) The area permitted for mining is declared banned or provisionally banned for mineral-related activities in accordance with Article 14.2 of this Law;

dd) The individual with the mining right dies without anyone claiming inheritance of the right, or the entity with the mining right is dissolved or goes bankrupt without any other entities, individuals to inherit the right and liabilities.

e) The validity of the investment certificate terminates.

2. A mineral mining license shall be withdrawn upon the occurrence of one of the following circumstances:

a) *The mining license is withdrawn.*

b) The license is expired.

c) The license is surrendered.

3. Once a mining license becomes invalid,

a) any rights associated with the mining license shall also become void;

b) all works and equipment used for the purpose of mine safety and environmental protection in the mining area shall automatically belong to the government and shall not be removed or destroyed;

c) Apart from the assets specified in item b of this paragraph, within a time limit set by relevant authorities, the entity or individual licensed for mining shall remove all assets of their own and other related parties from the mine area. Beyond such time limit, all remaining assets shall be in the possession of the government.

d) Within the time limit stated in item c) above, the entity or individual permitted licensed for mining shall fulfil all obligations relating to the mine closure, recovery of environment and land as provided in this laws and other relevant laws and regulations.

#### ***Article 54. Mine design and approval***

*1. Prior mining activities, mining individuals or entities shall develop a mine design and obtain approval for the design in line with regulation.*

2. Organizations and individuals assessing the mine design must be independent of interests with entities and individuals who established the design and take responsibility before law for their assessment results.

3. *A mine design shall be appraised and approved in line with government's regulations.*

4. *No later than 6 months since the mining license enters into force, the subject entity and individual shall submit the approved mine design to the mineral mining licensing body.*

5. *The Ministry of Mineral Resources and Environment provides detailed guidelines on mine design establishment and assessment.*

#### **Article 52. Mine Manager**

1) *The Mine Manager shall be a person of relevant mining technical and managerial capacity in line with the government's regulations who is appointed by the entity or individual licensed for mining to provide direct management of mining activities as specified in the mineral mining license.*

2) *No mineral mining activities shall be done without a mine manager, with the exception of depletive mining. Each mine manager shall only be in charge of mining management under a single mining license.*

3. *The same authority granting a specific mining license shall decide whether to accept the appointment of a mine manager working in the mine under such license.*

4. *In case entity or individual licensed for mining possess sufficient capacity as provided for, the position of chief mining engineer may not need to be appointed but can be combined with other position.*

#### **Article 56. Inventory and stock taking of mineral reserves**

1. Entities and individuals permitted to exploit minerals shall develop a mine status map and *cross-sectional profile of the mining area which shall be comprehensively and systematically managed and archived from commencement to termination of the mining activities.*

2. *The mine status map is the legitimate foundation to verify inventory and stock taking of unexploited mineral resources reserves, foundation.* . Entities and individuals licensed for mining shall be responsible before the law for the accuracy and comprehensiveness of the mine status map in terms of statistical and inventory data on mineral resources .

3. *The Ministry of Natural Resources and Environment shall provide on development of mine status maps, inventory and stock taking of mineral reserves.*

**Article 57. Mining minerals for use as common construction materials**

1. The activities of mining minerals for use as common construction materials shall comply with the provisions on mineral mining of this Law, except for activities specified in paragraph 2 of this Article.

2. Mining minerals for use as common construction materials as provided below shall not need mining license:

a. Mining minerals for use as common construction materials in the area of an investment project, whose project proposal has been approved by relevant authority and the mined products, are only used for that project.

Prior the mineral mining taking place, the entities, individuals which have right to mine have to register mining area, capacity, volume, method, equipment and mining plan at the provincial/central municipal People Committee. The management and utilisation of mined minerals shall comply with laws and regulations.

b) Mining minerals for use as common construction materials in the area of family, individual resident land which are used in line with laws and regulation on land, providing the mined minerals are only used for family purpose.

3. The Government shall issue a list of minerals categorized as common construction materials.

**Article 58. Mineral mining in areas with on-going projects of *permanent* structures development**

1. Mining of minerals in an area with on-going projects of permanent structures development, except for the works specified in paragraph 2 of this Article, shall abide by the following regulations:

a) In areas where mineral resources studies and assessments have been conducted or mineral resources are found without prior studies or assessments, the relevant governing body specified in paragraph 1, Article 12 of this Law shall decide whether exploration is required to provide the background for mining licensing prior to the project being approved or granted an investment license;

b) In case of areas where minerals are discovered during the construction process without any prior mineral resources studies and assessments being conducted, the governing state body specified in paragraph 1, Article 12 of this Law shall decide whether the minerals

shall be exploited and a specific schedule in case a mining decision is given to ensure the progress of the construction project. In such case, exploration shall not be mandatory.

2. In case of an area with important national facilities which fall under the decision making authority for investment of the National Assembly or important projects which fall under the investment plan of the Government or Prime Minister, where mineral studies and assessments have been made or minerals are discovered without prior mineral studies and assessments, the Ministry of Natural Resources and Environment shall, in cooperation with relevant ministries, industries and provincial/central municipal People's Committees where the projects are located, decide on whether the minerals shall be extracted to ensure reasonable progress of the construction works. The mining licensing authority is provided in paragraph 1, Article 12 of this Law.

3. In case the mining of minerals referred to in paragraphs 1 and 2 of this Article is deemed unproductive or when corporate or individual applicants for the mining are absent, the governing state body specified in paragraph 1, Article 12 of this Law shall issue a decision of non-exploitation and inform of the same in writing to the investment governing and licensing agencies or the investor.

4. In case the mining of minerals referred to in paragraphs 1 and 2 of this Article is deemed necessary with the entity or individual licensed for the mining being not the owner of the project for which land allocation or lease has been decided by the government, arrangements on how to use the land on which the mining will be conducted shall be agreed by negotiation between related parties in accordance with the laws and regulations on land.

## **Part 2**

### **DEPLETIVE MINING OF MINERALS**

#### **Article 59. Depletive mining of minerals**

Depletive mining is applicable to any remaining minerals available in mines that have been closed for liquidation or debris and waste from the production and processing of a mine that has been closed.

#### **Article 60. Depletive mining license**

A mineral depletive mining license shall only be granted to a Vietnamese entity or individual qualified under provisions of this Law; priority shall be given to local resident entities and individuals where the minerals are located..

A mineral depletive mining license shall be valid for no longer than three years and may be extended under the decision of the government providing that the accumulated extended term does not exceed two years.

## **Article 61. Rights and *liabilities* of entities and individuals licensed for mineral depletive mining**

1. The entity or individual permitted to conduct mineral depletive mining are entitled to:

a) performing mining activities in line with the license and specific requirements pertaining to the depletive mining defined by the government;

b) storage, transport, processing and sales of the extracted minerals in line with prevailing laws and regulations;

c) applying for extension and surrender of the depletive mining license;

d) complaining or starting legal proceedings against withdrawal of a depletive mining license or other verdicts of a government agency in accordance with applicable laws.

2. The entity or individual permitted to conduct mineral depletive mining shall be responsible:

a) to pay licensing fees, royalty and other financial liabilities as specified by the law;

b) to compensate for any damages caused by the mining activities;

c) to take measures in mineral and other resources damage control; protection of the related environment, land and infrastructure facilities;

d) to exercise workplace safety and hygiene during the mining process;

dd) to comply with regulations in public administration, maintenance of social order and security;

e) to record and store adequately data on the results of mining, processing and consumption of *minerals* .

g) to facilitate scientific researches allowed by the government within the mining areas;

## **Article 62. Withdrawal of license for mineral depletive mining**

1. *The mineral depletive mining license shall be withdrawn* upon the occurrence of one of the following circumstances:

a) The entity or individual licensed for depletive mining fail to perform their liabilities as specified in Article 61.2 of this Law;

b) New discovery of mineral resources has been made in currently permitted depletive mining areas which render the depletive mining inappropriate.

c) The area permitted for depletive mining is declared banned, temporarily banned or *limited for mineral-related activities* under the provisions specified in Article 27 of this Law.

2. Once the depletive mining license has been withdrawn or expired, the entity or individual permitted to conduct the depletive mining shall remove entirely their assets from the mining area; restore the environment, habitat and land .

3. In case the depletive mining license is withdrawn as applicable under paragraph 1 of this Article, the entity and individual licensed for the depletive mining shall be compensated for the related damage.

### ***Part 3***

#### ***MINERAL MINE CLOSURE***

##### **Article 63. Cases where mineral mine closure is applicable**

1. *The mine closure is required to liquidate a part or the entire mining area for relinquishing where the entire mineral deposit has been exploited.*

2. *The mine closure is required for preservation purposes as a result of termination of mining license validity under circumstances specified in paragraph 2, Article 53 of this Law .*

##### **Article 64. Development and appraisal of mineral mine closure proposal**

1. *A mineral mine closure proposal shall be approved by a relevant mining licensing agency prior to implementation.*

2. *The Ministry of Natural Resources and Environment shall stipulate the specifics, formality, procedures for review and approval, and implementation of such a proposal .*

##### **Article 65. Mineral mine closure decision**

1. *Once the outcome of the mine closure has been accepted, the relevant governing body shall issue a closure decision .*

2. *The same agency granting a specific mining license shall be the authority to issue the closure decision for the types of mineral specified in such mining license.*

## **CHAPTER IX**

## MINERALS PROCESSING

### Article 66. Minerals processing license

1. Mineral processing licenses shall be granted to entities and individuals who are eligible under regulations of the Government, except those entities, individuals already have mining license for the same kind of minerals granted by a relevant licensing authority.

2. The term of a mineral processing license shall be determined on the basis of the investment projects on mineral processing and the legal mineral resources, but not more than thirty years, and multiple extensions are allowed but the total extension period will not exceed twenty years.

### Article 67. Rights and obligations of entities and individuals permitted to process minerals

1. Entities or individuals permitted to process minerals are entitled to:

a) purchase of legally exploited minerals; import of equipment, technology and materials, including minerals, which directly serves the purpose of processing; processing minerals in line with the license;

b) in-country storage, transport and sales and export of the processed minerals in accordance with applicable laws;

c) applying for renewal, surrender, transfer of mineral processing rights to other entities or individuals in accordance with the Government's regulations;

d) bequeathing minerals processing rights in accordance with the law in case of individuals permitted to process minerals;

*dd) inheritance of mineral processing rights to other entities or individuals for continued exercise of the mineral processing rights in case of legal sale, concession, merge under relevant laws and regulations;*

d) complaining or initiating legal actions against a penalty verdict by the governing state bodies in accordance with prevailing laws;

e) other related rights in accordance with the law.

2. Entities or individuals permitted to process minerals are obliged to:

a) pay licensing fees, taxes and other financial liabilities in accordance with applicable laws;

b) exploit to the maximum any useful parts of the minerals for processing purposes in line with the approved proposal; preserve and protect other valuable minerals;

- c) apply technology and other measures to minimize any adverse effects on the environment and habitat in accordance with environment-related legislations;
- d) ensure workplace safety and hygiene;
- dd) pay compensation for damages caused by the processing activities;
- e) report outcome of the mineral processing activities to the relevant governing mineral agency; report on other activities to relevant authorities as required by the law;
- g) comply with regulations in public administration and maintenance of social order and security;
- h) fulfil other related obligations in line with the provisions of this Law.

**Article 68. Revocation of mineral processing license**

*1. Mineral processing license shall be revoked in case the entity or individual permitted to process minerals violates one of the provisions specified in paragraph 2 of Article 67 of this Law and fails to provide remedy within a time frame set by relevant authorities since the date of written notice by the relevant mineral jurisdiction.*

*2. Once the mineral processing license has been revoked or mineral processing license expired, the entity or individual permitted to conduct mineral processing shall duly take measures of environment restoration in the mineral processing area and other areas related to the mineral processing; and perform other obligations in line with relevant laws and regulations.*

**CHAPTER X**

**MINERAL-RELATED ACTIVITIES FINANCE AND AUTION OF MINERAL ACTIVITY  
RIGHT**

**Part 1**

**TAXES AND FEES IN MINERAL-RELATED ACTIVITIES**

**Article 69. Revenues from mineral-related activities**

*1. State revenue from taxes*

*a) Mineral resources taxes and other taxes in line with tax regulations and law.*

*b) Income tax for transfer of rights of mineral exploration, mining, processing.*

*2. State revenue from fees, charges and others*

*a) Compensation fee for mineral resources*

- b) Fees for utilization of mineral geological baseline study materials;*
  - c) Environment protection fee in mineral activities;*
  - d) Fees for exclusive exploration and exclusive rights in mining license application ;*
  - e) Licensing fees for licensing mineral activities*
  - g) Revenues from providing mineral exploration information and results;*
- 3. The Government shall define procedures of collecting, managing and using revenue from taxes, fees, charges and other revenues.*

**Article 70. Pricing of unexploited mineral resources**

*1. The State value unexploited mineral resources in the following cases:*

- a) Auctioning mineral mining rights;*
- b) Determining tax on transfer mineral mining rights*
- c) Determining fee for exclusive rights in mining license application*
- d) Determining the value of the state capital contribution in case the contribution is made in form of unexploited mineral resources*
- dd) Equitising mineral mining enterprises*
- e) Asset settling in case the mineral mining enterprise is bankrupt or liquidated.*

*2. The authority for determination of price of unexploited mineral resources is defined as under:*

*a) The Ministry of Natural Resources and Environment shall determine the price of unexploited mineral resources under its licensing jurisdiction specified in paragraph 1, Article 12 of this Law.*

*b) Provincial/Central Municipal People Committees shall determine the price of unexploited mineral resources under their licensing jurisdiction specified in paragraph 1, Article 12 of this Law.*

*3. The Ministry of Finance shall define the principles and methods of pricing unexploited mineral resources.*

**Part 2**

**AUCTION OF MINERAL ACTIVITY RIGHTS**

**Article 71. Entities and individuals involved in auctions of mineral activity rights**

*Any entity or individual qualified for involvement in mineral-related activities in line with the government's regulations may participate in auctions of mineral activity rights.*

**Article 72. Principles of auctions of mineral activity rights**

*1. Auctions of mineral activity rights shall be conducted based on the following principles:*

*a) Auctions of mineral activity rights are only allowed for mineral areas declared by relevant authority specified in Item 2 and 3 of this Article of this Law as eligible for mineral-related activities auctions.*

*b) Government regulations on auctions of mineral activity rights shall be complied with.*

*2. The Ministry of Natural Resources and Environment shall locate and announce designated areas for mineral auction under their licensing jurisdiction as specified in Article 12 of this Law.*

*3. Provincial/central municipal People's Committees shall locate and announce designated areas for mineral auction under their licensing jurisdiction as specified in Article 12 of this Law; organize auctions on mineral-related activities for mines located in the local area.*

**Article 73. Auctions for mineral exploration - mining rights**

*1. Auctioned areas of mineral exploration - mining rights are implemented in the areas which have been surveyed and assessed and mineral resources potential have been found there.*

*2. Entities and individuals selected based on the result of mineral exploration -mining right auctions shall be granted exploration licenses by the relevant governing agency and mining licenses providing that they meet the requirements to put the mine into operation.*

**Article 74. Auctions for mineral mining right**

*1. Auctions of mineral mining rights shall be conducted for mineral mining areas which have been explored and evaluated and approved by the relevant governing agency for the explored deposit.*

*2. Entities and individuals selected by auctioning of mining rights shall be granted mining licenses by relevant authorities.*

CHAPTER XI  
MINING INDUSTRY AUDIT

**Article 75. Mining industry auditors**

1. Mining industry auditors belonging to mineral governance agencies shall provide specialized inspection in the area of geological baseline study for mineral resources and mineral-related activities.

2. The operation of mining industry audit complies with relevant laws and regulations on inspection and the provisions of this Law.

3. Mining industry auditors are equipped with distinctive uniforms and badges, specialized technical equipment and facilities to do their job.

**Article 76. Mining industry audit subjects**

1. Preservation of state secret related to mineral resources;

2. Protection and rational utilization of mineral resources;

3. Exercise of rights and liabilities by entities and individuals permitted to conduct mineral-related activities specified in licenses for mineral-related activities and the provisions of this Law.

4. Audit the compliance with national technical, labour safety and environment protection provisions in mineral resource geological baseline study and mineral-related activities for entities and individuals permitted to conduct mineral geological baseline studies and mineral-related activities.

**Article 77. Jurisdiction of mining industry auditors**

Mining industry auditors shall exercise the rights specified in prevailing rules and regulations pertaining to audit and inspection, along with the following rights:

1. Access to areas permitted for mineral geological baseline studies and mineral resources related activities; allowed to implement professional measures under provisions of law on inspection to collect information related to the inspection;

2. Deciding suspension of mineral geological baseline studies and mineral-related activities deemed illegitimate; temporary suspension in case of contingency any mineral-related activities posing risks of dangerous accidents to humans or serious damages to mineral resources, environment; simultaneously with notifying relevant authorities for penalty actions or recommending relevant authorities for suspension of such activities;

3. Recall or propose recall of temporary suspension decisions for mineral-related activities once the subject entity or individual has duly reversed the infringement, fixed contingencies caused by activities of potentially dangerous accidents to humans or serious damages to resources and environment and make recommendations to relevant authorized person to withdraw suspension of such activities;

4. Request entities and individuals involved in mineral geological baseline studies and mineral-related activities to take adequate prevention actions and responses to workplace safety risks, hazards to employee's health, environmental incidents detected during the auditing process;

5. Affix penalty as authorized or recommend relevant authorized person for sanction of violation of mineral-related laws and civil offenses in the mineral area; recommend relevant authorities for initiating criminal proceedings as required.

#### **Article 78. Organization of mining industry audit**

1. Mining industry audit is organized in a central/regional –to-provincial/municipal city hierarchical system, including:

a) Sate Mineral Audit; Regional Mineral Audit under the Ministry of Natural Resources and Environment;

b) Local Mineral Audit under the Department of Natural Resources and Environment of provinces and municipal cities .

2. The government shall define the organisation and operation of the mining industry audit.

### **CHAPTER XII IMPLEMENTING PROVISION**

#### **Article 79. Effectiveness**

This Law comes into effect from date ... month ... year ... and supersedes the Mineral Law of March 20, 1996 and Law No. 46/2005/QH11 of June 14, 2005 providing partial amendments and supplements to the Mineral Law.

#### **Article 80. Implementing guidelines**

The government shall elaborate and provide implementing guidelines for this Law.