

**MINING WORKING GROUP – POSITION PAPER VBF 2013  
MID-TERM VIETNAM BUSINESS FORUM**

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**THE MACRO ISSUE:**

*Negative perception of Vietnam's excessive and uncertain fiscal and regulatory controls on the country's mining industry is depriving the economy of vital investment funds needed to build the mining sector as an important, sustainable contributor in helping Vietnam achieve its development goals.*

**Necessary Conditions for Economic, Sustainable Mining in Vietnam**

Successful mineral exploration and mine development anywhere in the world requires high-risk, long-term financial investment, modern technology and confidence by the investor in consistent, practical national policies that will help deliver a commercially acceptable return on investment, despite the many natural risk factors inherent in mining.

The largest pool for this kind of investment money and technology is with the world's major mining corporations, consortiums and finance houses.

Unfortunately, unlike in most of Vietnam's ASEAN partners, none of the world's recognised major international mining companies is currently active in the mineral exploration or mining sector in Vietnam, either in their own right or in partnership with Vietnamese companies. Foreign technical expertise and financial investment to develop the sector is presently being provided by just a small number of junior foreign companies listed on recognized stock exchanges such as London, Toronto and Australia and an equally small number of technically strong Vietnamese companies.

**The World Mining Industry's View on Vietnam**

Vietnam's inability to attract significant foreign expertise and investment in the mining sector is highlighted in the recently released Fraser Institute 2012/2013 annual survey of exploration and mining companies operating in 96 jurisdictions world-wide (mostly countries but including some states and provinces in significant mineral producing countries such as Australia, Canada, USA and Argentina).

The survey examined international company perceptions of the public policy factors that either encourage or discourage investment in each jurisdiction. Out of the 96 jurisdictions surveyed, Vietnam was ranked 95<sup>th</sup>. Moreover, in the last three years Vietnam has fallen in ranking by the Fraser Institute annual surveys from 55<sup>th</sup> to 84<sup>th</sup> to 95<sup>th</sup> respectively. In other words, rightly or wrongly, Vietnam is being seen as being less attractive for foreign investment in the mining sector each year.

Policy factors considered in the survey, to quote directly from the Fraser Institute, "included uncertainty concerning administration of current regulations and environmental regulations, regulatory duplication, the legal system and taxation regime, uncertainty concerning protected areas and disputed land claims, infrastructure, socioeconomic and community development conditions, trade barriers, political stability, labour regulations,

quality of the geological data-base, security, labour and skills supply, corruption and (other) uncertainties”.

In some of these factors such as political stability, Vietnam should score well, but even though Vietnam's poor ranking based on other policy factors is likely to be subjective in many respects, there is clearly a negative international perception of the attractiveness of investing in Vietnam's exploration and mining sector, particularly in the regulatory, legal and taxation areas.

### **The Key Specific Issue that Deters Investment**

Currently, exploration and mining enterprises in Vietnam are subject to 12 taxes, fees and charges including:

- Fee for Use of Geological Information
- Refund of Mineral Investigation and Exploration Fees
- Mineral Reserves Appraisal Fee
- Licensing Fee
- Environmental Impact Assessment Report Appraisal Fee
- Environmental Protection Fee
- Royalties
- Export Tax
- Corporate Income Tax
- VAT
- Environmental Tax
- Environmental Rehabilitation Collateral Fund

We understand that the Ministry of Finance is considering to review and increase royalties on minerals, which are already generally regarded as being the highest in the world. We are also aware that the Ministry of Natural Resources and Environment is drafting the Circular on a new fee provided for in Mineral Law 2010, the Mining Right fee, which will be levied on top of royalties currently payable.

The current taxes, charges and fees, together with proposed new fees, when all combined, make it almost impossible for mining operations to be profitable in Vietnam.

Investment in exploration and mining is a long-term commitment with large investment capital and high risk of failure. Investors need stable investment policies, consistency, and most importantly, ensuring the principle of fairness between the interests of the State, enterprises and communities.

World mining practices recognize that the level of taxes, charges and fees on mining must ensure harmonization of interests between the State, the mining enterprise and the community. Nobody benefits if an enterprise cannot realize a satisfactory return on its investment which therefore in turn reduces or nullifies revenues that would otherwise flow to the State and to the community, both directly and indirectly through the many associated support services and industries that are required to support mining operations.

As the enabling regulations and guidelines of the 2010 Mineral Law are progressively introduced and applied, the Mining Working Group hopes that it can contribute to dialogue with, and provide feedback to, Government ministries to improve international investment confidence and participation in Vietnam's minerals industry to make it a viable, safe and valuable part of the economy, and a much more significant contributor to Vietnam's GDP growth. Mining has the potential and should aim to deliver around 10% or more of GDP.