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SUMMARY

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PRESIDENCY OF THE REPUBLIC

Law No. 18/001 of 9 March 2018 amending and supplementing Law No. 007/2002 of 11 July 2002 on the Mining Code

Explanatory memorandum

Ordinance-Law No. 81-013 of 2 April 1981 on general legislation on Mines and Hydrocarbons, as amended and supplemented by Ordinance-Law No. 82-039 of 5 November 1982, was repealed and replaced by Law No. 007/2002 of 11 July 2002 on the Mining Code.

The new legislation was intended to be more competitive, with procedures for granting mining rights and/or quarries that were objective, fast and transparent, as well as an incentive-based tax, customs and exchange rate regime for the investor.

Its application from July 2002 to 31 December 2016 was the basis for the significant increase in the numberof mining companies and mining rights and quarries as well as the increase in mining production in the Democratic Republic of Congo.

Nevertheless, the boom in the mining sector, which is supposed to bring the State substantial revenues for its economic and social development, has not been able to meet these expectations.

This unsatisfactory situation has led to a reconsideration of this Mining Code and its application. This reconsideration has been justified by a number of the shortcomings and weaknesses on its part.

These include :

1. the survival of the conventional regime and that of the common law, as well as the stability clause of acquired rights over a period of ten years, regularly impacting the return of the tax and customs regime ;
2. the inadequacy of the provisions relating to the freezing of mineral substances in the perimeters covered by mining and quarry rights;
3. the low proportion of the State's participation in the share capital of mining companies;
4. the low rate of fixed duties for the registration of mortgages and assignment contracts;
5. the extension, without preconditions, of the privileged regimes of the Code to subcontractors and affiliated companies as well as to the holders of mining rights in production for several years;
6. the eligibility for mining and quarry rights of natural persons, who are unlikely to have the financial and technical capacities required of mining and quarry rights;
7. the question of excess profits generated by very sharply rising market prices and their distribution;

8. the absence of a standard contract, a reference for the preparation of partnership contracts binding public companies;
9. the absence of standard specifications setting out the socio-environmental obligations of mining operators vis-à-vis local communities;
10. the lack of transparency and the low profit derived by the Congolese State from the exploitation of mineral substances from its soil and subsoil .

Hence the need for a review. This is motivated, on the one hand, by the concern to increase the level of control of the management of the State's mining domain, mining titles and quarries, to redefine the elements relating to social responsibility and environmental of mining companies with regard to the communities affected by their projects, as well as balancing the tax, customs and exchange regime within the framework of the partnership between the State and mining operators and, on the other hand, the need Legislative to bring the Mining Code into line with the evolution of the politico-administrative context, marked by the advent of a new Constitution in 2006 involving new stakeholders in the management of the Code.

With this in mind, it brings several innovations, including :

1. the inclusion of the storage, possession and transport of mineral substances within the scope of this Code;
2. the restriction of eligibility for mining rights to the legal person only ;
3. the increase in the proportion of the State's participation in the share capital of mining companies ;
4. payment of proportionate duties;
5. strengthening the conditions for granting, transforming, renewing and transferring mining and quarry rights;
6. providing incentives to provinces with infrastructure deficits to enable their economic growth;
7. the exclusivity of the activity of subcontracting in the mining and quarrying sector only to companies whose majority of the capital is held by Congolese;
8. the precision of the methods of superposition of the perimeters of mining rights and/or quarries ;
9. the required participation of at least 10% of natural persons of Congolese nationality in the share capital of mining companies ;
10. the restriction of access to artisanal exploitation only to natural persons of full age of Congolese nationality, members of an approved cooperative;
11. the withdrawal of mining rights and the recovery of the perimeter;
12. the participation of the Congolese in the capital of the counters for the purchase and sale of precious materials and processing;
13. the introduction of the concept of a separate mine and the obligation to create a company under Congolese law for its exploitation;
14. the introduction of specifications for mining companies in relation to their social responsibility towards local populations;
15. the introduction of the environmental certificate for obtaining an Operating Permit;
16. strengthening the industrial responsibility of the incumbent;
17. taking into account the principles and criteria of the Extractive Industries Transparency Initiative ;
18. the restriction of the Code's privileged regime ;
19. broadening the base and raising mining royalty rates;
20. the cessation of the benefit of entry rights at the preferential rate for holders who have completed six years or more of exploitation ;
21. the effectiveness and control of the repatriation of 60

% or 100% of export sales revenue;

22. the intervention of other sectoral ministers in the sphere of competence of the Minister of Mines because of the transversality of mining;
23. the precision of the legal framework that may exceptionally authorize the export of minerals in the raw state;
24. the export authorisation, as the case may be for mineral substances ;
25. the establishment of collaboration between the Congolese Environment Agency and the Directorate of Environmental Protection on issues relating to environmental and social education;
26. the replacement of the environmental notice by the environmental certificate ;
27. the exclusive attribution to the Prime Minister of the competence to classify or downgrade an area prohibited to mining activity or backworks, to declare the classification or downgrading of a mineral substance into a reserved substance;
28. the obligation to construct the building housing the head office in the capital of the province of the holding;
29. the application of the rules on straight-line depreciation of fixed assets;
30. the fixing of the amount of the share capital at least 40% of the resources necessary to carry out the investment ;
31. the valuation of the deposit in the event of the sale of real estate assets and the inclusion of its value in the share capital of the joint venture;
32. the allocation of doorsteps to the State-owned commercial company that carried out the study and documentation work on the deposit.

That is the general scheme of this Act.

Law

The National Assembly and the Senate adopted;

The President of the Republic promulgates the following Law :

Article 1

Articles 1, 2, 3, 4, 5, 6, 7 of Chapter I and 16 of Chapter II of Title I of Law No. 007/2002 of 11 July 2002 on the Mining Code are amended as follows:

' TITLE Ier : GENERAL

CHAPTER I: DEFINITIONS, THE SCOPE OF APPLICATION AND THE FUNDAMENTAL PRINCIPLES

Article 1: Definitions

For the purposes of this Code, the following definitions shall apply :

1. buyer: any authorized employee of a purchasing counter, a gold, diamond and other artisanal mineral processing entity , who carries out its activities in accordance with the provisions of this Code;

1ter. ACE, Congolese Environment Agency: public establishment of a technical and scientific nature, created by Decree No. 14/030 of 18 November 2014 under the Law on fundamental principles relating to the protection of the environment and carrying out, throughout the national territory, the activities of evaluation and approval of all environmental and social studies as well as the monitoring of their implementation and ensuring that the taking into account of environmental protection in the execution of minorprojects;

2. mining activities: any services, supplies or works of the art of mining directly related to research, mining and the processing and/or processing of mineral substances, the development, construction and infrastructure;

3. Mining Administration : all directorates, divisions and other public services of mines and quarries;

3bis. protected area: geographical area clearly defined, recognized, consecrated and managed by any effective means, legal or otherwise, in order to ensure in the long term the conservation of nature as well as the ecosystem services and cultural values associated with it in accordance with Article 2.1 of Law No. 14/003 of 11 February 2014 on nature conservation;

5. beneficiary: any natural person of Congolese nationality having the enjoyment of the land under customary law or any natural or legal person occupying the land under a land title;

5bis. signature bonus : non-refundable remuneration required by the offeror, the State, and accepted by the applicant as a right of access, during the tendering procedure, for a studied, documented or worked deposit belonging to the State, collected by the Public Treasury;

5quater. square: minimum grantable cadastral unit, of indivisible character, delimited by the meridians and parallels of the coordinate system of the mining fall map , having an area of 84.95 Ha;

7. craft operator's card: title under which the artisanal operator engages in artisanal exploitation
;

8. merchant's card: a document issued in accordance with the provisions of this Code, which authorizes the person on whose behalf it is established to engage in the purchase of mineral substances from artisanal exploitation with approved mining cooperatives and reselling them to approved counters and processing entities ;

9a. CEEC, Centre d'Expertise, d'Evluation et de Certification: a public establishment of a technical nature governed by the Law on Public Establishments and whose object is the expertise, evaluation and certification of mineral substances precious, semi-precious and coloured stones , precious and semi-precious metals, rare metals as well as mineral substances produced by artisanal mining ;

9 ter. Environmental certificate: administrative document issued by the Congolese Environmental Agency at the end of the environmental and social instruction attesting that the execution of the project as well as the operation of the works complies with the principles of environmental and social safeguarding;

9c.certification: a set of mechanisms, procedures and processes for establishing the nature, physical and/or chemical characteristics, origin and legal and lawful provenance of mineral substances, in accordance with national standards, regional and international in this area, taking into account both the tracking and traceability of mineral substances throughout the supply chain;

9 D. local community: population traditionally organized on the basis of custom and united by the bonds of clan or parental solidarity that founds its internal cohesion. It is characterized, moreover, by its attachment to the territory of the mining project ;

10 encore. taxpayer: holder of a legal right to research or exploitation, a permanent quarrying permit and the subcontractor previously approved in accordance with the subcontracting act;

10 ter. mining cooperative : cooperative society governed by the Uniform Act of 15 December 2010 on the law of cooperative societies bringing together artisanal operators, approved by the Minister, and engaged in the artisanal exploitation of mineral substances or quarry products within an artisanal mining zone;

16. processing entity: any economic entity constituted in the form of a sole proprietorship, a commercial company or a mining cooperative which, by mineralurgical and/or metallurgical processes, obtains, from the ores, a commercial mining product in the form of a concentrate or refined or refined metal;

17. processing entity : any economic entity constituted in the form of a sole proprietorship, a commercial company or a mining cooperative which, by processes,

industrial, changes the shape and nature of the concentrate or refined metal and obtains marketable finished or semi-finished products ;

18. State: the Central Power, the Province and the Decentralized Territorial Entity ;

18 bis. feasibility study : a detailed report setting out the feasibility of putting into operation a deposit discovered in the mining perimeter covered by the rights of research and setting out the programme envisaged for this exploitation , which must include in particular:

a. the assessment of exploitable reserves in accordance with internationally accepted standards;

b. the choice of the method of exploitation and its justification ;

c. the choice of the treatment process and its justification on the basis of the results of the treatment tests;

d. the construction schedule of the main production facilities and related infrastructure;

e. the provisional generation of income account with details of operating costs;

f. the total cost of investment including the capital cost to be incurred in order to acquire and install all the necessary machinery, production equipment and related infrastructure;

g. the specifications of the products to be produced and all intermediate products ;

h. the sequential program of operations with regard to production objectives;

i. the marketing plan for the products and corresponding fees ;

j. the timetable for the start-up of commercial production, taking into account the trial period.

19. ESIA , Environmental and Social Impact Assessment: systematic process of identifying, predicting, evaluating and reducing physical, ecological, aesthetic and social effects

prior to the development, work, equipment, installation or establishment of a mining operation or permanent quarry, or of a processing entity, and making it possible to assess the direct or indirect consequences on the environment;

19bis. artisanal operator: any adult natural person of Congolese nationality holding a valid artisanal operator's card member of a mining cooperative who engages in artisanal mining work of the mineral substances within an artisanal mining zone;

20. exploitation: any activity by which a legal person engages, from an identified deposit, and by means of surface and/or underground work, in the extraction of mineral substances from a deposit or an artificial deposit, and possibly to their processing in order to use or market them;

21. artisanal exploitation: any activity by which an artisanal farmer engages in the extraction and concentration of mineral substances in an artisanal mining area using tools, methods and methods non-industrial processes in accordance with the provisions of this Code;

22. small-scale mining or small-scale mining: any activity by which a legal person engages in a small and permanent operation, requiring a minimum of fixed institutions, using semi-industrial processes or industrial, after a deposit has been identified;

23. exploitation of mine discharges : any activity by which a third party, a legal person, extracts substances from an artificial deposit in order to treat them possibly and to use or market them ;

23 bis. extinction of a mining right or quarries: end of the validity of a mining right or quarries due to the lapse, cancellation, withdrawal, waiver and expiry of the right, in accordance with the provisions of this Code;

24. category1A classified installation: stationary or mobile source, regardless of its owner or

use, likely to cause nuisance and damage to the environment, in particular soil resources, subsoil resources, water, air and forest resources subject to authorisation.

28 bis. Law on Environmental Protection : Law No. 11/009 of 9 July 2011 on fundamental principles for environmental protection;

28 ter. Law on public establishments: Law No. 08/009 of 7 July 2008 laying down general provisions applicable to public establishments;

28c. commonly used building materials: all low-value non-metallic mineral substances, classified as quarries and used in the building industry as ordinary non-decorative materials, used extensively in small scale, as enumerated by regulation;

28 quinquies. base metals: metals that oxidize, tarnish or corrode relatively easily when exposed to air or moisture. Copper, tin, aluminum, nickel, zinc and lead are among them. Because of their natural abundance in the Earth's crust, base metals have prices far lower than those of precious metals such as gold, rhodium, platinum, palladium, silver;

28 sexies. ferrous metals: in addition to iron and cast iron, so-called carbon steels and special steels;

28septies . non-ferrous metals: base metals to which certain rare and semi-precious metals such as titanium, cobalt, vanadium and molybdenum may be added. These metals are used in alloys containing very little or no iron;

29. mine: any deposit exploitable in the open pit or underground with the plant included for the treatment or transformation of the products resulting from such exploitation and located within the mining perimeter, by the installations and movable and immovable equipment assigned exploitation;

29bis. separate mine : a mine distinct from another existing mine and therefore new, which is the subject of a new mining right or a lease agreement, provided that it concerns a

a separate deposit requiring separate methods of exploitation and treatment processes and clearly individualised means of production, or because of their remoteness or operating conditions, necessitating the creation of separate mining facilities;

30bis. radioactive ores: any rock containing one or more radioactive minerals possessing one or more chemical elements of economic value ;

31bis. industrial minerals: substances and minerals, non-metallic for the plupart, found in varying concentrations in various types of natural rocks and used as materials basic or complementary firsts in the manufacturing processes of many industrial sectors. These are essentially clays, silica, kaolin, quartz, gypsum, talc, mica, feldspar and Andalusian;

32. Minister: Minister of the Government with Mines and Quarries in his attributions;

32bis. Minister of Finance : Minister of the Government with Finance in his attributions ;

32ter. Minister of the Environment: Minister of the Government with Environment and Sustainable Development in his attributions;

32quater. Provincial Minister : Minister of the Provincial Government responsible for mines and quarries ;

33. trader: any natural person of full age of Congolese nationality, holding a trader's card issued in accordance with the provisions of this Code;

34. non-resident: a person who has no domicile or residence in the Democratic Republic of Congo;

Art. 36 . specialized research organization : public institution under the supervision of the Minister, created by decree of the Prime Minister, in order to carry out soil or subsoil investigation activities with the aim of to improve geological knowledge of the national territory or provinces to

scientific purposes or for the improvement and promotion of geological information;

36bis. no door: non-refundable tax levied by the State, in the event of a call for tenders, as remuneration for the efforts initially made or provided by the State or a mining company in its portfolio for discover a deposit considered from then on to be studied, documented and worked or a deposit taken over by the State after the extinction of a mining right of exploitation, in accordance with the provisions of this Code;

39bis. precious stones: precious mineral substances consisting of one or more chemical elements and possessing the special properties which thus give them a high market value. These include: diamond, emerald, ruby, sapphire, chrysoberyl, topaz, andesine, tanzanite, corundum, tourmaline and any other jewellery stone of comparable value generally traded in carats;

41. PGES, Environmental and Social Management Plan: environmental specifications of the mining project consisting of a programme for the implementation and monitoring of the measures envisaged by the ESIA to eliminate, reduce and possibly compensate for the harmful consequences of the mining project on the environment;

41bis. arm's length: the principle that prices charged for transactions between affiliated companies or any other agreed terms that apply to such transactions must be established by reference to the prices charged on the market by independent companies;

42. marketable product: any marketable mineral substance, legally extracted in an artisanal, semi-industrial or industrial manner, or any product produced in concentration, metallurgical extraction or processing plants, in accordance with the nomenclature issued by the authority competent;

42a. radioactive products: all productsresulting from the treatment and/or transformation of radioactive substances ;

42ter. project or mining project : any project set up by the holder, concerning one or more activities

mining or quarrying, with a view to the discovery or exploitation of a deposit and the marketing of commercial products ;

42quater. mining project: a project set up by the holder of a mining right to exploit either one or more mines within the same mining perimeter or a separate mine;

42quinquies. mining research project: any project set up by the holder of one or more mining rights for research aimed at the search for one or more mineral substances;

44bis. ionizing radiation : radiation capable of producing pairs of ions in biological matter;

45. mining regulations : all the measures to implement the provisions of this Code, taken by Decree of the Prime Minister deliberated in the Council of Ministers;

46. mine discharges: waste rock or backfill from mining or any solid or liquid residue from mineralurgic or metallurgical treatment;

46bis. applicant: any person who applies for a mining title or quarries ;

46ter. SAEMAPE, Service d'Assistance et d'Encadrement de l'Exploitation Minière à Petite Échelle : public service of a technical nature endowed with administrative and financial autonomy, whose purpose is to assist and supervise artisanal and small-scale mining scale of mineral substances;

48 . subcontractor: any legal person under Congolese law with Congolese capital providing equipment or carrying out necessary works and/or services on behalf of the holder in the context of its mining activities under mining title and including in particular the construction of industrial, administrative, socio-cultural and other infrastructures necessary for the project as well as all other services directly related to the mining project;

48 bis. radioactive substance: any substance or material containing unstable radioactive atoms that emit ionizing radiation when they decay;

48ter. reserved substance: any mineral substance which, for requirements related to the need to ensure national safety and/or the safety of populations, is declared as such in accordance with the provisions of this Code, in particular the radioactive substance ;

48quater. strategic substance: any mineral substance which, according to the international economic situation of the moment, at the discretion of the Government, is of particular interest with regard to the critical nature and the geostrategic context;

49bis. superprofits or excess profits: additional profits above current and normal rates of return, and due to particularly favorable market conditions;

49ter. tax: any levy other than taxes and customs duties, levied either for the benefit of the Government, the province, the Decentralized Territorial Entity or for the benefit of other personalized public services of all levels;

53. holder: a legal person in whose name a mining or quarry right is granted and a mining title or quarry title is established, in accordance with the provisions of this Code. However, the amodiataire is assimilated to the holder;

53bis. traceability: mechanism put in place to ensure the monitoring of the stages of the mining production chain and subsequent financial flows from the extraction site of the mining products to their export through their holding, transfer, marketing, processing and/or transformation;

54. processing: mineralurgical and/or metallurgical process that results in the obtaining of a marketable mineral substance from the ores extracted;

54bis. transparency: a set of rules, mechanisms and practices making it compulsory for the State and extractive companies, in particular those in the mining industry, to make declarations and publications by the State and extractive companies, in particular those in the mining industry, of revenues and payments of all

gender, including, but not limited to , mining revenues and transactions , publication of production and sales statistics, publication of contracts, and disclosure of owners real mining assets as well as data on resource allocation from the mining sector. It also extends to compliance with the obligations of procedures for the acquisition and disposal of mining rights;

55bis. gross commercial value: value of the market product at the time of its removal from the extraction or processing facilities for shipment. This value is equal to the average quotation of the market product on the international market during the month preceding this exit or, failing that, any other reliable market index;

56. artisanal mining area: geographical area delimited in surface and depth by the Minister.

Article 2: Scope

The provisions of this Code shall apply, in their entirety and in their entirety, to the operations of research, industrial, semi-industrial and artisanal exploitation as well as processing, storage , detention, transport, marketing and export of mineral substances.

The processing of mineral substances and quarry products extracted or treated, carried out by a person other than the holder of a mining right or quarry of exploitation, are governed by legislation and general regulations on industry.

The prospecting, exploration and exploitation of liquid or gaseous hydrocarbons and activities or operations concerning thermal or mineral waters which are governed by the law on the general regime of hydrocarbons or by special legislation, as the case may be.

Article 3 already. 1er

Mineral deposits, including artificial deposits, groundwater and geothermal deposits on the ground surface or enclosed in the subsoil or in watercourses

of the national territory are the exclusive, inalienable and imprescriptible property of the State, based on its sovereignty over natural resources.
Article 4 para. 2 and 4

Deposits or deposits of mineral substances not classified in quarries, other than liquid or gaseous mineral fuels, are classified as mines.

Notwithstanding the above classification, the Prime Minister may, by decree deliberated in the Council of Ministers, on a proposal from the Minister, after consulting the specialized research body, if there is an opportunity, decide to classify, downgrade or reclassify a substance from mines as a product of careers and vice versa.

Article 5: Authorization of mining and/or quarrying operations

Any legal person shall be entitled to engage in the non-artisanal fishing or exploitation of mineral substances throughout the national territory, provided that it holds a valid mining right and/or quarries granted by the competent authority in accordance with the provisions of this Code.

Any natural person of full age of Congolese nationality, except pregnant women, who wishes to engage in the artisanal exploitation of mineral substances throughout the national territory, may do so only within the framework of an approved mining cooperative, in accordance with the provisions of this Code and whose membership is subject to the possession of a craftsman's card.

Shave authorized the marketing of mineral substances:

- holders of mining rights and/or mining quarries;
- processing entities;
- authorized counters;
- approved mining cooperatives;
- traders.

However , only holders of mining rights and/or mining quarries, processing entities and approved trading posts may export.

The farmer holding an artisanal operator's card may market the products resulting from the artisanal exploitationonly through the mining cooperative to which he has joined.
Article 6 para. 1, 2 , 3 , 4 and 5

If national safety, public security, the incompatibility of mining activity and quarry work with other existing or planned uses of the soil or subsoil, the protection of the environment as well as the preservation of Tourist sites require it, the Prime Minister may, on the proposal of the Minister and the Ministers having respectively The Planning , the Environment and Tourism in their attributions or the Provincial governor, after consulting the Mining Cadastre and the specialized research organization, declare an area prohibited to mining activities and /or quarry work.

The declaration of classification of a prohibited zone is made without limitation of duration by decree deliberated in the Council of Ministers.

Where the conservation of fauna, flora, soil, water and, in general, of a sensitive environment is of special interest requiring them to be removed from any intervention likely to alter their appearance, composition and evolution, the First Minister may, by decree deliberated in the Council of Ministers, on the joint proposal of the Minister and the Ministers responsible for the Environment and Nature Conservation and Tourism, delimit a portion of the national territory as a protected area, after consulting the Mining Cadastre. and the specialized research organization.

The decree delimiting the protected areas may determine their duration.

Mining rights or quarries may not be granted in a protected area or an artisanal mining area may be erected there .
Article 7 para. 1st and 2nd

If public security so requires, the Prime Minister may, by deliberation in the Council of Ministers, on a proposal from the Minister, after consulting the Mining Cadastre and the Specialized Research Organization, declare a mineral substance a reserved substance which he subjects to rules. Special.

The Decree classifying a mineral substance as a reserved substance specifies the rules and provisions to which that substance is subject.

CHAPTER II : THE ROLE OF THE STATE IN THE DISTRIBUTION OF COMPETENCES

Article 16 : Restriction of jurisdiction

Without prejudice to the provisions of Article 46 of this Code and the provisions of the Mining Regulations, outside the Ministries in charge of Mines, Environment and Finance, provincial governments, public services dependent on or under their supervision and State bodies expressly referred to in the Code or in the Mining Regulation, no other services or public or state body is competent to enforce the provisions of this Code and act directly in the mining sector.

Article 16 bis : Training

The Government defines and implements the policy on employment and training of nationals in the mining sector.

The Mining Regulation shall lay down the detailed rules for the application of this article.

Article 2.

Articles 23, 26, 27 of Chapter I, 28, 30, 31 of the Chapter II, 33, 34, 35, 37, 38, 40, 42, 43, 45, 46 and 47 of Chapter III in Title II are amended as follows:

'TITLE II: MINING PROVISIONS CHAPTER I: AND ELIGIBILITY

Article 23 letters a and b of paragraph 1

a. any legal person governed by Congolese law which has its registered and administrative headquarters in the national territory and whose corporate purpose relates exclusively to mining activities;

b. any legal person governed by foreign law whose corporate purpose relates exclusively to mining activities and which complies with the laws of the Republic;

Article 26 already. 1er

Without prejudice to the provisions of Article 27 below, only natural persons of full age of Congolese nationality holding artisanal operator cards and affiliated to mining cooperatives or approved quarry products are eligible for exploitation Craft.

Without prejudice to the provisions of Article 27 below, only natural persons of full age of Congolese nationality may acquire and hold merchant cards.

Article 27

The following are not eligible to apply for and obtain the cards of artisanal operator, trader, approval under mining cooperative or quarry products as well as approval as a counter for the purchase and sale of artisanal mineral substances:

a) agents and officials of the State, magistrates, members of the Armed Forces, agents of the National Police and Security Services, employees of public bodies authorized to carry out mining operations.

However, this incompatibility does not concern their acquisition of a stake in the capital of mining companies ;

b) any person suffering from legal incapacity provided for in Article 215 of Law No. 87-010 of 1 August 1987 on the Family Code, as amended to date ;

c) any person who is prohibited, including:

   a. a person convicted by a judgment cast in force of a judgement for infringements of mining and quarrying legislation or those relating to the economic activities of his mining and quarry rights and its affiliates for ten years;

   b. the person from whom the artisanal or trader's card has been withdrawn for three years;

c. the person to whom the approval for the counters for the purchase and sale of artisanal mineral substances has been withdrawn for five years.

CHAPTER II : MINING AND QUARRYING PERIMETERS

Article 28 al. 2

The perimeter is polygon-shaped composed of contiguous whole squares, subject to the limits taxable by the borders of the national territory and those relating to the prohibited areas and protected areas as specified in the Mining regulations.

Article 30 b , c and d

b. the perimeter of a mining right of exploitation may be superimposed on the perimeter of a right of careers of research or temporary exploitation. The right on the part of the perimeter of the Authorization for research of quarry products on which the perimeter of a mining right of exploitation is superimposed, is extinguished in return for fair compensation;

c. the scope of a research authorization for quarry products may be superimposed on the perimeter of a mining research right, subject to the consent of the holder of Research Permit.

d. the perimeter of an authorization for mining quarries may be superimposed on the perimeter of a mining research right or, with the consent of the holder, on part of the perimeter of an exploitation permit.

e. the perimeter of an artisanal mining area may be superimposed on the perimeter of a mining or quarrying right with the express written authorization of the holder. In all cases, the holder is obliged to submit at the same time a request for renunciation on the part of the perimeter encroached by the artisanal exploitation zone.

The last paragraph of Article 31

The nature and shape of the bollard as well as the terms and conditions of the demarcation are determined by the Mining Regulation .

Chapter III: THE PROCEDURE FOR MINING AND/OR QUARRY RIGHTS AND THE ISSUE OF MINING AND QUARRY TITLES

Article 33 para. 1st, 2nd, 3rd, 4th and 7th

The Government, through the Minister, submits to tender, open or restricted, the mining and quarry rights relating to any deposit studied, documented or possibly worked by the State, to be worked on s its services.

In such a case, the Minister reserves, by order, the mineral rights on the deposit to be submitted to the call for tenders. Before reserving quarry authorizations for the call for tenders, the Minister shall consult the provincial Minister of Mines and the local community concerned within the framework of a consultation commission, the terms of which shall be determined by regulation.

The reservation of mining rights and/ or quarries on the deposit submitted to the call for tenders is confirmed by the Prime Minister within thirty days of the entry into force of the relevant order of Minister.

The call for tenders shall be concluded within nine months of the reservation of thedeposit to be submitted to the call for tenders.

The call for tenders is made in accordance with the procedure provided for by Congolese legislation on public procurement and that generally accepted or recognized by international mining practice .

Article 34 already. 1er

Without prejudice to the granting of mining rights and/or quarries in accordance with the tendering procedure provided for in Article 33 of this Code, and unless they are recevable, applications for mining rights and/or quarries for a given perimeter shall be entered in the chronological order of their submission.

Article 35 already. 1er

Any application for mining or quarry rights is made on a form to be withdrawn from the Mining Cadastre for the right concerned and includes the following information:

a. the articles of association, registration in the Trade and Movable Credit Register, and proof of publication in the Official Journal;
b. tax ID information;
c. the capacity and power of the person entitled to bind the legal person and the identity of its representative if the application is submitted by the latter ;
d. the address of the registered office of the legal person, as well as any subsequent changes;
e. the typee of mining law or quarries requested ;
f. an indication of the mineral substances for which mining and/or quarrying law is sought;
g. the geographical location of the requested perimeter ;
h. the number of squares constituting the area of the required perimeter;
i. the identity of the applicant's affiliates ;
j. the nature, number and size of the mining or quarry perimeters already held by the applicant and his affiliated companies;
k. proof of the applicant's financial capacity.

Article 37 already. 1er

In return for the benefit, an amount shall be charged in respect of deposit fees on the occasion of the submission of each application for the institution, renewal , extension, transfer or improvement of a mining right or quarrying.

Article 38 (a), (b) and (d)

a) the existence of all the information required by Article 35 of this Code;
b) the production of proof of payment of the filing fees as well as that of the tax number, national identification number and the Trade and Movable Credit Register for legal persons;

d) - the existence of the entire perimeter requested within the perimeter subject to the Research Permit or the Authorization of Research of Quarry Products, if it is an application for mining rights or that permanent quarrying ;
- the production of proof of registration of the applicant in the Trade and Movable Credit Register if he is legally subject to this obligation.

Article 40 para. 1st, 3rd and 4th new

The Central or Provincial Mining Cadastre carries out the cadastral examination within a maximum of twenty working days from the submission of the application.

For the purposes of investigation, the Mining Cadastre verifies whether:

a. the applicant is eligible for the type of mining and/or quarry rights requested;
b. the limits of the number of mining rights and/or quarries, the form and area of the requested Perimeter have been respected;
c. the requested perimeter encroaches on a perimeter that is the subject of a mining or quarry right or a request pending investigation, unless encroachments authorized by article 30 of this Code.

During the cadastral examination of applications for mining rights and/or quarries, the following rules apply in the event of encroachments other than those provided for in Article 30 of this Code:

a. when an application for mining rights and/or research quarries relates to a perimeter of which more than 25% encroaches on another mining perimeter or valid quarries or is submitted while another application is under investigation, that application shall be rejected.
b. where an application for mining rights and/or research quarries relates to a perimeter of which a maximum of 25% encroaches on another mining perimeter or valid quarries or is submitted while an application is under investigation, the situation is corrected to eliminate encroachments.

In any case, the following applications may not be rejected on grounds of encroachment during the cadastral investigation :

a. the application for mining rights or mining quarries of the holder of mining rights or research quarries on the same perimeter;
b. the application for the conversion of mining rights or research or exploitation quarries into several mining rights or research or exploitation quarries on the same perimeter;
c. the application for the Permit to exploit the discharges of the holder of the mining right covering the perimeter on which the discharges are stored.

Article 42: Environmental and Social Education

In accordance with the provisions of articles 16 and 185 of this Code and the provisions concerning each type of mining and/or quarrying rights, the Congolese Environment Agency, the National Promotion Fund and social service, in collaboration with the Directorate responsible for the protection of the mining environment and, where appropriate, any other body of the State concerned, instruct the ESIA and the GGP relating to the application for a mining right to operate or the authorization for permanent quarrying, the RAP relating to an application for authorization to operate a temporary quarry, the file of the application for the transfer of the mining right or the authorization to operate permanent quarries, as well as the plan for the contribution of the project to the development of the surrounding communities.

A summary of the ESIA, the GGP or the RAP, if any, is published on the website of the Ministry in charge of Mines within fifteen days of receipt. The applicant for the mining and/or quarry law concerned is required to publish this summary on his own website, in case he has one. The Congolese Environment Agency transmits, at the conclusion of the environmental instruction carried out, its environmental certificate, if any, to the Mining Cadastre within the prescribed period for each type of rights mining and/or rear c. A copy of the environmental certificate shall be communicated to the applicant.

Within a maximum period of five working days from receipt of the environmental certificate, the Mining Cadastre shall:

a. the display of the environmental certificate of the Congolese Environment Agency in the room determined by the Mining Regulations. A copy of the environmental certificate is provided to the applicant;
b. the transmission of the application file, together with the cadastral opinion, the technical opinion and the environmental certificate , where appropriate, to the competent authority for decision.

The Congolese Environment Agency, in collaboration with the Directorate in charge of the protection of the mining environment, also instructs the RAP submitted by the holder of the mining rights and/or research quarries and transmits, at the conclusion, its environmental certificate to the Mining Cadastre within the time prescribed in the Mining Regulation.

Any person who, for the purposes of a mining activity, is obliged to clear a portion of forest, is required in advance to obtain a deforestation permit from the competent administration for this purpose.

Article 43 para. 1 and 4

On receipt of the application file with a favourable cadastral and, where appropriate, technical, environmental and social opinion, the competent authority shall take and forward its decision to grant it to the Mining Cadastre within the time limit for the decision prescribed for each type of application for mining rights or quarries.

The applicant shall request the Mining Cadastre, within sixty days of the expiry of the time limit set for the competent authority, to register his right and issue the relevant title. After this period, the right is automatically waived.

The Mining Regulation determines the terms of this automatic renunciation .

Article 45 already. 1er

The period for granting or refusing to grant mining rights or quarries set to the competent authority by the provisions of this Code shall begin to run on the day of receipt of the file transmitted by the

Mining cadastre with the required cadastral and, where appropriate, technical, environmental and social notices.

The transmission of the file to the competent authority by the Mining Cadastre is done by mail with acknowledgment of receipt.

Article 46 para. 2 and 3

Within forty-eight hours of receipt of the application, the President of the Territorially Competent Court of First Instance shall fix the case at the first useful hearing of his court. The Tribunal notifies, by way of bailiff, the day and time of the hearing to the applicant, the Mining Cadastre and the Officer of the Public Prosecutor's Office.

In accordance with the provisions of Article 68 paragraph 2 and in derogation from those of Article 69 paragraph 1 of Organic Law No. 013/011-B of 11 April 2013 on the organization, functioning and jurisdiction of the courts of the judicial order , the Public Prosecutor's Office issues its opinion verbally on the benches which is recorded in the pen of the hearing.

Article 47

In the event of a decision to grant or in the event of a decision to register by judicial means provided for in Article 46 of this Code, the Mining Cadastre shall issue to the applicant the mining and/or quarry titles evidencing the mining rights or quarries granted, subject to payment of the annual surface fees per squares relating thereto.

For the purpose of issuing the permit, the Mining Cadastre ensures the authenticity of the proofs of payment ofthe annual surface dr oits per square and enters the mining or quarry title in the corresponding register.

Without prejudice to the provisions of Article 198 of this Code, the annual surface fees per square shall be paid, for the first year, no later than thirty working days from the notification of the grant of the requested right and the debit notes relating to the annual surface rights by square. After this period, the right granted automatically lapses . »

Article 3.

Articles 50, 52, 56, 58, 60, 61, 62 of Chapter I,
64, 67, 69, 71, 75, 76, 77, 80 and 85 of Chapter II, 88,

91, 95 of Chapter III, 97, 99, 101, 104 and 107 of Chapter IV of Title III are amended as follows:

'TITLE III: MINING RIGHTS

CHAPTER I: RESEARCH

Article 50: Scope of the Research Permit

The Research Permit covers the mineral substances classified as mines for which it has been granted and the associated substances, if the holder requests that they be extended to the latter.

Article 52: The duration of the Research Permit

The duration of the Research Permit is five years renewable once for the same duration for all mineral substances.

Article 56: Conditions for granting the Research Permit

To obtain a Research Permit , the applicant :

- provides proof of the financial capacity and technical competence necessary to carry out the research relating to the Permit requested;
- meets the requirements set out in Articles 23bis and 38 of this Code.

Article 58

In accordance with article 56 of this Code, the minimum financial capacity depends on the budget provided for the execution of the research programme.

In any case, the minimum financial capacity may not be less than fifty times the total amount of the annual surface fees payable forthelast year of the first period of validity of the Research permit requested.

Funds representing this capacity are deposited into an account opened with an authorized Congolese bank and are blocked for the entire period of the examination of the file.

Article 60 al. 2

The declaration of partial or total renunciation addressed to the Minister, filed with the Mining Cadastre, specifies the coordinates of all or part of the perimeterrenounced and that retained. It takes effect on the day on which the Minister gives notice or, in any case, within three months from the date of filing ofthe declaration.

Article 61 para. 3 and 4

At the expiry of the Research Permit, the Mining Cadastre immediately notifies the holder of the expiry of his right with a copy to the Specialized Research Organization and the Geology Directorate.

However , the holder is not relieved of his responsibilities for environmental rehabilitation after the expiry of his right.

Article 62: Conditions for the renewal of the Research Permit

The Research Permit is renewable provided that the holder :

a. has not failed to comply with its obligations to maintain the validity of the permit under sections 196 to 199 of this Code by submitting:
   - proof of the certification of commencement of work duly issued by the Mining Cadastre ;
   - proof of payment of annual surface fees per square and tax on the area of mining and hydrocarbon concessions.
b. submits a report of the research carried out during the previous period of validity of his title and the results obtained ;
c. submits a timetable for carrying out the research work ;
d. proves the effective opening of a Research Centre duly certified by the local authorities and the Provincial Mines Division;
e. has not failed in its fiscal, parafiscal and customs obligations;
f. identifies the remaining phases to be completed to reach the final stage of reserve certification and the development of feasibility studies;
g. presents the supplementary budget in relation to the programme of research work corresponding to the remaining phases listed above.

The application for renewal of the Research Permit is sent by the applicant to the Mining Cadastre at least three months and not more than six months before the date of expiry of the Permit, and must contain the the following information:

a. the particulars provided for in subparagraphs b and c of Article 35 of this Code;
b. the number of squares to be renewed and their location ;
c. the identity of the companies ;
d. the nature, number and size of the perimeters of the Research Permits held by the holder and his affiliated companies.

On the occasion of renewal, the holder of the Research Permit automatically renounces at least 50% of the perimeter covered by his permit and must develop and obtain the approval of the revised Mitigation and Rehabilitation Plan for the proposed activity, before continuing the work mining research.

The Mining Regulation determines the terms and conditions of the deposit, admissibility or inadmissibility, the investigation, the decision to renew the Research Permit as well as its registration and display.

CHAPTER II : [illegible]

Section 64: Scope of the Operating Permit

The Operating Permit authorizes its holder to exploit, within the perimeter it covers, the mineral substances for which it is specifically established. These mineral substances are those which the holder has identified and for which he has demonstrated the existence of an economically exploitable deposit.

Without prejudice to section 33 of this Code, the area of the perimeter covered by the Exploitation Permit is that of the Research Permit from which it derives or that of the part of the perimeter of one or more Research Permits transformed into an Exploitation Permit or that of the perimeter of the Permit in the event of the conversion of an operating permit into several other operating permits.

The Operating Permit may be extended to associated or non-associated substances in accordance with the provisions of section 77 of this Code.

The Mining Regulation determines the conditions of the said transformation.

Article 67: The duration of the Operating Permit

The period of validity of the Operating Permit may not exceed twenty-five years.

It is renewable at the request of its holder for periods not exceeding fifteen years each.

Article 69 littera f

The following documents shall be attached to the application:

f. the report on consultations with local communities and their representatives in application, in particular, of the provisions of the Law on fundamental principles relating to the protection of the environment;

Article 71 b , c, d, e, f, g and h

b. demonstrate the existence of the financial resources necessary to carry out its project in accordance with a financing plan for the development, construction and operation of the mine and the site rehabilitation plan when it closes. The plan shall specify each type of funding, the sources of funding targeted and the justifications for their likely availability. In all cases, the share capital contributed by the applicant may not be less than 40% of the said resources;

c. obtain prior approval from the ESIA and the ESGP of the project ;

d. transfer to the State 10% of the shares constituting the share capital of the applicant company. These shares are free of all charges and not dilutable;

e. create, on each transformation, as part of a separate mine or a separate mining project, an affiliate in which the applicant company holds at least 51% of the shares;

f. submit a deed of commitment to comply with the specifications defining the social responsibility vis-à-vis the local communities affected by the project activities ;

g. have complied with the obligations to maintain the validity of the permit set out in sections 196, 197, 198 and 199 of this Code by submitting :

- proof of the certification of commencement of work duly issued by the Mining Cadastre ;
- proof of payment of annual surface fees per square and tax on the area of mining concessions;

h. give proof of the capacity to process and transform mineral substances in the Democratic Republic of Congo and file a deed of commitment to process and transform these substances on Congolese territory.

Article 75 : The time limit for the investigation environmental and social application for the Operating Permit

The environmental and social instruction of the ESIA and the PGES relating to an application for an operating permit declared admissible is carried out within six months from the date of transmission of the application file by the Mining Cadastre to Agenc e Congolaise de l'Environnement and the National Fund for Promotion and Social Service, in collaboration with the Directorate for the Protection of the Mining Environment, in accordance with the regulations on environmental protection .

Article 76: The Minister's Decision

If the cadastral, technical, environmental and social opinions following the examination of the application for the Exploitation Permit are favourable, the Minister shall make his decision to grant it within thirty working days from the date of receipt of the application file sent to him by the Mining Cadastre .

If the cadastral opinion on an application for an operating permit is unfavourable, the Minister shall take his decision to reject the application within thirty working days from the date of receipt of the application file sent to him by the Mining Cadastre.

If the technical opinion on an application for an operating permit is unfavourable but the cadastral opinion is favourable, the Minister shall take his rejection decision within thirty working days from the date of receipt of the application file sent to him by the Cadastre mining.

If the cadastral and technical opinions following the examination of the application for the Operating Permit are favourable but the environmental certificate is unfavourable, the Minister shall take his decision to refuse within thirty working days from the date of receipt of the application file transmitted to him by the Mining Cadastre.

If the cadastral and technical opinions following the examination of the application for the Operating Permit are favourable but the environmental certificate has not yet been issued, the Minister shall take a preliminaryand conditional approval decision within twenty working days. from the date of receipt of the application file sent to it by the Mining Cadastre and postpones its final decision to grant or reject the Operating Permit until receipt of the environmental certificate.

The Minister's preliminary and conditional approval decision has the effect of definitively endorsing the cadastral and technical notices. t shall make its final decision to grant the grant conditionality on the receipt of a favourable environmental certificate.

The Minister shall make and transmit the decision to grant or reject the permit for reasons in its reasons to the Mining Cadastre for execution within thirty days from the date of receipt of the certificate. environmental transmitted to it by the Mining Cadastre.

Article 77: Extension to associated mineral substances

Before carrying out researchor exploitation activities involving mineral substances other than those for which its Operating Licence has been issued, the holder is required to obtain the extension of its permit to these other associated substances.

In the event that the holder of the Operating Permit does not request such an extension, the Directorate of Mines gives him formal notice to request it within sixty days.
At the end of this period, the provisions of the Article

299 of this Code applies to the registrant if the registrant continues to exploit these substances.

Any associated mineral substance discovered and renounced by the holder of the Exploitation Permit as part of the extension, automatically becomes the property of the State.

Article 80: Conditions for the renewal of the Operating Permit

The Operating Permit is renewable provided that the holder:

a. has not failed to comply with its obligations to maintain the validity of the permit under sections 196 to 199 of this Code.

b. presents a new feasibility study that demonstrates the existence of exploitable reserves;

c. demonstrates the existence of the financial resources necessary to continue to carry out its project in accordance with the mine's financing and operations plan and the site's rehabilitation plan when it closes. This plan specifies each type of funding targeted and the justifications for their likely availability;

d. obtain approval for the updating of the ESIA and the GGP;

e. undertakes a commitment to actively continue its operation;

f. demonstrates the entry into the profitability phase of the project;

g. demonstrates the regular and uninterrupted development of the deposit;

h. transfers to the State at each renewal 5% of the shares or shares of the share capital of the company in addition to those previously transferred;

i. has not failed in its fiscal, parafiscal and customs obligations;

j. submits an act of commitment to comply with the specifications defining the social responsibility vis-à-vis the local communities affected by the project activities.

The application for renewal of the Operating Permit is sent by the holder of the Operating Permit to the Mining Cadastre at least one year and no more than five years before the expiry date of the Permit of exploitation. This request shall include the following information:

a. the particulars provided for in subparagraphs a, b and c of Article 35 of this Code;

b. the identity of the affiliates ;

c. the nature, number and area of the perimeter held by the holder and its affiliates.

The Mining Regulations set out the procedures for the establishment, filing, admissibility or inadmissibility, cadastral, technical, environmental and social investigation of the application for renewal of the Operating Permit as well as the decision to renew, register, notify and display.

Article 85: Marketing of Mining Products

The marketing of mining products that come from the Perimeters of exploitation is free. The holder of an Operating Permit may sell his products to customers of his choice at freely negotiated prices.

CHAPTER III: EXPLOITATION OF MINE DISCHARGES

Section 88: The Scope of the Permit to Exploit Discharges

The Release Exploitation Permit covers the mineral substances for which it is specifically established. The Release Exploitation Permit may be extended to other mineral substances in accordance with the provisions of section 77 of this Code.
Article 91 al. 2

Without prejudice to the provisions of the preceding paragraph, the applicant partial transferee of an Operating Permit shall submit the deed of partial transfer to the Mining Cadastre for registration to which his application for Permit to exploit discharges.

Article 95: Renewal of the Waste Exploitation Permit

The provisions of section 80 of this Code apply to the filing, examination of the application and the granting or refusal of the renewal of the Permit for the Exploitation of Discharges.

CHAPTER IV: SMALL-SCALE MINING

Article 97 : Access to Small-Scale Mining

Without prejudice to the provisions of Article 23 (a) of this Code, legal persons intending to operate a small-scale mine may apply for and obtain a Small Mine Operating Permit.

Section 99: Scope of the Small Mine Operating Permit

The provisions of section 64 of this Code apply to a Small Mine Licence.

Article 101: The duration of the Small Mine Operating Permit

The period of validity of the Small Mine Operating Permit is five years, renewable for the same period.

However, at the request of the holder and after a favourable opinion from the Direction des mines, the Minister may extend the duration of a Small Mine Operating Permit beyond ten years, as the case may be and for substances whose operation exceeds ten years.
Article 104 already. 1er

In addition to the conditions set out in subparagraphs b to g of article 71 of this Code, no person may obtain a Small Mine Operating Permit unless he demonstrates the existence of a deposit whose factors technical techniques do not allow a profitable industrial operation by presenting a feasibility study accompanied by a technical framework plan for development, construction and operation of the mine.

Article 107: Conditions for the renewal of the Small Mine Operating Permit .

The application for renewal of the Small Mine Operating Permit addressed to the Minister shall be filed with the Mining Cadastre not earlier than one year and not later than six months before the expiry date of the said Permit. This request includes the information listed in Article 80 paragraph 2 in fine of this Code.

The Small Mine Licence is renewable provided that the holder:

a. has not failed in its obligations to maintain the validity of the permit provided for in articles 196 to 199 of this Code;

b. presents a new feasibility study that demonstrates the existence of exploitable reserves;

c. demonstrates the entry into the profitability phase of the project;

d. demonstrates the regular and uninterrupted development of the deposit;

e. demonstrates the existence of the financial resources necessary to continue to carry out its project in accordance with the financing plan for the mine's operations and the plan for the rehabilitation of the site when it closes. This plan specifies each type of funding targeted and the justifications for their likely availability;

f. obtain approval for the updating of the ESIA and the GGP;

g. undertakes a commitment to actively continue its operation;

h. has not failed in its fiscal, parafiscal and customs obligations.

The Mining Regulations set out the procedures for the establishment, filing, admissibility or inadmissibility, cadastral, technical and environmental instruction of the application for renewal of the Small Mine Exploitation Permit as well as the renewal decision, its registration, notification and display. »

Article 4.

The headings of Title IV, Chapters I and II of title II and Articles 109, 110, 111, 112, 113, 114, 115, 117, 119, 120, 122, 123, 124,
126, 127 and 128 are amended as follows :

'TITLE IV : FROM THE HOLDING OF MINES ET CARRIERES

CHAPTER I : ARTISANAL EXPLOITATION ZONE

Article 109 : Establishment of a zone artisanal exploitation

Where the technical and economic factors which characterise certain deposits of mineral substances classified as mines or quarries do not make it possible to exploit them industrially or semi-industrially, but allow artisanal exploitation, such deposits shall be erected, within the limits of a geographical area covering not more than two squares, as an artisanal mining area.

The establishment of an artisanal mining zone is made by order of the Minister after consulting the Specialized Research Organization, the Provincial Governor , the Head of the Provincial Mining Division, the Authority de the decentralized territorial entity and the Mining Cadastre.

A mining perimeter or quarries subject to a mining title or valid quarries may not be transformed into an artisanal mining area. Such a perimeter is expressly excluded from the artisanal mining zones established in accordance with the provisions of this Chapter.

The establishment of an artisanal mining zone is notified by the Secretary General for Mines to SAEMAPE for the supervision and assistance of artisanal operators affiliated to an approved mining cooperative and to the Mining Cadastre which covers the map of mining falls. As long as an artisanal mining area exists, no mining or quarrying title can be granted there.

On the basis of the relevant data on the mineralization and gitology of an area of interest identified by the specialized research organization, SAEMAPE may request the establishment of an artisanal mining zone.

However, the specialized research agency may at any time carry out prospecting and research work in artisanal mining areas .

Article 110 : Closure of a zone artisanal exploitation

When the factors which justified the establishment of an artisanal exploitation zone have ceased to exist or when a new deposit not belonging to artisanal exploitation comes to be discovered, the Minister, on the advice of the specialized research body, SAEMAPE and the Governor of the province concerned, proceeds to the closure of the artisanal exploitation zone.

The closure of an artisanal mining area is notified by the Secretary-General for Mines to the Provincial Division of Mines of the jurisdiction, the Mining Cadastre and SAEMAPE. The latter informs the mining cooperatives or approved quarry products, as the case may be, and may be responsible for the relocation to another legally established artisanal mining area . In this case, mining cooperatives or approved quarry products are required to release the artisanal mining area within sixty days of notification of the closure decision.

The approved mining or quarry products cooperative working in the artisanal mining area concerned has a right of pre-emption to apply for a Permit for small-scale mining in accordance with the provisions of this Code.

This approved mining or quarry products cooperative has a period of one hundred and eighty days, from the notification of closure by the Secretary-General for Mines, to make known whether it intends to exercise its right of pre-emption in accordance with the provisions of this Code.

An approved mining or quarrying cooperative shall comply, within the pre-emption period prescribed to it, with the conditions laid down in Article 69 of this Code for obtaining a Small Mine Operating or Exploitation Permit.

The establishment, filing, admissibility and examination of the application for a Small Mine Operating Permit shall be governed by the provisions of section 103 of this Code.

Article 111: Access to the artisanal mining area

In the artisanal mining zone, only members of mining cooperatives or approved quarry products are allowed access to it to exploit any mineral substance classified as mines or quarry products.

The terms of this authorization are defined in the Mining Regulations .

Article 112 already. 1er

The mining cooperative or quarry products and the artisanal operator of the mines, each as far as it is concerned, shall comply with the standards of safety, hygiene, water use and environmental protection which apply to its operation in accordance with the regulations in force.

Article 113: Processing of artisanal mining products .

Approval as a mining cooperative or quarry products does not allow its holder to process the products of artisanal mining.

However, the processing of the products by the mining cooperative or of the approved quarry products may be carried out with prior authorization granted by the Minister.

Article 114: Withdrawal of the artisanal operator's card from mines or quarry products

The artisanal operator's card for mines or quarry products may be withdrawn by the provincial Minister of Mines who issued it, after a thirty-day formal notice without remedying the situation by the person holding the card, for t failure to comply with the obligations set out in Article 112 of this Code.

Where applicable, the person from whom the card has been withdrawn is not eligible to obtain a new Artisanal Mining or QuarryIng Operator Card for three years.

The withdrawal of the artisanal operator's card from mines or quarry products gives rise to the right to appeals

provided for in the provisions of articles 315 and 316 of this Code.

CHAPTER II: THE POSSESSION, TRANSPORT AND MARKETING OF ARTISANAL MINING PRODUCTS

Article 115: Possession and transport of artisanal mining products

Without prejudice to the provisions of paragraph 2 below, within the entire national territory, but outside the Perimeters subject to exclusive mining titles, no one may hold or transport the products of artisanal mining of mineral substances:

1. if he does not have the artisanal operator's card and does not act in the name and on behalf of a mining cooperative or quarry products;

2. if he does not have the valid trader's card;

3. if he is not an authorized buyer at the service of a purchasing counter, an authorized processing or processing entity ;

4. if he is not the manager or servant of a mining cooperative.

Article 117 al. 2

The trader's card is issued by the provincial minister to the adult of Congolese nationality who requests it. The applicant for a merchant's card produces, at thebeginning of his application, his certificate of nationality and proof of his declaration or registration in the Trade and Movable Credit Register.

Article 119 already. 1er

The merchant's card may be withdrawn by the provincial Minister who issued it if, after a thirty-day formal notice, the merchant has not remedied the related breach incumbent on him under section 118 of this Code. If applicable, the person from whom the card was withdrawn is not eligible to obtain a new merchant card for three years.

Article 120 al. 4

A fee, the amount of which is determined by regulation, is levied for the benefit of the Treasury at the time of approval and at each renewal.

The applicant for approval as a counter is required to provide a security in accordance with the terms of payment laid down by regulation.

Article 122

The buyer of an authorized counter carries out its activities in accordance with the regulations in force.

Article 123 al.1er

The application for approval as a counter for the purchase and sale of artisanal mineral substances shall be sent by any eligible person in accordance with paragraph 2 of Article 25 of this Code to the Directorate of Mines and shall include the following elements:

a. proof of registration in the Trade and Movable Credit Register;
b. notarized stats, in the case of a legal person;
c. the extract from the criminal record of the first residence dating back not more than three months and the certificate of good conduct, life and morals, if it is a natural person ;
d. the National Identification Number;
e. the tax number;
f. proof of holding an account opened in the applicant's name in an authorised bank ;
g. the letter of registration to the Central Bank of Congo and the Import-Export number.

Article 124 al. 3

In any case, the examination of the application may not exceed thirty days from the date of submission of the application for approval. After this period, the favourable opinion of the Directorate of Mines is deemed to have been obtained , without prejudice to the provisions of Article 123 above.

Article 126 para.2 litas d and e

d. own at least one building made of sustainable materials in each business centre within one year;

e. have within the company a stake of at least 25% of the share capital reserved for Congolese.

Article 127 already. 1er

The approval as a counter for the purchase and sale of artisanal mineral substances may be withdrawn by the Minister, after a thirty-day formal notice from the Direction des mines, if the approved counter concerned has not remedied any failure to fulfil its obligations under the provisions of Article 126 of this Code. If applicable, the counter deprived of its rights is not eligible for approval as a counter for five years.

Article 128 para. 1st and 2nd

Thestock market for the purchase and sale of other artisanal mineral substances may notoperate on the national territory without prior approval from the Central Bank of the Congo and theMinister.'

Article 5.

Articles 136, 139, 143, 144 of Chapter II, 146, 147, 149, 150, 154, 158, 161, 164 and 165 of the Chapter III of Title V shall be amended as follows :

'TITLE V : CAREER RIGHTS CHAPTER II : RESEARCH OF QUARRY PRODUCTS

Article 136: The Scope of the Authorization for Research on Career Products

The Authorization for Research in Quarry Products covers the mineral substances classified as quarries for which it has been granted.

Article 139 para. 1st and 3rd

The area of the perimeter subject to a Quarry Products Research Authorization may not exceed a maximum of 4 squares.

A legal person and affiliated companies maynothold more than ten research authorizations for career products.

Article 143 already. 1er

The minimum financial capacity required must correspond to the overall amount of the budget provided for the implementation of the research programme.

In any case, it may not be less than fifty times the total amount of the annual surface fees per square payable fortheperiod of validity of the quarry products in demand.

The last paragraph of Article 144

At the end of the Authorization for researchofquarry products, the Mining Cadastre immediately notifies the holder of the expiry of his right with a copy to the Directorate of Mines. In this case, unless an Exploitation Permit is granted, the perimeter to which the Research Authorization relates is free of any right from the date of expiry of the permit.

CHAPTER III: QUARRYING

Article 146: The Scope of QuarryIng Authorizations

The Permanent or Temporary QuarryIng Authorization covers the quarry products for which it is specifically established. These quarry products are those which the holder has identified andfor which he has demonstrated the existence of an economically exploitable g isement.

The area of the perimeters covered by the QuarryIng Authorizations is that ofthe Research Authorizations from which they derive orthat of the parts of the perimeters ofthe Research Authorizations s of quarry products transformed into Operating Authorizations of quarries, subjectto the provisions of Article 150, paragraph 2 of this Code.

The Permanent or Temporary QuarryIng Authorization may be extended to other quarry substances in accordance with section 162 of this Code.

Article 147: Limitations of the Temporary Quarrylng Authorization

Without prejudice to the provisions of Article 146a above, the temporary quarrying authorisation shall determine the quantity of substances to be extracted, the conditions of occupation of the land necessary for sampling and related activities, and indicates the taxes to be paid. It also specifies the obligations of the beneficiary, in particular as regards the environment and the restoration of the premises after sampling.

However, a quantity in excess of the volume fixed by the operating authorization is to be reported to the department in charge of quarries and building materials to be subject to additional taxation for the benefit of the Public Treasury under penalty of being confiscated.

Article 149: The duration of quarrying authorizations

The period of validity of the PermanentQuarrylng Authority shall be five years , renewable several times for the same period.

The period of validity of the Authorization for the exploitation of temporary quarry products is one year non-renewable. However, its holder has the right to apply for a new Temporary Operating Authorization for the same Perimeter which would take effect at the end of the current authorization . During the term of his Temporary Quarrylng Authorization , only the holder has the right to submit an application for a new Operating Authorization on the same perimeter.

Article 150 paragraphs 1, 2 , 3, 5 and 7: Perimeters of quarrying authorizations

A permanent or temporary Quarry Operating Permit may be granted on the entire Perimeter which is the subject of the Valid Quarry Product Exploration Authorization granted to the applicant or on a part of the Perimeter in accordance with the provisions of Article 28 of this Code.

If the Perimeter has not been the subject of a career search authorization, it must comply with the provisions relating to the form provided for in Article 28

of this Code and not to exceed a maximum of four squares.

The Perimeter of a Quarrying Authorization cannot be superimposed on an area that is the subject of a quarry research authorization or a mining right of exploitation owned by a third party who has not given his written consent.

However, the Minister may authorize the establishment of a quarrying perimeter on a perimeter that is the subject of an Operating Permit or a Small Mine Operating Permit if the holder of the Licence refused to give his consent in bad faith. Where appropriate, the application shall be investigated and shall be the subject of administrative litigation in which the holder and the applicant participate if the latter provides, with his application, evidence that the holder has refused to give his consent of bad faith.

A legal person and its affiliates may only hold a maximum of ten Authorizations for the permanent exploitation of quarry products.

Article 154 (d) and addition of subparagraph f:

d. bring a declaration of vacancy of the land drawn up by the Registrar of Real Estate Titles of the jurisdiction or proof of the consent of the land concessionaire, if the area that is the subject of the application for authorization of exploitation of the quarry is located in the Land Perimeter of the latter;

f. file a deed of commitment to comply with the specifications defining the social responsibility vis-à-vis the local communities affected by the project activities.

Article 158 : The decision of the authority Competent

If the cadastral, technical and environmental opinions, following the examination of the application for the permanent quarrying permit , are favourable, the competent authority shall take a decision to grant the permanent quarrying permit.

If the cadastral opinion on an application for a permanent quarrying authorisation is unfavourable, the competent authority shall issue its decision refusing the application within fifteen working days from the date of receipt of the application file sent to him by the Mining Cadastre.

If the technical opinion on an application for a permanent quarrying authorisation is unfavourable, the competent authority shall take its decision to refuse within thirty working days from the date of receipt of the application file sent to it by the Mining Cadastre.

If the cadastral and technical opinions, following the examination of the application for the Permanent Quarrylng Permit, are favourable, but the environmental situation is unfavourable, the competent authority shall take a decision refusing to grant the Permanent Quarrylng Permit .

If the cadastral and technical opinions, following the examination of the application for an Operating Permit, are favourable, but the environmental certificate has not yet been issued, the competent authority shall take a preliminary and conditional approval decision within twenty days. working from the date of transmission of the application file by the Mining Cadastre and postpones its final decision to grant or refuse the Permanent Quarrylng Authorization until receipt of the environmental certificate.

The preliminary and conditional approval decision of the competent authority shall have the effect of definitively endorsing the favourable cadastral and technical opinions. It shall condition its final decision to grant it on the receipt of a favourable environmental certificate.

The competent authority shall take and forward its decision to grant or its decision to refuse the permanent or temporary quarrying authorisation to the Mining Cadastre within thirty days of the date of receipt of the environmental certificate sent to it by the Mining cadastre.

Article 161 already. 1er

The Competent Authority shall take and transmit its decision to grant or refuse the permanent or temporary quarrying authorisation to the Mining Cadastre within forty-five days of the date of receipt of the application file sent to him by the Mining Cadastre.

Article 164 para. 1st and 4th

The holder of a permanent quarrying authorisation may at any time waive in whole or in part the right relating to the area covered by his authorisation. The declaration of renunciation shall be addressed to the authority which granted the authorisation.

The declaration of renunciation, drawn up on a form to be withdrawn and filed with the Mining Cadastre, specifies the contact details of the party concerned and those of the selected party.

The part subject to the waiver is composed of whole and contiguous squares, and the selected party must comply with the conditions on the form of a Perimeter of Exploitation specified in this Code.

The waiver shall take effect three months after the date of receipt of the declaration of renunciation by the competent authority .

Article 165 paragraphs 4, 5 and 8: Renewal of the Permanent or Temporary Quarrylng Authorization

The review of the technical document provided by the applicant is limited to verification of the update of the initial feasibility study and a commitment made. The renewal of the permanent or temporary permit to operate a quarry may be refused only for the same reasons as for the granting of a permanent quarrying authorization . However, the holder obtains the approval of an update of its ESIA and GGP to continue its work beyond the end of the initial Authorization and file a deed of commitment to comply with the workbook burdens defining social responsibility towards local communities affected by project activities.

The holder of a temporary Quarrying Authorization that is about to expire has the right to apply, for the same perimeter, for a new Authorization that takes effect at the end of the initial Authorization.

During the term of his Temporary Quarrying Authorization, only the holder has the right to submit an application for a new Operating Permit on the same perimeter. »

Article 6.

Articles 169, 171, 172, 175 of Chapter I and 176 of Chapter II in Title VI are amended as follows:

' TITLE VI : SECURITY

CHAPTER IER : HYPOTHEQUES

Article 169 para. 5, 6 and 7

The Direction des mines sends its technical opinion to the Minister and to the Mining Cadastre within ten working days of receipt of the file sent to it by the Mining Cadastre.

The Minister shall make and transmit his decision of approval or reasoned refusal to the Mining Cadastre within forty-five days from the date of receipt of the file transmitted to him by the latter.

After this period, approval shall be deemed to have been obtained.

Article 171 para. 1st and 3rd

The mortgage is registered upon payment, to the Public Treasury, of an equivalent registration fee in Congolese francs, the applicable rate of which follows the following degressive level:

- 0.5 %: from 1 to 100,000,000 USD;
- 0.3 % : from 100,000,001 to 500,000,000 USD ;
- 0.2 % : from 500,000,001 to 1,000,000,000 USD;
- 0.1 % : above 1,000,000,000 USD.

The Mining Regulation shall fix the terms and conditions for the registration of the hypothec and the payment of the registration fee referred to in the first paragraph of this section.

Article 172 al. 2

However, the hypothecary creditor may replace the defaulting debtor and thus request the partial or total transfer of mining or quarry rights to his own name if he meets the eligibility conditions provided for in Article 23 of this Code.

Article 175 : Legal hypothecs

By way of derogation from Articles 169 and 170 of this Code, the provisions of Articles 253, 254 and 255 of Loi No. 73-021 of 20 July 1973 on the general regime of property, land and immovable property regime and security regime as amended and supplemented to date relating to mortgages of the Treasury and as well as those of Articles 210 and 212 of the Uniform Act on the Organization of Security Rights relating to Mortgages of Masses of Creditors and Architects, Contractors and Others persons employed to construct, repair or reconstruct buildings are registered and registered in accordance with the provisions of this Code.

CHAPTER II : OF THE PLEDGE

Article 176 para. 2 and 3

The pledge relating to market products shall be governed by the provisions of Articles 92, 93, 94, 95, 96,
97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123 and 124 of the Act Uniform on the organization of security interests.

The secured creditor of the proprietary market products is liable for taxes, levies and environmental obligations arising from the possession of said products of which he holds the right to store, hold, handle, transport, market and to export. »

Article 7.

Articles 177 and 179 of Chapter I, 182, 183, 184,185, 187, 188, 193, 196, 197, 216 and 218 of the Chapter II of Title VII shall be amended as follows :

' TITLE VII : OF THE AMODIATION AND THE MUTATIONS

CHAPTER I: OF THE AMODIATION

Article 177 already. 1er

The lease consists of a lease for a fixed or indefinite period, without the possibility of sublease, of all or part of a mining right of exploitation or of a u u uutorisation of exploitation of permanent quarries, in return for a remuneration fixed by agreement between the amodiant and the amodiataire

Article 179 al. 4

The leasing contract is registered by the Mining Cadastre upon payment, for the benefit of the Public Treasury, of a registration fee , the amount of which is determined by regulation.

CHAPTER II : MUTATIONS

Article 182 : Of the deed of assignment

Valid mining rights and Permanent QuarryIng Authorizations may be transferred in whole or in part. This assignment is final and irrevocable upon the endorsement of the title. In the absence of provisions to the contrary, the ordinary law on assignment shall apply.

The deed of assignment shall contain the price of the transfer of the right and the commitment of the transferee to assume all the obligations of the holder vis-à-vis the State arising from the right of research or exploitation, in particular that of assigning to the State the shares or shares provided for in article 71 (d) of this Code.

Notwithstanding the foregoing, the assignee is not required to assume the environmental protection obligations for which the assignor is liable prior to the assignment, pursuant to Article 185 paragraphs 3 and 4 of this Code.

Where a State portfolio undertaking contributes a mineral deposit either to an existing company or with a view to the formation of a new company, the participation of that undertaking in the capital of the existing company or to be constituted shall be fixed on the basis of the actual value of the deposit. mining that is the subject of the contribution. The evaluation of the

deposit is made in accordance with the provisions of the Uniform Act on the Law of Commercial Companies and Economic Interest Grouping.

Article 183: Examination of the application for assignment

The application for assignment shall be examined in accordance with the provisions of articles 40, 41, 42 and 178 of this Code.

Article 184: Partial assignment

The partial transfer of research mining right, mining exploitation right or permanent quarrying authorization is registered at the time of granting the new right by the competent authority, and the Mining Cadastre issues a new one mining title.

Article 185: Technical instruction and environmental audit

Without prejudice to the provisions of Articles 40, 41, 42 and 178 of this Code, the technical examination of the file of the application for transfer of the mining right or the Authorization to operate permanent quarries in the name of the transferee shall be carried out within twenty working days from the date of transmission of the application file to the Directorate of Mines by the Mining Cadastre.

The technical instruction consists of:

a. verify the financial capacity of the transferee;

b. verify the assumption by the transferee of the obligations related to mining law or the Permanent Quarrying Authorization and verify the assumption of the assignor's obligations by the assignee;

c. determine, if applicable, that any changes that the transferee proposes to make to the original documents on the basis of which the mining right or the Permanent QuarryIng Authorization was made granted does not alter the technical conclusions on the project.

An in situ environmental audit is carried out by the Congolese Environment Agency in collaboration with the Directorate in charge of the

protection of the mining environment within thirty working days from the date of transmission of the application file by the Mining Cadastre to the Congolese Environment Agency in order to verify compliance with the obligations of environmental protection subscribed by the transferor in the approved environmental and social management plan.

A certificate of release of environmental bonds was issued and sent to the Mining Cadastre.

Article 187 : Acts of transmission

Mining rights and authorizations to operate permanent quarries are subject to transfer in whole or in part by reason of death, in the case of a single-member company, by virtue of the merger, division or partial contribution of assets. In the absence of provisions to the contrary, the ordinary law on transfers and the Uniform Act of 30 January 2014 on the financing of commercial companies and interest groups economic apply.

The person in whose favour the transmission is made shall fulfil the conditions laid down in Article 182a applicable to the transmission.

Article 188: Partial transmission

In the event of a partial transfer of a mining research right, the Mining Cadastre issues a new mining title.

In the event of a partial transfer of a right to operate or a permanent quarrying authorisation , the partial transfer shall be recorded at the time of granting the new right.

The partial transmission of mining rights and authorizations to operate permanent quarries is made in compliance with the provisions of articles 28 and 29 of this Code.

Article 193 : Of the option contract

The Research Permit may be the subject of an optional contract. This is freely concluded between the parties and gives its beneficiary the right to obtain a participation in the enjoyment of the mining right of exploitation resulting from the Research Permit or during the total or partial transformation thereof if he makes a certain investment and/or work in the context of mining activities concerning the Research Permit in question.

The option contract may also be concluded for research work undertaken within a perimeter covered by an operating P ermis.

Article 196 para. 1st and literature

c. respect its commitments with regard to social obligations in accordance with the timetable set out in the specifications .

Failure by the holder to comply with the obligations listed in Chapter II of this Title shall be punishable by fines and/or, where appropriate, by an order to suspend operations or, in the event of infringements, by legal proceedings.

Article 197 paragraphs 1, 4, 5, 6 and 7

The holder of a research permitis required to start the research work within one year of the issue of the title evidencing his right.

The holder of a permanent quarrying authorization must begin the work within one year of the issuance of the title evidencing his right.

The holder of a mining right and quarries referred to in the preceding paragraphs is also required before starting the work, to open a research or exploitation center within the time limits provided for each type of rights mentioned above.

The holder of a mining right to research must attach to his certificate of commencement of work, deposited in the Mining Cadastre, a schedule for the execution of the work.

The holder of a mining right of exploitation is required to construct a building housing his head office according to the standards of international standards in the capital of the province of exploitation within five years from the date of issue of the title.

Article 216: Registers, reports and publications

The holder of mining or quarrying titles and the holder of a counter or processing entity approval are required to hold the

records, to prepare and file reports of their activities in accordance with the Mining Regulations.

In addition, the holders of mining rights or quarries is required to publish at the end of each month on an ad hoc form, the quantities produced, sold or exported of mineral substances, their qualities, their values, the amounts of various taxes, duties, taxes and fees due and paid to the Public Treasury, decentralized territorial entities and State bodies.

Article 218: The opening and closing of a research or operating centre

Any opening or closing of a research or mining centre or permanent quarries shall be carried out within the time limit provided for in Article 197 of this Code and declared to the Mining Administration . according to the terms and conditions set out in the Mining Regulations. »

Article 8.

The title of Chapter II of Title VIII is amended as follows: Obligations relating to transactions under the mining title or quarrying or approval under the entity of treatment or transformation.

Article 9.

The titles of Title IX, Sections I, III, IV, Ve and VII of Chapter III of the same Title and Articles 219, 220 and 224 of Chapter I, 225, 226,
229, 232, 233 and 234 of Chapter II, 236, 237,
238,240, 241, 242, 244, 245, 246, 247, 248, 249,
Chapter 251, 253, 254, 255, 256, 257, 258 and 259
III and 262 of Chapter IV are amended as follows :

'TITLE IX : CUSTOMS TAX ARRANGEMENTS AND NON-TAX REVENUE APPLICABLE TO MINING ACTIVITIES

CHAPTER Ier : PROVISIONS

Article 219 : Taxpayers concerned

The holder shall be subject to the tax, customs and non-tax revenue arrangements laid down in this Title.

for all its mining activities carried out on the national territory.

The following also benefit from the entire tax, customs and non-tax revenue regime provided for in this Code shall also be enjoyed:

a. subcontractors in accordance with Law No. 17/001 of 8 February 2017 laying down the rules applicable to subcontracting in the private sector ;

b. the holder of a permanent quarrying licence, other than that of commonly used building materials ;

c. holders of authorisations under authorised processing entities.

Holders of authorizations for the exploration of quarry products and for the exploitation of temporary quarries, those for the exploitation of permanent quarries not referred to in subparagraph b above shall be subject to the tax, customs and non-fiscal revenue regimes of ordinary law.

Article 220: Exclusive and exhaustive tax, customs and tax regime

Without prejudice to the provisions of Article 221 of this Code, the tax, customs and tax regime applicable to the mining activities of the holder in the national territory shall be that defined exclusively and exhaustively. in Title IX of this Code.

This regime concerns taxes, duties, fees , charges and other parafiscal levies levied both for the benefit of the Government and of the provinces and decentralized territorial entities.

However, the Prime Minister may, by decree deliberated in the Council of Ministers, grant a number of incentives to provinces suffering from infrastructure deficits to boost their economic development from the mineral resources.

Article 224: Tax and customs procedure

Without prejudice to the provisionsof this Code, the applicable tax and customs procedure shall be that of ordinary law.

CHAPTER II : CUSTOMS PROCEDURES

Article 225 already. 1er

Before commencing the work, the holder of a research or exploitation mining right, the holder of a permanent quarrying authorization, other than that of the materials of construction in everyday use, the holder of an approval under the approved treatment and/or processing entity , present the list including the number and value of movable property, equipment, machinery directly related mining techniques and mineral extractive operations and inputs that fall within the scope of the privileged regime provided for in this Act. The list is previously approved by joint decree of the ministers having Mines and Finance in their attributions within sixty working days of receipt of the letter of request for approval to the Ministry in charge of Mines.

Article 226 addition of a 5th paragraph

Without prejudice to the provisions of this Article, exports of the samples referred to in paragraphs 2, 3 and 4 of this Article shall be subject to the payment of a tax on the export of the samples.

Article 229 al. 2

The declaration of the cessation of work is immediately made to the Administrations of Customs, Non-Tax Revenue, Taxes and Mines.

Article 232 : Entrance fees at rates Preferential

Before the date of commencement of the actual operation of the mine established in accordance with the provisions of this Code and the Mining Regulations, all capital goods for a strictly mining purpose imported by the holder of a mining right, the holder of a Authorisation for the permanent exploitation of a quarry, other than that of commonly used building materials, the holder of an authorisation as an approved processing and/or processing entity and the subcontractor shall be subject to a entrance fee at the rate of 2%, provided that these goods appear on the list provided for in the first paragraph of Article 225 of this Code.

From the date of commencement of actual exploitation, established in accordance with the provisions of this Code and the Mining Regulations, for a period ending at the end of the third year from the date of first production, all goods for a strictly mining purpose, imported by the holder of a mining right, the holder of a mining authorization permanent career, other than that of commonly used building materials, the holder of an authorisation as an approved treatment and/or processing entity and the subcontractor shall be subject to the single rate of 5%, provided that such property appears on the list provided for in the first paragraph of Article 225 of this Code.

All intermediate goods and other consumables are taxed at the rate of 10% customs duty.

In all cases, fuels and lubricants for mining activities are subject to the rate of 5%.

Excise duties shall be levied in accordance with ordinary law.

Without prejudice to the provisions of Article 233 of this Code, the holder of an operating permit, an authorization for the operation of permanent quarries, other than that of construction materials of common use entering the production phase, cease to benefit from the customs procedure preferential from the sixth year from the date of granting the title. Authorised processing entities, holders of authorisations under authorised processing entities and processors shall cease to benefit from the preferential customs arrangements from the sixth year from the date of authorisation.

Article 233 : Imports in the context of extension works on the same perimeter

The holder of a mining title who makes an extension investment after the mine has been put into operation, the holder of a permanent quarrying authorization, has as well as that of the materials of construction of common use and the entity of treatment and/or transformation

approved may, for the material, equipment and inputs to be imported in this context, benefit from the preferential customs regime provided for in paragraphs 2, 3 and 4 of Article 232 of this Code provided that he submits an application to the Mining Cadastre and demonstrates that the work to be carried out has for the purpose of increasing the production capacity of the mine or approved processing and/or processing entity in question by at least 30%.

The application shall indicate the date on which the extension work will be completed.

In the event that the extension work is not completed in the manner or within the period indicated at the time of the request referred to in paragraph 1 above and / or in the event that the production capacity does not actually increase by 30% and this, in accordance with the modalities set by the Mining Regulation, the holder is retroactively liable, on the imports made, for the imports made, the entry duties at the rate applicable during the exploitation phase.

However, in the event of fraud on the declaration on importation in connection with this provision, the holder shall passthe import duties and value added tax on importation at the rateofthe common duty.

Article 234 al. 3

Fees and charges for services rendered on the export of market products or goods temporarily exported for processing may not exceed 1% oftheir gross commercial value.

CHAPTER III : OF THE TAX SYSTEM

Section I era: Real taxes Article 236: Property tax

The holder is liable for property tax in accordance with ordinary law only on buildings for which the tax on the area of mining concessions is not due.

Article 237: Vehicle tax

The holder is liable for vehicle tax in accordance with ordinary law. However, vehicle tax is not payable on vehicles transporting persons or materials, handling or traction, used exclusively within the mining perimeter.

Article 238: Of the surface tax on mining concessions

The holder of a Research Permit is liable for the area tax on mining concessions at rates in Congolese francs equivalentto USD 0.2 per hectare for the first year, in Congolese francs equivalent to USD 0.3 per hectare for the second year, in Congolese francs equivalent to USD 0.35 per hectare for the third year and in Congolese francs equivalent to USD 0.4 per hectare for the other following years.

The holder of a mining right of exploitation is liable for the area tax on mining concessions at rates in Congolese francs equivalent to USD 0.4 per hectare for the first year, in Congolese francs equivalent to USD 0.6 perhectare for the second year, in Congolese francs equivalent to USD 0.7 per hectare for the third year and in Congolese francs equivalent to USD 0.8 per hectare for the other following years.

Article 240: From the basis of the mining royalty

The holder of the Operating Permit, the Dredge Operating Permit , the Small Mine Permit, the Permanent Quarrylng Authorization, other than those for commonly used building materials, and the processing entity and/or approved processing are subject to a mining royalty whose basis of assessment is calculated on the basis of gross commercial value.

The holders referred to in the preceding paragraph of this Article shall be liable for such a fee on any commercial product from the date of commencement of the actual exploitation.

The mining royalty is calculated and due at the time of removal of the commercial product from the extraction site or processing facilities for shipment.

Article 241 : Rates of the mining royalty

The rates of the mining royalty are :

a. 0% for commonly used building materials;

b. 1% for industrial minerals, solid hydrocarbons and other unnamed substances;
c. 1% for iron and ferrous metals;
d. 3.5% for non-ferrous and/or base metals;
e. 3.5% for precious metals;
f. 6% for precious and colored stones;
g. 10% for strategic substances.

The Mining Regulations specify the elements concerned by the above classification.

Article 242: Distribution of the mining royalty

The mining royalty is paid by the holder of the mining title of exploitation in the amount of:

- 50 % acquired by the Central Government ;
- 25% paid into an account designated by the Administration of the province where the project is located;
- 15% on an account designated by the decentralised territorial entity in whose jurisdiction the operation takes place;
- 10% to the Mining Fund for Future Generations.

Article 244: Professional tax on remuneration

The holder is the legal liable for the professional tax on the remuneration payable by employees at the rate of common law.

Article 245: Tax on rental income

The holder is liable for the tax on rental income in accordance with ordinary law.

Section III: Taxes on Income Article 246: Movable Tax

The holder is liable for tax on movable income in accordance with ordinary law, with the exception of the following income:

a. interest paid by the holder on loans contracted abroad which are exempt from movable tax ;

Interest paid by the holder to its under loans contracted abroad shall be exempt from movable tax only if the interest and other borrowing conditions for the implementation of the projects are established in accordance with the principle of arm's length.

b. dividends and other distributions paid by the holder to its shareholders who are subject to movable tax at the rate of 10%.

Article 247 : Tax on Profits and Profits

The holder is liable for tax on profits and profits at the rate of 30%.

Article 248 : Taxable profit

The net profits of the holding taxable to the Tax on Profits and Profits are determined in accordance with the chart of accounts, the tax legislation in force and the provisions of Articles 249, 250, 251, 252, 253, 254, 255, 256, 257 and 258 of this Code.

In all cases, the summaries and books are kept in French.

Article 249 : Depreciation

The applicable rules on depreciation are those of straight-line depreciation.

Article 251 : Deficit carry-over

Professional losses in an accounting year may be deducted from profits made in subsequent financial years up to one fifth following the loss-making financial year, in accordance with the detailed rules of imputation defined by the common law.

Article 253 para. 1st: Capital gains and losses-

capital gains on disposal of mining securities

The holder shall include the capital gain or loss realized on the sale of a mining title in the basis of tax on profits and profits.

If the assignment is between affiliated entities, the price and conditions of the assignment must be at least equal to those that would have applied to a arm's length assignment.

If the transferor has acquired the title from a person other than the person who incurred the research and development expenses, the capital gain or professional loss shall be equal to the difference between the total sale price and the acquisition cost.

Article 254 : Deductionof interest paid abroad

Interest paid by the holder abroad under foreign borrowings is deductible from income tax only if:

- these loans were actually intended for the realization of the mining project ;
- the interest rate does not exceed the annual average of the effective rates charged by the credit institutions of the country where the lending company is established according to the data provided by the Central Bank of Congo.

Article 255 : Deduction of mining royalties

The mining royalty paid by the holder of a mining right of exploitation, the processing entity and the holder of a permanent QuarryIng Authorization who transforms the quarry productsis deductible from the tax base for profit and profit tax.

Article 256 paragraph 1 litas a, c, e and i; ly. 2 litteras a, b, c and d and al.3: Deductible professional expenses

Without prejudice to the provisions of this Code, the following shall in particular be regarded as professional expenses deductible from taxable income:

a. the rent actually due and the rental charges relating to the buildings or parts of buildings used for the exercise of the profession and any general expenses resulting in particular from their maintenance and lighting. However, the rental value of buildings or parts of buildings owned by the debtor is not considered as rent or as a rental charge;

c. salaries, wages, gratuities and allowances of employees and workers in the service of the operation, benefits in kind provided that they have been added to the remuneration;

e. transportation, insurance, brokerage, commission costs. However, expenditure on commissions, brokerages, commercial or other rebates, vacations, occasional or non-occasional fees, gratuities and other remuneration of any kind shall be allowed as deduction only if justified by an exact indication of the name and domicile of the beneficiaries as well as the date of the payments and the sums allocated to each of them. However, the costs of transport on sale of mineral substances are not allowed as deductible expenses;

i. the actual tax having the character of an operating charge paid within the time limit, provided that it has not been established ex officio.

Sums paid by the holder to a natural or legal person governed by foreign law with whom he is linked, either by way of a direct participation in his capital or through holdings held by one or more other undertakings of the same group, as remuneration for a service rendered, are not eligible for admission. in the professional expenses of the company only on the quadruple condition that:

a. the quality of the service provided is clearly demonstrated;

b. the service in question cannot be rendered in national territory ;

c. the amount of the remuneration corresponds to the actual value of the service rendered;

d. the beneficiary is established in a territory with preferential taxation.

By territory with preferential taxation, it is necessary to mean, the territory where the rate of levy on profits and profits or of the tax on the income of natural persons is 30% lower than in the Democratic Republic of Congo.

Article 257 : Provision for the reconstitution of deposits

The holder is authorized to establish, free of profit and profit tax, a provision for the reconstitution of a deposit, the maximum amount of which is equal to 0.5% of the turnover of the financial year in which it is constituted.

This provision shall be used in its research activities in the national territory before the expiry of a period of three years from the end of the financial year in which the provision was made.

If it has not been used under the conditions defined in the preceding subparagraph, the provision for the reconstitution of a deposit shall be reinstated in the taxable profit for the fourth financial year following that in which it was constituted.

Article 258 al.1 and addition of paragraph 3: Provision for rehabilitation of the site

The holder is required to make, free of profit and loss tax , a provision for the rehabilitation of the site on which the mining operations are conducted .

It is required to comply with the ESIA Directive as provided for in the Mining Regulations.

Section V: Application of Value Added Tax
Article 259: Value Added Tax

Holders of mining rights and/or quarries are subject to Value Added Tax in accordance with ordinary law.

CHAPTER IV : THE FISCAL AND CUSTOMS ARRANGEMENTS APPLICABLE TO ARTISANAL AND SMALL-SCALE MINING
Article 262 al. 4

The payment of the flat-rate taxation provided for in the preceding paragraph exempts the holder from the payment of the mining royalty, the movable tax, the tax on profits and profits, the exceptional tax on expatriate remuneration . »

Article 10.

The headings of Title X and Chapter I, as well as Articles 264 and 265 of Chapter I, 266, 268, 269, 270, 271 and 272 of Chapter II, 273, 274 and 276 of Chapter III of the same Title are amended as follows:

"TITLE X: EXCHANGE REGULATIONS AND STATE GUARANTEES

CHAPTER I: EXCHANGE REGULATIONS

Article 264 paragraph 1: Payments of goods and services, transfers of primary and secondary income as well as capital transfers and financial transactions

Without prejudice to the provisions of paragraphs 2, 3 and 4 of this Article, the holder of mining rights shall be entitled to make for the benefit of non-residents and vice versa, after payment of the taxes and contributions due, payments of goods and services, transfers of primary and secondary income and transfers to capital and transfers due to the following financial transactions in direct relation to the transactions authorized under its mining law:
Article 265 al. 2

Anycommercial operation between affiliated companies shall be conducted on an arm's length basis.

CHAPTER II: FROM THE MANAGEMENT OF SALES REVENUES TO EXPORTS
Article 266 para. 1st and 3rd

The holder is authorized to export and market his production at the market price, subject to the right of the State to determine the proportion of production to be exported according to the needs of the local industry. The foreign exchange earnings relating thereto shall be collected within the forty-five months of the date of removal of the goods from the national territory for an African country and shipment from the national territory or an African country, unless the contract of sale contains special provisions concerning the period of payment.

The Mining Regulations set the quota and terms of application of the reservation issued in paragraph 1 of this article.

Article 268 para. 2 and 3

If he has opened several accounts with the national banking system , the holder of a mining right has the obligation to repatriate the export earnings to the account opened in an approved bank with which the export has was domiciled.

Article 269 para. 1st, 2nd and 3rd

The holder who, in the depreciation phase of his investment, exports the commercial productsof the mines is :

a. authorized to keep and manage in its main account and foreign debt service accounts the revenue from its export sales up to 40%. The terms of the provision of accounts intended for the service of the foreign debt, as well as the terms of payment of the service of the foreign debt of the holder, are established in the borrowing agreements concluded by the borrower with his bailiffs foreign funds ;

b. required to repatriate compulsorily in its account taking into account in the Democratic Republic of Congo, 60% of export earnings within ten days from the date of receipt from the main account provided for in Article 267 of this Code.

In case of depreciation of his investment, he is required to repatriate 100% of the income from his export sales in his main national account in the Democratic Republic of Congo within the period prescribed in subparagraph b of the preceding paragraph.

Ne may keep a proportion of export earnings or pre-financing abroad that the holder of the mining rights who has communicated the bank details and who transmits quarterly to the Central Bank of Congo on report of its activities recorded in the main account, as provided for in Article 271 of this Code.

The repatriated quota is intended to cover domestic expenses for residents and

may be used to finance the transactions referred to in article 264 of this Code.

Article 270: Payment of the exchange monitoring fee

The holder is required to pay to the Central Bank of Congo the exchange monitoring fee of 2/1000 on the following operations:

a. any payment to the foreigner made by authorized banks to the holder's bank accounts in the Democratic Republic of Congo, both in revenue and in expenditure, with the exception of repatriations ofincome from the main account;

b. any debit or credit transaction carried out on its main account with the exception of transfers to foreign debt service accounts, payments made from such foreign debt service accounts are also exempt from the exchange tracking fee .

The holder of the mining rights is required to pay to the Central Bank of Congo or to any person mandated by the latter a foreign exchange monitoring fee of 2‰ on the 100 % of the amount of any export made. This fee is calculated on the total export earnings and is levied on the repatriated quota.

Article 271 para. 3, 4 and 5

To do this, the holder of the mining rights has the obligation, within thirty days of receipt of this correspondence, to acknowledge receipt and to transmit to the Central Bank of Congo the legalized copy of the letter addressed to his banker authorizing the verification of transactions made on its main account.

The Directorate of Mines is responsible for supervising and exercising control over the holders of mining rights and quarry rights , in conjunction with the operations of compulsory repatriation of export earnings .

This power of verification is also exercised on all banking institutions involved in these revenue repatriation operations.

export in collaboration with the Central Bank of Congo.
Article 272 al. 2

The holder of the quarry rights is subject to ordinary law as regards all his foreign exchange transactions, with the exception of the holder of a permanent quarrying licence who produces cement who benefits from the provisions of the exchange regulations provided for in this Code.

CHAPTER III: GUARANTEES

Article 273 littera e

e. the free movement within the national territory of their personnel and products ;

Article 274 para. 2, 3 and 4: Currency redemption

If the needs of the national economy so require, the State and the Central Bank of Congo are authorized to buy back the currencies of the repatriated revenues at the rates and height to be negotiated.

In the event of currency redemption , the needs expressed by the holders of the mining rights are treated and served as a priority.

The Mining Regulation determines the practical arrangements .

Article 276 al. 2

The State shall ensure to the holder of the rights granted under this Law, the guarantee of stability of the fiscal, customs and exchange regime which remains acquired and intangible until the end of a period of five years, from the date of :

a. the entry into force of this Code for valid mining rights existing on that date;

b. the granting of the mining right acquired subsequently under a valid Research Permit existing on the date of the coming into force of this Act. »

Article 11.

The title of Chapter III of Title X is amended as follows:

"CHAPTER III : GUARANTEES AND CONTROL BY THE STATE".

Article 12

Articles 278 of Chapter I, 279 and 281 of Chapter II in Title XI are amended as follows:

'TITLE XI : RELATIONS BETWEEN HOLDERS OF DES DROITS MINIERS AND/OR CAREERS WITH EACH OTHER AND WITH THE OCCUPANTS OF THE LAND

CHAPTER I: RELATIONS BETWEEN HOLDERS

Article 278 : Easements

CHAPTER II: THE RELATIONSHIP OF THE HOLDERS WITH THE OCCUPANTS OF THE LAND

Article 279

Paragraph 1, subparagraphs c, h and j:

c. located less than five hundred metres from the boundaries of a hydroelectric dam or a building belonging to the State ;

h. located within eight hundred metres of the boundaries of a village, city, commune or town;

j. included in a national park and tourist sites.

Paragraph 2, subparagraphs a, b and c

a. a thousand metres of occupied, unoccupied or temporarily unoccupied houses or buildings;

b. eight hundred meters of the land that has been rooted and ploughed for farm crops;

c. eight hundred meters from a farm with a cattle farm , reservoir, hydroelectric dam or private water reserve.

Article 281 addition of paragraphs 7 and 7 bis: Compensation of land occupants

Any occupation of land depriving the rights holders of the enjoyment of the land, any modification making the land unsuitable for cultivation entails, for the holder or the amodiataire mining rights and / or quarries, at the request of the rights holders of the land and their convenience, the obligation to pay fair compensation corresponding either to the rent or to the

value of the land at the time of its occupation, increased by half.

The land referred to in the above subparagraph means the soil on which individuals have always carried out or are actually engaged in any activity.

The amicable settlement of the dispute is carried out by all non-judicial legal means, in particular settlement, compromise, arbitrationor before a Judicial Police Officer or an Officer of the Public Prosecutor's Office.

In the absence of an amicable settlement between the parties within three months from the date of the occurrence of the dispute, the compensation will be awarded by the competent court under the rules of the organization and jurisdiction of the judiciary in force in the Democratic Republic of Congo.

However, the occupant of the customary land may, in agreement with the holder, continue to exercise his right of cultivation provided that the work of the fields does not interfere with mining operations. The owner of the land will therefore no longer be able to continue to build buildings on it.

Finally, the mere passage on the ground does not give right to any compensation if no damage results. The passage must be carried out in the best conditions of preservation of the environment.

In the event of the displacement of populations, the mining operator is required in advance to compensate, compensate and resettle the populations concerned.

The practical arrangements for the application of the provisions of this article are determined by the Mining Regulations.

Article 13

The headings of Title XII and Chapter I and Articles 286 and 288 of Chapter I, 290, 291 and 296 of Chapter II of the same Title are amended as follows :

'TITLE XII : BREACHES OF ADMINISTRATIVE AND SOCIAL OBLIGATIONS AND PENALTIES

CHAPTER I: BREACHES OF ADMINISTRATIVE AND SOCIAL OBLIGATIONS

Article 286: Non-payment of surface fees, failure to start work within the legal deadline and non-compliance with social obligations within the regulatory period

The following are considered to be breaches of administrative and social obligations:

- the non-payment of annual surface fees per square;
- failure to start work within the legal period provided for in Articles 196, 197, 198 and 199;
- failure to correct within 60 days after the formal notice provided for in Article 292 of this Code;
- non-compliance with commitments to social obligations in accordance with the timetable set out in the specifications provided for in the Mining Regulations.

Article 288: The finding of non-commencement of work and the investigation of files

Theno.n-start of the work on time is recorded by the Directorate of Mines which sends the minutes of its report to the Minister and the Mining Cadastre. The latter shall notify the person concerned thereof within ten working days after the end of the period during which the works have begun.

CHAPTER II : SANCTIONS

Article 290: Withdrawal of mining rights and/or authorization to operate permanent quarries

The mining rights and the Authorization to exploit permanent facilities are withdrawn by the Minister when the holder has not exercised the appeal against the decision of forfeiture and where the remedies are time-barred or the appeal is dismissed. The

a decision to withdraw shall be taken on the day on which the appeal is dismissed or on the last effective day on which the appeal should have been initiated.

The decision to withdraw is notified to the Mining Cadastre, which shall enter it in the register of cancelled titles. The Perimeter that is the subject of a mining right or quarries withdrawn returns to the public domain of the State and can be returned to the areas reserved for geological research.

The Mining Regulations set out the procedures for the creation and management of areas reserved for geological research.

Article 291 : Prohibition

Holders of mining rights and the Permanent QuarryIng Authorization whose rights are revoked and whose titles are withdrawn may obtain new mining rights or permanent quarrying authorization only after a period of five years from the date of registration of the withdrawal in the register kept by the Mining Cadastre. In addition, the withdrawal of mining rights or the permanent QuarryIng Authorization does not have the effect of relieving the holder of his environmental and fiscal obligations.

Article 296: Default and fraud in the payment of duties, taxes and fees

Failure to pay, late payment and /or reduction of the amount due are breaches punishable in accordance with the relevant legislation. »

Article 14

Articles 300, 309 and 311 of Title XIII are amended as follows:

' TITLE XIII : OFFENCES AND PENALTIES

Article 300: Theft and concealment of mineral substances

Without prejudice to the special provisions on precious substances and those provided for in the Penal Code, is punishable by a penalty of penal servitude of one month to two years and a fine of the equivalent in Congolese francs of 5,000 USD to 20,000 USD or one of these penalties only, anyone who is guilty of stealing or concealing mineral substances.

Article 309: Insults or violence against the agents of the Administration and the Specialized Services of Mines

Without prejudice to the other provisions provided for by ordinary law, is punishable by a penalty of penal servitude not exceeding six months and a fine the amount of which in Congolese francs is the equivalent of 1,000 USD to 5,000 USD or one of these penalties only, a person who has outraged by deeds, words, gestures, threats or struck an official of the administration or of the specialized services of mines, in the exercise or in connection with the exercise of his functions.

Article 311: Contraventions of the orders of the Minister and the Provincial Governor

Any person who contravenes the provisions of the ministerial decrees notified by the Secretary-Generalto the mines and the decrees of the Provincial Governor in the artisanal or industrial mining sector under measures implementing this Code shall be punished by seven days to one month of penal servitude and a fine. whose amount in Congolese francs does not exceed the equivalent of USD 1,000 for the artisanal mining sector, and USD 10,000 for the industrial mining sector or one of these penalties only."

Article 15

Article 319 of Chapter IV of Title XIV is amended as follows :

' TITLE XIV : ACTIONS

CHAPTER IV: OF THE AR

Article 319 para. 2 and 3

As a result of the acceptance of the issuance of the mining or quarry title by the Mining Cadastre, the holder is deemed to have given his consent to such arbitration ex officio in accordance with the said Agreement and expresses it both on its behalf and on behalf of its affiliates. It also accepts that such an affiliate should be considered to be

a national of the State of which the Investor is a national of another Contracting State.

If the investor has made its investment through an affiliate under Congolese law, such a company is considered, for the purposes of the ICSID Convention, to be a national of the State of which the Investor is a national.

Without prejudice to the provisions of paragraph 5 of this Article, holders who are not residents of another Contracting State may submit disputes arising in connection with the interpretation or application of the provisions of this Code to any competent arbitral tribunal of their choice provided that such court is not governed by and sits in the laws of their country .

Holders who are not nationals of another Contracting State shall notify the Mining Cadastre of the names, contact details and rules of three arbitral tribunals chosen by them, within thirty days of the issuance of the mining title. The State shall approve one of the three proposed arbitral tribunals, subject to its object, on the grounds mentioned in the preceding paragraph in fine, within three months from the date of notification of the choice of arbitral tribunals.

In the absence of approval or objection by the State within the period of three months, the holder shall notify the Mining Cadastre within thirty days of the arbitral tribunal of his choice among the three proposed."

Article 16

The title of Title XVI and Articles 328 of Chapter II, 334, 335 and 340 of Chapter IV of the same Title are amended as follows :

' TITLE XVI : TRANSITIONAL AND FINAL PROVISIONS

CHAPTER II : PENDING AUX DROITS MINIERS AND/OU OF CARRIERS

Article 328: Applications for grant pending on the date of promulgation of this Code

Applicants who have applications for the grant of mining rights and/or quarries pending at the date of promulgation of this Act, are required to reformulate them in accordance with the provisions of this Code within three months of its entry into force.

Pending applications are applications for mining rights and quarries filed with the Mining Cadastre, during cadastral, technical and/or environmental investigation.

CHAPTER IV : IMPLEMENTATION OF NEW PROVISIONS

Article 334: Modalities of application of this law

The modalities of application of the provisions of this Code are fixed by the Mining Regulations as amended and supplemented and by other implementing decrees issued within 90 days following the promulgation of this Act.

Pending the publication of the measures provided for in the preceding paragraph of this article, urgent implementing rules may be taken by ministerial or interministerial order, if necessary.

Article 335: Suspension of applications for mining and quarry rights, artisanal mining and approval cards.

New applications for the granting of mining rights and research quarries, artisanal operator and trader cards , as well as applications for approval under counters for the purchase and sale of mineral substances, processing entities, approved mining cooperatives are suspended during the period leading up to the promulgation of the this Act on the coming into force of the revised Mining Regulations.

Applications for the granting of mining rights or quarrying, applications for renewal, transfers, improvements, extensions, security relating to mining rights or quarries in All other acts and legal procedures concerning such rights shall be carried out during the period referred to in the preceding paragraph in accordance with the provisions of this Code and other regulations in force.

During the period referred to in the first paragraph of this section, an ad hoc committee established by the Minister shall carry out an inventory of the mineral deposits whose mineral rights and quarries have been transferred into the public domain in accordance with the provisions of this Code.

Article 340: Validity of mining agreements

All mining agreements in force at the promulgation of this Act shall be governed by the provisions of this Code."

Article 17

Articles 5a, 7a, 7b and 7c are inserted in Chapter I, Chapter II the headings of Sections I, II, III and IV and Articles 8, 8a, 9, 10, 10bis, 11, 11 bis, 11 ter, 12 and 12 bis of Title I and of Law No 007/2002 of 11 July 2002 on the Code mining, worded as follows :

' TITLE Ier : GENERAL

CHAPTER IER: DEFINITIONS, OF THE SCOPE OF APPLICATION AND FUNDAMENTAL PRINCIPLES

Article 5 bis: Soundings, underground structures, excavations, geophysical surveys, earthworks, public utility works

Any person holding mining rights or quarries, outside the perimeter covered by his right, who undertakes research work, including soundings, underground works, excavations, whatever the object, with the exception of wells with domestic use the depth of which exceeds ten meters, is required to make a prior declaration to the Directorate of Geology.

Without prejudice to the provisions of this Code, any person who wishes to carry out geophysical surveys or any geochemical prospecting campaigns shall first make a declaration to the Directorate of Geology and shall be required to communicate to the latter the results of these surveys and campaigns which are covered by confidentiality pursuant to Article 324 of this Code.

Any person holding mining rights or quarries outside the perimeter covered by these rights, wishing to carry out earthworks, whatever the place or object, is required to solicit and obtain from the near the Directorate of Geology a prior authorization of earthworks before this work.

Public utility works are the subject of a prior declaration to the Directorate of Geology.

The competent agents of the Directorate of Geology have free access to all boreholes, underground works , excavation work, earthworks and works of public utility organized by this article and may be given all samples and be communicated all documents and information geological, geotechnical, hydrological, topographical, chemical or mining in compliance with the provisions of article 324 of this Code.

The conditions and procedures relating to the declarations referred to in paragraph 1, 2 and 4 of this article as well as those of the application for the earthmoving authorization referred to in paragraph 3 of this article are set by the Mining regulations.

Article 7a: Strategic mineral substances

If the national or international economic situation so permits, the Prime Minister may, by decree deliberated in the Council of Ministers, on the advice of the sectoral ministers concerned, declare certain mineral substances strategic substances.

The access, research, exploitation and marketing of strategic substances are governed by specific regulatory provisions.

Article 7b : Transparency, traceability and certification

Specific legal or regulatory measures are enacted in application of national, regional and international standards on transparency in the mining industry, traceability and certification of substances minerals, including the disclosure and publication of contracts and beneficial owners of mining assets

as well as the declarations of all taxes, duties, duties and royalties due and paid to the State.

Article 7c : Publication

Mining contracts, their annexes and amendments are published in the Official Journal and on the website of the Ministry of Mines within sixty days of the date of their signature.

CHAPTER II : THE ROLE OF THE STATE AND THE DISTRIBUTION OF COMPETENCES

Section 1era : The Role of the State

Article 8: Promotion and regulation of the mining sector

The main role of the State is to promote and regulate the development of the mining sector.

The State shall ensure the development of the mineral substances of which it is the owner by calling in particular on private initiative in accordance with the provisions of this Code.

To this end, it undertakes, through specialized bodies created for this purpose, activities of investigation of the soil or subsoil with the aim of improving the geological knowledge of the national territory or for scientific purposes or for the improvement and promotion of the geological information of the country or the province that do not require a mining or quarry right.

Article 8 bis: From the mining fund for future generations

A mining fund for future generations is established. The resources of the mining fund for future generations consist of a proportion of the mining royalty.

A decisionby the Prime Minister, deliberated in the Council of Ministers, creates and organises the mining fund for future generations.

Section II: The competence of the central government Article 9 : The Prime Minister

In accordance with the provisions of this Code and other relevant legislation, the Prime Minister is competent to:

a. enact or amend the Mining Regulations for the purposes of this Code;

b. classify, declassify or reclassify mineral substances into mines or quarry products and vice versa ;

c. confirm the reservation of a deposit subject to the call for tenders made by order of the Minister ;

d. declare a mineral substance a strategic mineral substance;

e. decree a zone prohibited tomining work, mining activity or quarry work;

f. declare the classification or downgrading of a mineral substance as a reserved substance;

g. delimit or classify a portion of the territory as a protected area.

The Prime Minister exercises the above prerogatives by decree, deliberated in the Council of Ministers on the proposal of the Minister, and if necessary, the competent ministers.

The exercise of the prerogatives granted to the Prime Minister under paragraph 1 of paragraph 1 of this article is not subject to delegation.

Article 10 : From the Minister

In accordance with the provisions of this Code and other relevant legislation, the Ministeris competent to:

a. grant or refuse to grant mining and/or quarry rights for mineral substances other than commonly used building materials ;

b. forfeit the holder, withdraw the mining and/or quarry rights, give notice to the declarations of renunciation of mining and/or quarry rights and record the expiry of mining rights and/or quarries, in accordance with the provisions of this Coof;

c. authorize, by way of derogation, exports of minerals in their raw state by interministerial decree deliberated in the Council of Ministers ;

d. establish artisanal mining zones;

e. approve and withdraw the approval of counters for the purchase of artisanal mining products,

mining cooperatives or quarry products and mineral processing entities;

f. authorize the extension of operating work;

g. approve mining mortgages;

h. exercise the supervision of the specialized public services of the Ministry of Mines;

i. reserve the deposits to be submitted to the call for tenders, to be confirmed by the Prime Minister ;

j. accept or refuse the extension of a mining right or quarries to non-associated substances;

k. issue authorisations for the processing of artisanal mining products;

l. propose to the Prime Minister the classification, reclassification or declassification of reserved substances, mineral substances classified as mines or quarry products andreversing, as well as prohibited areas;

m. appoint, on the proposal of the sectoral ministers concerned, the members of the Interministerial Commission responsible for selecting tenders for the exploitation of a deposit submitted to the call for tenders as well as the members of the Interministerial Commission responsible for examine the lists of goods to be imported for mining activities;

n. approve the agents in mines and quarries;

o. approve laboratories for the analysis of mineral substances;

p. approve geological design offices;

q. approve or deny transfers of mining rights;

r. enact, in collaboration with the Ministers responsible for the Economy and Foreign Trade , the nomenclature of market products;

s. decide on the results of environmental audits jointly with the Minister responsible for the Environment ;

t. approve, jointly with the Minister responsible for Finance, the lists of goods to be imported under the preferential customs procedure;

u. fix, jointly with the Minister responsible for Finance, the rates of duties, taxes and royalties to be collected on the initiative of the Minister in charge of mines.

Article 10 bis: From the Mining Administration

The Mining Administration comprises the General Secretariat, directorates, divisions and other administrative services of the Ministry in charge of mines, including those involvedin the administration of the Mining Code and all its enforcement measures. They are governed in accordance with the legal and regulatory texts in force relating to the Public Administration.

The technical departments involved in the process of granting mining rights and/or quarries are:

- the Geology Directorate ;
- the Directorate of Mines ;
- the Directorate of Mining Environmental Protection.

The Mining Regulations determine the responsibilities of each of the departments of the Mining Administration.

Section III: The Jurisdiction of the Province

Article 11: The Provincial Governor

Without prejudice to the prerogatives conferred on him in particular by the Law on the Free Administration of the Provinces and other laws in this field, the Provincial Governor shall, in accordance with the provisions of this Code, be competent to :

a. develop and propose, in accordance with the general standards of the national planning, to the provincial assembly the provincial policy relating to mining, mineralogical, industrial and energy programs of provincial interest ;

b. oversee the execution by the provincial government of edicts relating to provincial policy on mining programs,

mineralogical, industrial, energy of provincial interest ;

c. propose the erection of a zone prohibited to mining activities;

d. issue an opinion in the event of the establishment of an artisanal mining zone.

The Mining Regulation organizes the general standards of the national mining planning, and sets the general framework for mining, mineralogical, industrial and energy programs of provincial interest.

Article 11 bis: From the Provincial Minister

In accordance with the provisions of this Code and without prejudice to the provisions of the Law on the Free Administration of the Provinces, the Provincial Minister shall be competent, after notice of compliance from the Head of the Provincial Mines Division, to:

a. to carry out, under the supervision of the Provincial Governor and, where appropriate, in consultation with other provincial ministerial departments involved, the said matters relating to provincial programme policy mining,
mineralogical, industrial, energy of provincial interest;

b. issue artisanal operator cards;

c. issue the cards of traders in artisanal mining products;

d. authorize the possession of mining products by jewellers, jewellers, artists and dentists ;

e. exercise, in harmony with the technical services of the Ministry of Mines and the establishments under the supervision of the Minister, the supervision of the activities of the services of the Ministry of Mines installed in the provinces;

f. issue a receipt to the holder of a mining right or quarries before the commencement of his activities in the province, inaccordance with the provisions of Article 215 of this Code ;

g. grant artists approved by the Ministry of Culture and the Arts the special authorization referred to in Article 115 of this Code;

h. grant research authorisations for quarry products and licences for quarrying of commonly used building materials ;

i. decide on the opening of quarries for public utility works on State land.

The Mining Regulation determines the procedures for issuing artisanal operator and trader cards as well as the rules for collaboration between the technical services of the Ministry in charge of mines and the establishments under the supervision of the minister.

Article 11 ter: The Head of the Provincial Mines Division

In accordance with the provisions of this Code and without prejudice to other prerogatives assigned to him by the organic framework of the Ministry of Mines, the Head of the ProvincialAnd Mines Division shall be competent to:

a. control and monitor mining activitiesinthe provinces;

b. receive applications for approval of mining cooperatives addressed to the Minister;

c. issue notices of compliance prior to the decisions and acts of the Provincial Minister relating to the administration of the provisions of this Code.

Section IV: Specialized Technical Services Article 12: Mining Cadastre

The Mining Cadastre is a public institution responsible for the management of the mining domain as well as that of mining titles and quarries and placed under the supervision of the Minister.

To cover its operating costs , the Mining Cadastre is authorized to collect and manage the fees for submitting applications and a proportion of annual surface fees per square.

A decree of the Prime Minister, deliberated in the Council of Ministers, establishes the statutes, organization and functioning in accordance with this Code and Law No. 08/008 of 7 July 2008 on general provisions applicable to establishments. Public.

Article 12 bis: From the specialized body of the Research

A decree of the Prime Minister establishes a specialized body responsible for research in the mining field .

It shall determine its organisation and functioning.'

Article 18

Articles 23a and 27a shall be inserted in Chapter I and 27a, Chapter II shall include Article 33a and Chapter III shall insert Articles 48a and 48b of Title II as follows:

'TITLE II : PROVISIONS

CHAPTER I: ELIGIBILITY

Article 23 bis: Access to the exercise of mining and quarry rights

Legal persons wishing to invest in the mining sector are required to provide the following documents :

a. the valid tax certificate or equivalent issued by the competent institution of the applicant's country of origin ;

b. the certificate of good life and morals and the extract the criminal record valid for the associates of theoral person, issued by the competent authorities of the country of origin;

c. a written commitment to declare in the Democratic Republic of Congo the profits and income realized.

Article 27 bis: The questioning of eligibility for mining and quarry rights

The eligibility of the holder of a mining or quarrying right may not be called into question and lead to the annulment of the said right by the judge, in accordance with the preceding article of this Code, at the diligence of the Mining Cadastre, the officer of the Public Prosecutor's Office or any injured third party, only within three months of publication of this law in the Official Journal or, failing that, within three months of the date on which its existence becomesknown.

After the period of three months referred to in the preceding paragraph of this article, on the initiative of the Mining Cadastre, the officer of the Public Prosecutor's Office or any injured third party, the ineligibility of the holder may be established by a decision of justice, cast in force of res judicata, which shall be notified to the Mining Cadastre by the officer of the Public Prosecutor's Office, the judge or any aggrieved third party. In this case, the Mining Cadastre prepares and sends to the granting authority , within ten days of notification, a draft order for the withdrawal of the said right with retroactive effect to the day of the loss of eligibility.

CHAPTER II: MINE AND QUARRIES

Article 33 bis: Access to the exploitation of a studied deposit.

Access to the exploitation of a studied, documented or worked deposit belonging to the State, obtained by call for tenders, is conditioned by the payment of a doorstep to the latter, representing 1% of the value in place of the said deposit. The value in place of the gisement is defined as the price obtained for the said deposit in the context of the call for tenders.

When the deposit has been studied, documented or worked by a state-owned commercial company, the doorstep is 100% the responsibility of that company.

CHAPTER III: THE PROCEDURE FOR MINING AND/OR QUARRY RIGHTS AND THE ISSUE OF MINING AND /OR QUARRY TITLES

Article 48 bis: From the beginning of the period of validity mining and/or quarry rights.

The period of validity of mining and/or quarry rights begins to run from the day of notification of the decision to grant the applicant, notification of ex officio registration or service of the judge's decision provided for in Article 46 of this Code.

Article 48 ter: Extinction of mining rights and/or quarries

Mining and/or quarry rights are extinguished by:

a. lapse;

b. cancellation. ;

c. expiration;
d. waiver;
e. withdrawal.

Mining and/or quarry rights become automatically null and void pursuant to Article 47 paragraph 2 of this Code.

They may be annulled, with retroactive effect, by decision of the administrative judge seised for annulment by an officer of the Public Prosecutor's Office or an injured third party, within three months of the publication of the award decision in the Official Journal or failing that, within three months of the date on which it became known, for illegality, in the event of lack of competence of thegranting authority, a defect in form or a misuse of powers by the granting authority.

Mining and/or quarry rights expire when they come to an end, in accordance with Articles 61, 78, 94, 106, 144 and 163 of this Code.

They are extinguished by total renunciation of their holders, in accordance with articles 60, 79, 96, 108, 145 paragraph 4 and 164 of this Code. In the event of a partial renunciation, the mining and/or quarry rights shall lapse on the part of the perimeter which is the subject of the said renunciation, in accordance with the same provisions.

At the end of the revocation of the holder, the Research Permit, the Exploitation Permit , the Large Exploitation Permit and the Small Mine Exploitation Permit, the authorizations for the exploitation of permanent quarries other than those of materials of commonly used construction shall be withdrawn by the Minister, and by the provincial Minister of Mines for Permanent Quarrying Authorizations, in accordance with section 290 of this Code.

Mining and/or quarry rights may be withdrawn or revoked, without retroactive effect, by the granting authority in the event of illegality at the time of granting, within three months of the publication of the grant decision in the Official Journal or, failing that, in the three months following the date on which it became aware of its existence, either at therequest of an injured third party or on the initiative of the granting authority.

The Mining Regulation shall determine the manner in which this article is to be applied."

Article 19

Chapters V and VI, an Article 50a in Chapter I and Articles 64a, 71a, 77a, 77b and 80a in Chapter II, an article 88a in Chapter III, an article 99a in Chapter IV of Title III are inserted as follows:

' TITLE III: MINING RIGHTS

CHAPTER I: RESEARCH

Article 50 bis : Rights conferred by the Permit research

The Research Permit confers on its holder the exclusive right to carry out, within the Perimeter on which it is established and during the period of its validity, the research work of classified mineral substances in mines for which the permit is granted and the associated substances, if the holder requests the extension of the permit to those substances.

However, the holder of the Research Permit may not initiate field work without first obtaining the approval of his RP, in accordance with the provisions of this Code.

The holder of a Research Permit is authorized to take samples of mineral substances in the Perimeter covered by his Research Permit for industrial analysis or testing in the laboratory or plant of his or her unit.

Any sample taken under the Research Permit is the property of the State.

Without prejudice to customs legislation, if the holder wishes to send the samples taken abroad for analysis or testing, he shall first submit a description of the samples. including their number, volume and weight from the Directorate of Geology and obtains the visa of this service on a copy of the description, which is worth a pass for the samples taken.

The Research Permit also gives its holder the right to obtain an Exploitation Permit for all or part of the mineral substances that are the subject of the Research Permit and the associated substances within the area covered by the Research Permit if he discovers an economically exploitable deposit.

CHAPTER II: N

Article 64 bis: Rights granted by the Permit of exploitation

The Operating Permit confers on its holder the exclusive right to carry out, within the perimeter on which it is established and during the period of its validity, research, development, construction and exploitation work. for the mineral substances for which the permit is issued and the associated or unassociated substances if the Minister has requested an extension. It also allows , without limitation, to:

a. enter the Perimeter of Operation to carry out mining operations;

b. build the facilities and infrastructure necessary for mining ;

c. use water and wood resources within the mining perimeter for mining purposes, in accordance with the standards set out in the ESIA and GGP ;

d. freely dispose of, transport and market its merchant products from the Perimeter of Exploitation;

e. carry out concentration, metallurgical or technical processing of mineral substances extracted from the deposit within the Operating Perimeter;

f. carry out the extension of the mine.

The holder of the Exploitation Permit has the right to treat and process on Congolese territory the mineral substances exploited by him.

Article 71 bis : Participation of physical congolese nationals with social capital

The participation of natural persons of Congolese nationality is required for the constitution of the share capital of mining companies.

The persons referred to in the preceding paragraph shall hold at least 10 % of the share capital .

Article 77 bis : Exploitation of substances non-associated minerals

The holder of a Licence to develop non-associated mineral substances is obliged to apply for a separate mining right in these substances in accordance with the provisions of this Code.

In the event that the holder of the Operating Permit does not request such an extension, the Directorate of Mines gives him formal notice to request it within sixty days.

A holder who does not apply for a new title, while operating the substances in the context of a separate mine, shall apply the provisions of section 299 of this Code.

The Mining Regulation determines the terms and conditions of this exploitation.

Article 77 ter : Extension of works of exploitation

The holder of an operating permit who wishes to extend his work is required to seek the authorization of the Minister.

To this end, it shall present an additional feasibility study incorporating the operations required for this extension.

The filing, admissibility and examination of the application for extension shall be subject to the conditions laid down in Articles 37, 38, 39, 40, 41 and 42 of this Code.

Article 80 bis : Transformation of the Permit operating in several operating permits

If necessary and if the technical conditions allow it, the holder of an Operating Permit may request the transformation of his Permit

initial operation in multiple Operating Permits on all or part of the perimeter of its Permit in accordance with the provisions of sections 28, 29 and 68 to 76 of this Code.

The duration of the multiple Operating Permits resulting from the transformation of the Initial Operating Permit is equal to the expired duration of the Initial Operating Permit .

The Mining Regulation determines the terms and conditions for the conversion of the Operating Permit into several Operating Permits.

CHAPTER III: EXPLOITATION OF MINE DISCHARGES

Article 88 bis : Rights conferred by the Permit exploitation of discharges

The Discharge Exploitation Permit confers on its holder the same rights as those conferred on the holder of the Permit for Exploitation by article 64 bis of this Code.

However, the rights conferred on the holder of the Discharge Exploitation Permit are limited to the area it covers and do not extend in depth.

The Mining Regulation shall determine the terms and conditions of application of the preceding paragraph.

CHAPTER IV: SMALL-SCALE MINING

Article 99 bis : Rights conferred by the Permit small mine operations

The Small Mine Operating Permit confers on its holder the same rights as the holder of an Operating Permit provided for in section 64 bis of this Code.

The holder of a Small Mine Operating Permit may convert the Small Mine Permit into an Operating Permit if the technical conditions of the operation so warrant.

Similarly, the holder of an Operating Permit may convert the licence into a Small Mine Licence.

The Mining Regulations set out the conditions referred to in paragraphs 2 and 3 of this article.

CHAPTER V: ADMINISTRATION OF THE MINING SECTOR

Article 108 bis: The obligation of the holder to carry out the treatment of mineral substances in the National Territory

Without prejudice to Articles 64 paragraph 1 lita e, 88, 99 and 146 of the Mining Code, the holder of a mining right of exploitation or a permanent quarrying authorization is required to treat or have treated mineral substances as market products in his own facilities or with approved treatment entities established in the national territory.

Any holder of a mining right or a permanent quarrying authorization is required to submit to the Direction des mines his industrialization plan containing a program for the treatment of mining products. extracted from its perimeter in its own facilities or from approved processing entities established in the national territory.

The Mining Regulations lay down the content of the industrialization plan and the procedures for filing, instructing, approving and monitoring.

Article 108 ter : Exceptional treatment of raw mineral substances outside the national territory

By way of derogation from the provisions of the preceding article, the holder of a mining right of exploitation may be authorized, for a period of one year, to have his mining products treated outside the national territory by an interministerial order of the Minister and the minister responsible for the external trade, deliberated in the Council of Ministers, in return for payment of the related tax.

Authorization is granted only if the holder demonstrates both :

a. the absence of a possibility of treatment in the national territory at an economically profitable cost for the mining project;

b. the existence of a contract for the treatment of mining products outside the territory

national agreement with a firm established abroad;

c. its acceptance that the statistics of the metal produced at the end of the processing abroad will be counted as exports on behalf of the Democratic Republic of Congo;

d. its acceptance to be subject to duties and taxes due to the Treasury in connection with the exceptional treatment of raw mineral substances abroad.

The Mining Regulations determine the procedures for applying for, issuing and renewing the authorization for the exceptional treatment of raw mineral substances outside the national territory.

Article 108c : From the processing entity and the processing plant

a. From the processing entity

Any person who does not hold a mining title who proposes to engage solely in the processing of mineral substances requires and obtains a processing authorization from the Minister in accordance with the provisions of the this Code and the Mining Regulations.

b. From the processing plant

Any person who proposes to engage solely in the processing of mineral substances shall comply with the relevant legislation.

Any person who does not hold a mining title who proposes to engage solely in the treatment of mineral substances reserves at least 50% of the share capital to the Congolese.

Article 108d : Subcontracting

The subcontracting activities specified in Article

1 point 48 of this Code are exercised in accordance with Law No. 17/001 of 08 February 2017 laying down the rules applicable to subcontracting in the private sector.

CHAPTER VI: DETENTION, TRANSPORTATION, STORAGE, STORAGE, MARKETING AND EXPORT OF MINING PRODUCTS

Article 108 sexies: Possession of the Mining Product

Without prejudice to the provisions of Article 5 paragraph 3 of this Code, credit institutions duly established in the national territory, the Treasury, the Mining Administration and certain universities and research institutions are authorized to hold the mining products.

The possession of mining products by jewellers, jewellers, artists and dentists is subject to the authorization issued by the Provincial Governor .

However, the Provincial Mining Division grants artists approved by the Ministry of Culture and the Arts the special authorization referred to in section 115 of this Code.

Article 108f : Transport and storage of mining products

The persons mentioned in Article 5 paragraph 3 of this Code have the right to transport or have transported by the carrier of their choice, mining products that come from their operating sites, factories, counters or points of purchase for traders, as appropriate. In this case, they are required, in accordance with Article 7 ter of this Code, to have their carrier identified.

They also have the right to store or store their mining products in fenced sites, set up for that purpose, located in the vicinity of the loading sites, provided that they comply with the regulations on the safety of the site and on the control of industrial p ollution.

The Mining Regulation sets out the terms and conditions for identifying the carriers, transport and storage of mining products.

Article 108g : Marketing and export of mining products

The marketing of mining products that come from the Perimeters of exploitation or the

Approved processing or processing entities is carried out in accordance with the laws and regulations in force in the Democratic Republic of Congo. The holder of an Operating Permit may sell his products to customers of his choice at a price fair to market conditions.

However, in the event of a local sale, it may sell its products only to a legal person carrying on mining activity or to factories connected with the mining activity.

Merchant mining products comply with the nomenclature as defined by the relevant regulations . »

Article 20

Articles 111a and 114a of Title IV are inserted in Chapter I and are worded as follows:
'TITLE IV : OF THE HOLDING OF

CHAPTER I : ARTISANAL MINING AND/OR QUARRY

Article 111 bis: The artisanal operator card

mines and/or quarry products

Artisanal operator cards for mines and/or quarry products are issued by the provincial Minister of Mines of the jurisdiction to eligible persons who undertake to comply with the regulations in this area. protection of the environment, health and safety in artisanal mining areas, in accordance with the procedures set by the Mining Regulations, after having read them.

A fixed fee, the amount of which is determined by regulation, is levied when each card is issued.

The duration of the artisanal operator card is one year, renewable for the same period without limitation. In case of loss, destruction or theft of the card of artisanal operator, no duplicate will be issued. The holder is required to object, before requesting a new one.

The Mining Regulations set out the procedures for drawing up the artisanal operator's card .

Article 114 bis: The mining cooperative and/or approved quarry products

The approved mining and/or quarry products cooperative shall be authorised to exploit any artisanally exploitable mineral substance and to market it locally in accordance with the provisions of this Code and its measures are applicable.

A fixed fee, the amount of which is determined by regulation , is levied at the time of approval.

The Minister's application for certification as a mining cooperative and/or quarry products is filed with the provincial mining division of the jurisdiction.
The following elements shall be attached to the application:

a. the duly notarized statutes of the artisanal farmers' cooperative signed by the founders;
b. the list containing the names and addresses of the founders ;
c. a certified photocopy of each member's artisanal operator card ;
d. the minutes of the constitutive general meeting ;
e. the names, addresses and professions of the directors ;
f. proof of the free membership of each member in the group of artisanal farmers ;
g. proof that the conditions for membership of the grouping are not prohibitive;
h. proof of payments made in respect of subscription to the share capital;
i. the technical and financial means as well as the human resources that the cooperative intends to implement for the achievement of its objectives.

Obtaining approval as a mining cooperative and/or quarry products is subject to the following conditions:

a. be constituted in accordance with the Uniform Act on the Law of Cooperative Societies ;

b. be composed of at least twenty natural persons of full age of Congolese nationality holding artisanal mining operator cards and/or quarry products valid for a given province ;

c. have as its corporate purpose, mainly mining activities and/or quarry products.

Approval as a mining cooperative and/or quarry products is granted or refused by the Minister.

The decision to grant or refuse is notified by the Secretary General for Mines to SAEMAPE and the Mining Cadastre.

Any refusal shall be reasoned and shall have the right to appeal, in accordance with the provisions of Articles 313 and 316 of this Code.

On pain of withdrawal of approval by the Minister, the approved mining and/or quarry products cooperative is required, in addition to the obligations provided for in Article 112 of this Code, to transmit monthly to SAEMAPE the statistics of its production and to compensate farmers for any damage caused by its activity.

The Mining Regulation shall lay down the conditions and procedures for examining the application for approval as a mining cooperative and/or quarry products.'

Article 21

An Article 136a shall be inserted in Chapter II, and in Chapter III an Article 146 bis of Title V shall read as follows:

'TITLE V: CARRIER RIGHTS

CHAPTER II : [illegible] QUARRY PRODUCTS

Article 136 bis : Rights conferred by

Authorization to Research Career Products

The Quarry Products Exploration Authorization gives its holder the right to obtain a Quarrying Authorization for all or part of the mineral substances that are the subject of

the authorization of research within the area covered by the Research Authorization, if he discovers a deposit.

However, a mining right may be granted in a Perimeter that is the subject of an authorization to research quarry products .

When a Perimeter is the subject of an Authorization for research of quarry products, no application for Authorization of quarries on the same Perimeter is admissible, except the application for Authorization to exploit quarries requested by the ti holder of the said Research Authorization.

If an Exploitation Permit is granted on the area that is the subject of an Authorization for Research into Quarry Products, the latter is automatically extinguished. In this case, the holder of the extinct Quarry Products Research Authorization is entitled to fair compensation.

CHAPTER III : THE OPERATION OF QUARRIES

Article 146 bis: Rights conferred by the Quarrying Authorization

The Permanent or Temporary Quarrying Authorization confers on its holder the exclusive right to carry out, within the Perimeter on which it is established and during the period of its validity, research, development, construction and exploitation of substances quarries for which the Authorisation is established and other substances if it has requested their extension.

It also allows , without limitation, to :

a. access the Scope covered by the Operating Authorization to carry out quarry operations;

b. build the facilities and infrastructure necessary for quarrying ;

c. use water and wood resources within the Quarry Perimeter for the purposes of the operation, in accordance with the standards set out in the ESIA and the GGP or rap depending on whether it is a permanent or temporary quarry ;

d. freely dispose, transport and market its merchant products from the Scope of Operation;

e. process or transform quarry substances extracted from the deposit within the Perimeter of Exploitation;

f. carry out the work of extending the quarry. »

Article 22

Articles 182a, 185a, 185b and 185c of Title VII are inserted in Chapter II, worded as follows:

'TITLE VII: LEASING AND TRANSFERS

CHAPTER I: OF THE ASSIGNMENT

Article 182 bis : Conditions of assignment

The transfer of mining rights and permanent quarrying authorizations is subject to the following conditions:

1. For the assignee :

   a. be previously a person eligible to apply for and hold mining rights or permanent quarrying authorizations in accordance with Article 23 of this Code;

   b. justify, in the event of the transfer of a research permit, the financial capacity provided for in Articles 56 and 58 of this Code;

   c. fulfill, in the event of the transfer of a mining right to exploit, the condition provided for in Article 71 (d), (71 bis) and Article 104 paragraph 2 of this Code;

   d. comply, in the event of a partial transfer, with the provisions of Articles 28 and 29 of this Code.

2. For the transferor: have complied with its environmental protection obligations under the approved environmental plan.

CHAPTER II : MUTATIONS

Article 185 bis : Of the decision of approval ou refusal of the transfer of the right

Upon receipt of the application file with favourable or unfavourable cadastral, technical, environmental and social opinions, transmitted to it by the Mining Cadastre, the competent authority shall take and transmit its decision approving or refusing the transfer of the right to the Mining Cadastre within a period of ten working days.

In the event of a decision approving the transfer, the Mining Cadastre shall register the transfer within five working days, in accordance with the provisions of Article 171 of this Code and notify the decision to the applicant.

After these periods, the assignee may avail himself of the provisions of articles 43 and 46 of this Code.

In case of refusal of the transfer, the Mining Cadastre notifies the decision of refusal to the applicant.

Article 185 ter: Registration and third-party effectiveness of the act of assignment

To be enforceable against third parties, the total or partial transfer is registered by the Mining Cadastre against the payment to the Public Treasury of a registration fee of 1% of the price of the transfer immediately due. The price may, where appropriate, be subject to subsequent verification by the competent services.

The Mining Regulation determines the terms and conditions of valuation of the property transferred, in order to determine the fair price.

Article 185c : Transfer of the right

The transfer of the mining right or the permanent quarrying authorisation shall be entered in the appropriate register kept by the Mining Cadastre in accordance with Article 172, immediately after notification of the decision approval of the transfer to the assignor and the assignee.

The transfer can only relate to valid mining rights or permanent quarrying authorizations . »

Article 23

Articles 220a, 220b and 220c shall be inserted in Chapter I, Chapter III shall insert Articles 238a, 239a, 241a, 244a, 246a, 247a, 251a, 253a and 258a and Section VII of Title IX as follows:

'TITLE IX: FISCAL AND CUSTOMS FOR MINES
CHAPTER I^ER : PROVISIONS

Article 220 bis: The regime of taxes, duties, duties and fees and other parafiscal levies to be collected for the benefit of the Central Government.

The taxpayer concerned is subject, for the benefit of the Central Government, in the context of its mining activities:

a. Taxes, duties and charges established in the terms of this Code:
   1. tax on profits and profits ;
   2. professional tax on the provision of services rendered by natural or legal persons not established in the Democratic Republic of Congo;
   3. tax on income from movable capital or movable tax;
   4. professional tax on remuneration;
   5. the exceptional tax on the remuneration of expatriates;
   6. entrance fees;
   7. excise duties;
   8. proportional right for approval and registration of mortgages;
   9. proportional right for approval and registration of assignments;
   10. proportional right for approval and registration of lease, option contract and transmission;
   11. annual superficial rights per square;
   12. proportional rights for the sale of shares and shares;
   13. mining royalty ;
   14. land fuel and lubricants fee ;
   15. signing bonus ;
   16. no door.

b. Taxes, duties, duties and fees according to the terms of common law:
   1. Value Added Tax, abbreviated as VAT;
   2. tax on temporary mining authorization;
   3. tax on exports of samples intended for industrial analysis and testing when they are exported in violation of Article 50 paragraph 3 of the Mining Code, sold to third parties for the benefit or by the holder before or after analysis or test, and finally in case of export that is of a commercial nature;
   4. installation tax and annual environmental remunerative tax ;
   5. deforestation tax ;
   6. right to grant the work card for foreigners ;
   7. taxes on telecommunications ;
   8. approval fee for explosives depots ;
   9. right to register dredges ;
   10. annual fee and deposit for processing entities of all categories and tailors;
   11. pleasure of boutefeux.

Article 220 ter: The system of taxes and charges of common interest, to be levied for the benefit of the provinces and other decentralized entities

The holder is subject, for the benefit of the provinces and other decentralised entities, within the framework of its mining activities:

a. The following taxes:
   1. property tax;
   2. vehicle tax ;
   3. tax on rental income.

b. The following common interest taxes:
   1. the special road traffic tax;

2. the surface tax on mining concessions.

The taxes, duties, levies and charges provided for in this Article shall be levied in accordance with the revenue legislation of the provinces and decentralized territorial entities.

Article 220 quarter: The system of taxes, duties and royalties applicable to activities other than mining activities of the holder

Without prejudice to the provisions of Article 234 paragraph 3 of this Code, the holder is subject, in the context of the exercise of activities other than his mining activities, to other duties, taxes and royalties of the competence of the central government and that of the provinces and decentralized territorial entities provided for by the laws fixing nomenclature as well as the fees and remunerative taxes that contribute to the costs of operation of personalized public services.

CHAPTER III : OF THE TAX SYSTEM

Article 238 bis : Taxes and fees of the forestry sector and environmental protection

The holder of mining rights and quarries is subject, without prejudice to the provisions of articles 257 and 258 of this Code, to the payment of the following taxes and royalties:

- deforestation tax ;
- installation tax on installations classified as category 1A;
- annual remunerative tax on installations classified as category 1A;
- pollution tax on installations classified as category 1A.

Article 239 bis: Tax on rental income

The holder is liable for tax on rental income in accordance with ordinary law.

Article 241 bis : Methods of recovery of the mining royalty

The procedures for the recovery of the mining royalty are determined by the legal texts setting the nomenclature of duties, taxes and fees of the Central Government, and reforming the procedures relating to the base, control and the arrangements for the collection of non-tax revenues.

Article 244 bis: Of the exceptional tax on remuneration paid to expatriate staff

The incumbent is liable for the exceptional tax on remuneration paid to expatriate staff at half the rate set by the common law for the first ten years of the project and at the rate of the common law for the following years. It is deductible from income tax.

Article 246 bis: Professional tax on provision of services

The holder is liable for professional tax on the provision of services for sums paid in remuneration for services of any kind rendered to him by natural or legal persons, not established in the Democratic Republic of the Congo, at a rate of 14%.

Article 247 bis

The provisions relating to the ordinary law relating to the tax on profits and profits not covered shall be fully applicable according to their wording on the date of promulgation of this Code.

Article 251 bis: Special tax on excess profits

Excess profits or super profits are the profits made when the prices of materials or commodities increase exceptionally, by more than 25% compared to those included in the study. of bankable feasibility of the project.

The super profit is determined separately from the gross operating surplus from the holder's accounts . For the determination of excess profits, the provisions of Article 252 shall not apply.

The special tax on excess profits is taxable at the rate of 50%. Income subject to the special tax on excess profit is not subject to income tax.

The Mining Regulations set out the practical procedures for determining excess profits.

Article 253 bis : Of the special tax on the most important

capital gains on disposal of shares or shares

Any transfer of shares or shares of a legal person holding a mining or quarrying title is taxed under the capital gains regime.

The capital gain on the sale of a share is constituted by the difference between the sale price of the share or share and the net book value of that share.

This capital gain recorded at the level of the legal person that transferred the shares or shares is deemed to be of congolaise source to the extent that the assets of the legal person whose shares or shares transferred are located in the Democratic Republic of Congo. When the assets are located in several jurisdictions, the capital gain is calculated only on the value of the assets belonging to the subsidiary under Congolese law.

The tax is withheld at source by the transferee legal person, which pays it in accordance with the terms of payment of taxes due to the Treasury. This withholding tax is payable at the time of receipt or making available of the income from the sale of shares or shares. Any transaction of conversion or exchange of shares or shares is assimilated to a receipt of income from the sale of shares or initial shares.

For the purposes of this Article, any plan to sell shares or shares shall be notified in advance to the company holding the shares and to the members or shareholders.

The rules concerning the methods of calculation, declaration and payment of this tax are specified by regulation.

Article 258 bis : Of the allocation for contribution community development projects

The holder of a mining right to exploit or a permanent quarrying permit is required to constitute, free of income tax, an endowment for contribution to the x projects of Community development the minimum amount of which is equal to 0,3 % of the turnover of the financial year in which it is constituted.

The grant must be made fully available to local communities before the end of the financial year following that in which it was constituted.

Section VII: Modalities for the Collection of Non-Tax Revenues

Article 260 bis : Duties , taxes and fees

The procedures for the recovery of duties, taxes and charges provided for in this Code shall be laid down in the texts governing the procedures relating to the assessment, control and recovery of non-tax revenue.'

Article 24

Article 272 bis of Title X is inserted in Chapter II, which reads as follows:

"TITLE X: EXCHANGE REGULATIONS AND STATE GUARANTEES

CHAPTER II: FROM THE MANAGEMENT OF SALES REVENUES TO EXPORTS

Article 272 bis :

Any matter relating to foreign exchange which has not been dealt with by this Code shall be governed by provisions of the Central Bank."

Article 25

Articles 276a, 276b, 276b, 276c and 276d of Title X are inserted in Chapter III , worded as follows:

" Article 276 bis : The transfer of shares social and actions

Any transfer of shares or shares within a company holding an operating permit resulting in the acquisition of control of it by the beneficiary of the transfer is subject to the prior agreement of the State.

Any change in the shareholding of acompany governed by Congolese or foreign law, having control of an associated subsidiary company or shareholder in a company holding an operating permitand resulting in the acquisition of control of the controlled subsidiary company is also subject to the prior agreement of the State.

Article 276 ter: Merger

The prior agreement of the State is also required for any merger operation resulting in the absorption of a company holding an Operating Permit byanother .

Article 276c : Takeover

For the purposes of this Article, 'takeover' means the acquisition of power , by virtue of the holding of a majority of the voting rights, to determine the decisions of the company, in particular those of appointing or dismissing a majority of the members of the administrative, management or supervisory bodies of the company.

Article 276d

The Mining Regulation shall determine the manner in which the provisions of this Chapter are to be applied ".

Article 26

Chapters III and IV are inserted in Title XI, which read as follows:

'TITLE XI : RELATIONS BETWEEN DES DROITS MINIERS AND/OR CAREERS WITH EACH OTHER AND WITH THE OCCUPANTS OF THE LAND

CHAPTER III: THE INDUSTRIAL OF THE HOLDER

Article 285 bis : Industrial responsibility of the holder

Any holder of a mining right and/or quarries is liable for damage caused to persons,

property and the environment as a result of its mining activities, even in the absence of any fault or negligence. He is obliged to repair them.

He may be exempted only if he proves that the damage comes from acause unrelated to his mining activity.

The Mining Regulations set out the terms and conditions of the repair.

Article 285 ter: Damage caused to people and the environment by contamination

The holder of a mining right and/or quarries is also liable in the event of direct or indirect contamination due to mining activities that have an impact on human health and/or result in the degradation of the environmentand resulting in particular in pollution of water, soil and atmosphere and causing damage to man, fauna and flora.

Article 285c: Diseases attributable to mining activity

The holder of the mining and/or quarry right is obliged to make good any damage caused by diseases attributable to the mining activity in accordance with the rules of ordinary law .

The list of diseases attributable to mining activity is determined in the Mining Regulation.

Article 285 quinquies: Limitation of the action for compensation for damage caused

Actions for compensation for damage caused by mining activities on man and the environment are imprescriptible.

CHAPTER IV: THE SOCIAL LIABILITY OF THE HOLDER

Article 285e: Obligation to contribute to the financing of community development projects

Without prejudice to the provisions of articles 212, 213, 214 and 242 paragraph 2 of this Code, the holder of mining rights and authorization to operate permanent quarries is required to

contribute, during the period of its project, to the definition and implementation of socio-economic and industrial development projects of local communities affected by the project activities on the basis of a charges for the improvement of the living conditions of these communities.

Article 285f : Of the specifications

Inaccordance with this law, the specifications define the social responsibility of the holders of mining rights or the authorization to operate permanent quarries vis-à-vis the local communities affected through mining activities.

The purpose of the specifications is to guide and organize the implementation of the commitments of the holders of mining rights of exploitation or of the authorization to operate permanentbackwork relating to the construction of the infrastructures socio-economic and social services for the benefit of local communities affected by its mining activities.

It also aims to serve as a framework for agreement to enable the implementation of sustainable development actions aimed at improving the economic, social and cultural well-being of local populations affected by the mining activities of holders of mining rights. or the authorisation to operate permanent quarries during and after the operation.

The holder of mining rights or of the permanent quarrying authorisation shall be required, from the date ofissue of his mining title and/or quarries and at the latest within six months before the start of exploitation, to draw up and submit the specifications defining the social responsibility towards the local communities affected by mining activities and obtain the approval of the Provincial Government after consulting the technical services.

The Mining Regulation determines the rules relating to negotiations as well as the practical arrangements for the establishment, filing, admissibility, appraisal and approval of the specifications defining social responsibility vis-à-vis the

local communities affected by mining activities.

Article 285g : Management of the allocation for contribution to community development projects

In accordance with the principle of transparency in the mining industry prescribed by this Law, a minimum allocation of 0.3% of turnover for contribution to community development projects provided for in Article 258 bis of this Code shall be made available and managed by a legal entity comprising the representatives of the holder and the surrounding local communities directly concerned by the project.

The Mining Regulation determines the legal nature of the entity responsible for managing the staffing, the number of members of each component as well as the modalities of their collaboration and control by the ministries in charge of mines and social affairs .

Article 285h : Valuable mineral substances occasionally found

Anyphysical person of Congolese nationality who occasionally finds a precious mineral substance, the trade of which is regulated, is authorized to sell it to an authorized dealer or counter in return for payment of a tax. appropriate fixed by the Minister, provided that the origin is not unlawful. »

Article 27

Article 288 bis of Title XII is inserted in Chapter I and provides as follows:

' TITLE XII: BREACHES OF ADMINISTRATIVE AND SOCIAL OBLIGATIONS AND PENALTIES

CHAPTER I: BREACHES OF ADMINISTRATIVE AND SOCIAL OBLIGATIONS

Article 288 bis: The finding of non-compliance with commitments vis-à-vis social obligations

Failure by the holder to comply with his commitments to social obligations within the time limit is

noted by the Congolese Environment Agency in collaboration with the Directorate for the Protection of the Mining Environment, after on-site investigation and consultation of the communities concerned, which transmits the minutes of its report to the Minister and has u Mining cadastre. The latter shall notify the person concerned thereof within ten working days after the end of the period during which his commitments should have been fulfilled.

Within a maximum period of one working day following receipt of the report, the Mining Cadastre displays the report of the Congolese Environment Agency in collaboration with the Directorate for the Protection of the Mining Environment in a room indicated by the Mining Regulations. A copy of these minutes shall be given to the holder.

Each holder is responsible for obtaining information on the findings of the Congolese Environment Agency in collaboration with the Directorate for the Protection of the Mining Environment concerning his project.

The holder whose non-compliance with the commitments vis-à-vis the social obligations has been found may submit any document relating to his defence within forty-five days following the date of posting of the report.

The Congolese Environment Agency, in collaboration with the Directorate for the Protection of the Mining Environment, investigates the defense file within thirty days from the end of the period set in the preceding paragraph and transmits its technical advice to the Minister and the Mining Cadastre, which shall inform the holder concerned.

The Mining Cadastre sends the related file and the projand decision to the Minister for competence. »

Article 28

Articles 299a, 309a, 311b and 311c are inserted in Title XIII as follows:

'TITLE XIII: OFFENCES AND PENALTIES

Article 299 bis: Human rights violations

The exploitation and trade of mining products from a site where a contravention of the laws on the protection of human rights, the rights of the child, or the rights of women has been the subject of a report of a competent authority. The Mining Regulation sets out the terms and conditions of the report.

Without prejudice to the provisions of article 299 of this Code, anyone who engages in mining in violation of this article shall be punished by a fine the amount of which is the equivalent in Congolese francs of USD 10,000 per day until the cessation of the violation.

Without prejudice to the provisions of Article 302 of this Code, anyone who engages in trade in mining products in violation of this Article shall be punished by a fine equal to three times the commercial value of the products in question.

Article 309 bis : Non-repatriation of revenue of export

The holder who does not repatriate 60% of the export earnings, in accordance with the provisions of article 268 paragraph 2 of this Code, is punishable by a fine equal to 5% of the amount not repatriated.

Article 311b : Fraud and looting of mineral natural resources

Is punishable by a sentence of penal servitude of ten to twenty years and a fine whose amount amounts to the equivalent in Congolese francs from 250,000 to 500,000 USD, anyone who has, by any act generally of any kind, any agreement , convention, arrangement or other fact, which has the effect of depriving the nation, natural or legal persons of all or part of their own means of subsistence derived from their resources or resources mining, in addition to the confiscation of property and assets resulting from the crime.

Article 311c : From the obstacle to the transparency and traceability in the mining industry

Is liable to a fine the amount of which amounts to the equivalent in Congolese francs from 100,000 to USD 1,000,000 , any person who, by any act , agreement, agreement, arrangement or other fact, interferes with transparency and traceability in the mining industry.'

Article 29

Articles 311d and 326a are inserted in Title XV as follows:

' TITLE XV : MISCELLANEOUS PROVISIONS

Article 311 quinquies : Failure and refusal to communicate the change of domicile

Is punished, after a formal notice of fifteen working days made by the Directorate of Mines or the Mining Cadastre, as the case may be, by a fine the amount of which amounts to the equivalent in Congolese franc of

5,000 USD per day, any person who has omitted or refused to report to these services any change in the location of his domicile or the registered and administrative headquarters.

The period shall run from the date of dispatch of the said formal notice to the last addressgiven to the services concerned.

Article 326 bis : Ownership of property movable and immovable property

Without prejudice to the obligations of rehabilitation of the site provided for in its environmental and social management plan, the ownership of immovable property of any kind acquired by the holder of mining rights and/or quarries in the course of its activities and located on the perimeter is transferred to the State in the event of the expiry, withdrawal, cancellation or total renunciation of mining title and/or quarries.

The Mining Regulation determines the terms and conditions of application of this provision. »

Article 30

Article330a shall be inserted in Chapter II and Articles 342a and 342b of Title XVI shall be inserted in Chapter II and in Chapter IV , which shall read as follows:

'TITLE XVI: TRANSITIONAL PROVISIONS

CHAPTER II : PENDING APPLICATIONS AND ACQUIRED RIGHTS OF CARRIERS

Article 330 bis: Career rights

Within 3 months of the entry into force of this Code, the Chief of Division of Mines shall establish the list of career rights granted in his province as of 2003.

He shall draw up, within the same period, an inventory of the closed files archived, the files in the course of proceedings, the litigation opened before him, with a view to their devolution to the Minister. the provincial mining authority within one month of the coming into force of the revised Regulations.

CHAPTER IV : IMPLEMENTATION OF NEW PROVISIONS

Article 342a: Stability guarantee

The provisions of this Act shall apply immediately to all holders of mining rights valid on the date of its coming into force.

In the event of a legislative change within five years of the entry into force of this Code, the holders of the mining rights referred to in the preceding paragraph shall benefit from the guarantee of stability of the tax, customs and exchange regime of this Code.

Article 342 ter: The period of application of the obligation of processing and transformation in the Democratic Republic of Congo for the current holders of mining rights

Holders of valid mining rights have a period of three years to process mineral substances on the territory of the Democratic Republic of Congo by them exploited.

The period provided for in the first paragraph of this Article may be reduced or extended only by an amendment to this provision by both Houses of Parliament.

This provision shall have effect from the entry into force of this Regulation.

Article 31

The following are repealed on the date of coming into force of this Act:

1. points 5 and 43 of Article 1 and the provisions of Articles 13, 14, 15, 17, 18, 19, 20, 21, 22, 66, 83, 84, 85, 102, 202, 222, 223, 227, 243, 260, 327, 329, 330, 331, 332, 333,

336, 337, 338, 339, 341, 342 and 344 of the Act

No. 007/2002 of 11 July 2002 on the Mining Code;

2. All other provisions of the Mining Code of 2002 and legal and regulatory provisions contrary to this Law.

Article 32

This Act shall enter into force on the date of its promulgation.

Done at Kinshasa, 09 March 2018

Joseph KABILA KABANGE