

LAW N° 007/2002 OF JULY 11, 2002 ON MINING CODE

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EXPLANATORY MEMORANDUM

INTRODUCTION

Since the Congo Free State, natural resources, particularly precious mineral substances, have continued to attract researchers and mining investors from different horizons. This had led the Belgian Congo to legislate on the research and exploitation of mineral substances in the National Territory.

Indeed, by Decree of December 16, 1910 amended and supplemented by the Decree of April 16, 1919, the Government of the Belgian Congo had regulated mining exploration and exploitation only in Katanga. This legislation was later repealed and replaced by the Decree of September 24, 1937 for the entire National Territory. This Decree remained in force until 1967, the year of the promulgation of the first mining legislation of the Independent Congo by the ordinance-law n° 67/231 of 3/05/1967 relating to general legislation on mines and hydrocarbons. The latter was in turn repealed by Ordinance-Law No. 81-013 of April 2, 1981 relating to general legislation on Mines and Hydrocarbons. The repeal did not bring major innovations so that the last mining law of 1981 did not

had not deviated from that of 1967 in its main lines.

It emerges from the objective analysis of all the balance sheet data of mining activities available to date, that the legislation promulgated after the Democratic Republic of Congo, that is to say since 1967, had not attracted investments, but rather had a negative impact on the country's mining production and on public finances. And that the mining, tax, customs and exchange regimes that they had organized were not incentives.

With a few exceptions, statistical studies have shown that the volumes of investment and mining production were greater in the period from 1937 to 1966 compared to that from 1967 to 1996, a period governed by the mining law of 1981. It emerges from these data that 48 mining companies were operational during the period from 1937 to 1966 against only 38 between 1967 and 1996 and 7 in the period after 1997.

To compensate for this insufficiency, the legislator wanted to set up new incentive legislation with procedures for granting objective, rapid and transparent mining or quarry rights in which tax, customs and exchange regimes are organised.

This constitutes the purpose of this Code, the nomenclature of which is as follows:

TITLE ONE: GENERAL

***Chapter One :* DEFINITIONS, TERMS, OF THE FIELD OF APPLICATION AND PRINCIPLES FUNDAMENTALS**

In order to avoid various interpretations, some of which make it difficult to understand its provisions, the new Mining Code, unlike its predecessor, innovates by defining the basic concepts beforehand.

The scope of the new Code covers prospecting, research, exploitation, transformation, transport and marketing of mineral substances classified as mines or quarry products as well as the artisanal exploitation of these substances and marketing them. The new Code does not govern the recognition, exploration and exploitation of liquid or gaseous hydrocarbons as well as activities or operations concerning thermal or mineral waters which come under the legislation^{and}

particular. For its application, the new Mining Code lays down the principle of the integral application of all its provisions.

With regard to State ownership of mineral substances contained in mineral deposits, the new Mining Code, like the old one, reaffirms the principle of State ownership of these mineral substances in mineral deposits, in particular natural, artificial, geothermal mineral deposits and groundwater on the surface of the ground or in the subsoil. However, the holder of a mining or quarry exploitation right is recognized as the owner of the commercial products, i.e. the mineral substances, in any form whatsoever, extracted by virtue of the mining rights or quarries and/or any product produced from these substances in concentration, treatment or transformation plants for commercial purposes.

The new Code has the merit of reaffirming the principle that the rights arising from the mining concession are distinct from those of the land concessions so that a land concessionaire cannot take advantage of his title to claim any right of ownership over mineral substances contained in the basement. In addition, the new Code classifies mineral deposits in mines and quarries. It specifies that the President of the Republic can declassify or reclassify a substance from mines as a product from quarries and vice versa.

The reaffirmation of State ownership of mineral substances makes it possible to announce that access to research and

the non-artisanal exploitation of mineral substances throughout the national territory is authorized to any person who makes the request and who meets the objective conditions of eligibility, priority and capacity provided for in the new Code. The same applies to artisanal mining and the marketing of the resulting substances, authorized provided this

When national security, the safety of populations, the incompatibility of mining activity and quarry work with other existing or planned uses of the soil or subsoil as well as the protection of the environment so require, the new Code grants the President of the Republic the power to declare a zone prohibited for mining activities or quarry work under the substantive and formal conditions that he will determine.

As for "reserved substances", the new Mining Code organizes a specific legal regime concerning them. These are substances for which the security of national or international populations requires that they be declared "reserved substances" by the Head of State according to the conditions that he will determine. Already, in the Code, they are placed under the regime of reserved substances.

THE ROLE OF THE STATE AND THE DISTRIBUTION OF COMPETENCES

Although ensuring the development of mineral substances by appealing to private initiative, the State essentially has a role limited to the promotion and regulation of the mining sector. He may, however, through specialized bodies, engage in the investigation of the soil or subsoil for the sole purpose of improving the geological knowledge of the country or for scientific purposes which do not require obtaining a mining or quarry law. When the State engages alone or in association with third parties in a mining activity, public legal entities as well as specialized organizations created for this purpose are treated on the same footing as private investors who engage in this same activity. activity.

The new Mining Code determines the bodies involved in the administration or application of its provisions, namely: the Head of State, the Minister of Mines, the Governor of the Province, the Head of the Provincial Division of Mines, the Directorate of Mines, the Directorate of Geology, the Mining Cadastre and the service for the protection of the mining environment.

Under the new Code, the powers of the President of the Republic

Chapter II:

are clearly specified. Indeed, in addition to his competence relating to the promulgation of the Mining Regulations for the execution of this Code, the Head of State is competent to classify, declassify or reclassify mineral substances as quarry products and vice versa. It also has the power to declare certain substances "reserved substances". It confirms the reservation made by the Minister of Mines in the case of the deposits to be submitted to the call for tenders.

With regard to the Minister of Mines, the new Mining Code has maintained his traditional powers such as the granting of mining rights, the establishment of artisanal mining zones and the approval of purchasing counters. It acknowledges other attributions to it, in particular the granting of quarry rights for mineral substances other than building materials for everyday use, the reservation of deposits to be submitted to the call for tenders, the approval of mining mortgages, the approval of agents in mines and quarries, the issuance of authorizations for the processing of products, the authorizations for the exploitation of minerals in the new state.

Another innovation has been introduced with regard to the Provincial Governor and the Head of the Provincial Mining Division. The first intervenes as the competent authority in the granting of trading cards for artisanal mining products, the processing of quarry products. While the second is responsible for granting digger cards, exploitation rights for

quarries for commonly used building materials.

In the same vein, a new body responsible for administering mining and quarrying law has been created. This is the Mining Cadastre whose attributions are clearly specified in the new Code. It is endowed with legal personality and financial autonomy in order to enable it to collect and manage for its benefit the costs of filing files and the annual surface area rights per plot. It remunerates a quota to other bodies involved in the administration of the Mining Code. The Mining Cadastre comes under the supervision of the Ministries of Mines and Finance.

The roles and attributions of the Geology Department and those of the Mines Department are classified in the new Code. The Directorate of Mines no longer manages the procedure for granting, forfeiture or cancellation of mining and quarry rights. The Geology Department does not intervene in the said procedures either, but it will focus on large-scale geological studies, maintaining and analyzing the information provided in various reports.

With regard to environmental constraints, the new Code has provided for provisions with a view to ensuring effective protection of the environment, through the department responsible for the protection of the mining environment. This service intervenes in the technical instruction of the Environmental Mitigation and Rehabilitation Plan, abbreviated PAR, in the Impact Study

Environmental, in acronym, EIE, as well as in the Environmental Management Plan of the mining project, in acronym, PGEP

It is also specified that apart from the Ministry of Mines, its services and the bodies responsible for the administration of the Mining Code, no other service or public or state institution is competent to apply the provisions of the Mining Code and its measures. of execution.

Chapter III: **PROSPECTING**

The new Mining Code announces the principle of freedom of access to mining prospecting throughout the National Territory.

However, any person who engages in this activity must make a prior declaration to the Mining Registry, which, by recording it, issues him a Prospecting Certificate. This is not a mining or quarry right, even less a mining or quarry title. It does not confer any priority for obtaining mining or quarry rights.

The prospector acquires ownership of the samples he takes with the obligation to file a description indicating the number, volume and weight of each sample. He also submits a control sample, for any sample taken, to the Geology Department.

DISPOSITIONS MUNICIPALITIES

First chapter : **OF ELIGIBILITY**

The new Mining Code maintains the same eligibility conditions as provided for in the Mining Law of 1981.

Nevertheless, it is innovative in that natural persons of legal age of foreign nationality and legal persons governed by foreign law may be eligible for mining or quarry law on condition that they elect domicile with a mining and quarry agent and act through him. The same applies to organizations with a scientific vocation which, like natural persons of foreign nationality, are eligible for mining and research quarry rights. As a result, the new Code organizes the profession of agent in mines and quarries. Their mission, in addition to representation, is to advise and assist any person interested in the granting and exercise of mining and quarry rights as well as in related litigation.

This Code also organizes the eligibility conditions for artisanal mining. This is reserved only for natural persons of Congolese nationality, for natural persons of foreign nationality having elected domicile

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in the National Territory and to legal entities governed by Congolese law which have their registered office in the National Territory and whose corporate purpose relates to the purchase and sale of mineral substances from artisanal mining.

It is clearly determined and specified in this Code the persons who are not eligible for mining or quarry rights. These are persons whose performance of duties is incompatible with mining activity, such as: agents and civil servants of the State, magistrates, members of the Armed Forces, the Police and the Security Services, employees of public bodies authorized to carry out mining operations. However, this prohibition does not apply to their participation in mining companies.

Finally, there are persons under legal incapacity 2.15 of the Family Code those under a ban, as provided for in this Code.

Chapter II: MINING PERIMETERS AND CAREERS

The new Code specifies that the National Territory is subject to a cadastral grid according to the system of appropriate coordinates specified in the Mining Regulations. It establishes mining and quarry Perimeters in the form of polygons composed of whole contiguous squares whose sides are oriented North South and East-West. The geographical location of the Perimeter covered by the mining or quarry right is identified by the coordinates of the center of

each square that makes up the mining Perimeter. The mining sites are indicated on maps at the scale of 1:200,000.

It is also provided in this Mining Code the rules on the encroachments of the mining and quarry Perimeters as well as those of the demarcation of the said Perimeters.

Chapter III: OF THE GRANTING PROCEDURE MINING RIGHTS OR CAREERS AND DISCOUNT MINING TITLES AND CAREERS

The new Code establishes transparent, objective, efficient procedures in the process of receipt, investigation, decision and notification of mining or quarry rights as well as in the issuance of the related titles.

The principle of priority of instruction is affirmed in the new Code so that the mining right is granted to the first to arrive who meets the conditions of eligibility for the requested right. The elements of the request and the related costs are also provided.

Applications for mining or quarry rights are subject to a cadastral investigation followed by technical investigation. The new Code specifies the content of each type of instruction.

In the event of a favorable instruction, the authority granting mining or quarry rights issues its decision within the time limit allocated to it for each type of right.

mining or quarrying. After this period, this Code provides that in the event of silence, the requested right is deemed to be granted and the Mining Cadastre registers the said right. In the event of refusal of registration by the Cadastre, this Code offers the applicant the possibility of obtaining registration by legal means.

In the event of an unfavorable opinion, this Code enjoins the competent authority granting mining or quarry rights to issue its reasoned refusal decision within the time limit allocated to it for the type of mining or quarry right requested. .

Finally, the Code organizes the exceptional submission to a call for tenders of certain deposits of mineral substances classified as mines and quarries. These are deposits studied, documented or possibly worked by the State or by its bodies considered as an asset of known significant value.

TITRE III : MINING RIGHTS

This Mining Code, because of the imbalance and discrimination caused by the previous conventional mining regime, has retained a single common law regime, thereby excluding the conventional mining regime. Indeed, the exaggerated size of the exclusive zones of research granted under mining conventions created concession freezes, thereby preventing the State from granting mining or quarrying rights to other investors.

This conventional system was finally marked by the lack of job creation and the lack of improvement of social infrastructures, the absence of integration with other economic sectors and the reduction in the possibility of development of other sectors through the ripple effect, despite the exorbitant benefits granted to investors.

This Code organizes access to mining research, mining, small-scale mining and the exploitation of tailings.

The mining rights organized by the new Code are the Exploration Permit, the Exploitation Permit, the Small Mine Exploitation Permit and the Tailings Exploitation Permit, which are evidenced by the Exploration Certificate, the Certificate of Exploitation, the Small Mining Exploitation Certificate and the Tailings Exploitation Certificate.

***Chapter I:* MINING RESEARCH**

Access to mining research is authorized to any eligible person holding an Exploration Permit, the duration of which is four years, renewable twice for a period of two years at each renewal for precious stones, and five years renewable for the same duration for other mineral substances.

It is specified in the new Code that the area subject to an Exploration Permit cannot exceed a maximum of 400 km². Under no circumstances may a person and their affiliates hold more than 50

Research whose total area cannot exceed 20,000 km² on the whole of the National Territory.

The granting of the Exploration Permit is subject to only one condition: proof of the minimum financial capacity. This minimum required financial capacity is understood to be ten times the total amount of the annual surface area fees per square payable for the requested permit. However, to deal with environmental constraints, this Code requires the holder who has obtained his Exploitation License to present, before actively starting the exploration work, an Environmental Mitigation and Rehabilitation Plan. , BY, in acronym.

This Code has the merit of determining the rules for the establishment, deposit, admissibility, conditions of granting, waiver, expiry, renewal and total or partial transformation of the Exploration Permit. It also describes the rules for extending the Exploration Permit to substances other than those for which it is granted.

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The holder of a permit

Research which, through its feasibility study, demonstrates the existence of an economically exploitable deposit and justifies the financial resources needed for the construction project for the operation of the mine as well as the plan

rehabilitation of the site upon its closure, may apply for and obtain an Exploitation License.

This Code specifies in a clear and transparent manner the grounds for refusing to grant an Exploitation License. The discretionary power enjoyed by the Minister of Mines in this area is limited. This is what constitutes a guarantee for investors.

The Exploitation License is granted by the Minister of Mines for a period of thirty years, renewable several times, for a period of fifteen years each time. The area of the Perimeter covered by the Exploitation License is that of the Exploration License from which it derives or that of the part of the Exploration License converted into an Exploitation License.

The constraints of an environmental nature have led the legislator to impose on the applicant for the Exploitation License to present, in support of his request for a License, an Environmental Impact Study (EIA) and an Environmental Management Plan for his Project (PGEP).

This Code has the merit of setting out, as clearly as possible, the rules on the admissibility, examination, conditions for granting, waiver, expiry and renewal of the Exploitation License. There are also developed the rights recognized to the holder of the Exploitation License, in particular the right to transform, transport, transpose and market the mining products.

Chapter III: EXPLOITATION OF RELEASES MINES

The mining companies established on the National Territory have had to exploit the deposits with relatively high contents.

But the technology implemented to extract the different minerals was far from the ideal. This state of affairs and the difficult state of the metallurgical installations have led to very low recovery rates.

Consequently, over time, huge tailings or tailings parks were built up for Gécamines containing 4,016,714 tonnes of copper, 603,703 tonnes of cobalt and 1,542,182 tonnes of

zinc, 6,720,000 m³ of discharges for MIBA with 9,503,000 carats of diamonds; 1,476,000 tonnes for OKIMO with 4,4481 kg of gold and 64,364,000 m³ of spoil heaps and settling sand with 14,676 tons of stored cassiterite.

With the development of new technologies, the reprocessing of all these discharges, which in fact constitute real artificial deposits, has become possible.

Thus, since the end of the last decade, international mining companies have been increasingly interested in the exploitation of mineral substances contained in solid or liquid waste resulting from mineralogical and metallurgical processing by former mining companies in the country. .

Several partnerships or joint ventures are currently concluded between these former companies and foreign investors for the exploitation of these artificial deposits.

However, the ordinance-law n° 81-013 of April 02, 1981 did not organize mining rights which could allow the legal exploitation of these artificial deposits. This situation meant that donors or banking institutions subordinated the financing of ongoing tailings exploitation projects to the production by joint venture companies of legal mining titles.

Aware of this need, this Mining Code innovates in that it governs the exploitation of mineral substances contained in the tailings by means of a mining right called License for the Exploitation of Tailings. This right is evidenced by a mining title called Certificate of Exploitation of Rejects.

Access to the exploitation of tailings is open to the holder of an Exploitation License whose artificial deposit results from his previous mineralogical or metallurgical work. It is also open to the partial transferee of an Exploitation License for the surface on which the discharges are located and to any person requesting the rights to exploit artificial deposits which are no longer the subject of an Exploitation License. valid.

The Tailings Exploitation License confers on its holder the same rights as those of an Exploitation License holder. However, this right relates to the area on which the discharges are piled up and extends to the area necessary for the installation of processing or operating plants and their dependencies. It does not extend depth.

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The duration of the Exploitation License for tailings is determined according to the feasibility study presented by its applicant and may not exceed 30 years, but may be subject to special renewal until the deposits are exhausted.

The establishment, filing, admissibility and examination of an application for a License to Exploit tailings, the conditions for granting or refusing to grant, the expiry, renewal and waiver of the License to exploitations of the discharges are identical to those of the Exploitation License.

Chapter IV: FROM MINING TO SMALL SCALE

Another innovation of this Code is the institution of a mining right called the Small Mining Exploitation Permit. The Small-Scale Mining Exploitation License grants its holder the right to exploit a small-scale mining deposit.

In fact, when the technical conditions characterizing certain deposits of mineral substances do not make it possible to ensure profitable large-scale exploitation, but allow small-scale mining with a minimum of fixed installations, using semi-industrial or industrial, these are set up as deposits for small-scale mining.

These deposits may result from research work undertaken by the

holder of an exploration permit or by those initiated by the State. When they result from research work initiated by the State, these deposits are subject to a call for tenders.

Small-scale mining differs from industrial mining, due to the economic value of the deposit and the size of the mining facilities. It is nevertheless distinguished from artisanal mining by the fact that it requires the prior identification of a deposit and the use not only of semi-industrial but also industrial processes.

The period of validity of the small mine exploitation permit varies according to the size and quality of the reserves of the deposit but cannot exceed 10 years, including renewals. exceptionally and subject to the opinion of the Directorate of Mines, the Minister of Mines may extend the duration of the Small Mining Exploitation License for substances whose exploitation exceeds 10 years.

This Code defines the rules governing the establishment, deposit, admissibility as well as the examination of the application for the small mine exploitation permit. It also provides for the conditions for granting or refusing to grant these permits as well as the rules for expiry, renewal and waiver of said permit.

TITLE IV:

OPERATION ARTISANAL MINES

***Chapter I:* OPERATION ARTISANAL**

This Mining Code, like Ordinance-Law No. 81-013 of April 2, 1981, organizes the criteria for establishing an artisanal mining area.

Indeed, when the technical and economic factors characterizing certain deposits of gold, diamonds or any other mineral substance do not allow industrial or semi-industrial exploitation, the Minister of Mines may erect such deposits within the limits of an area geographical area determined in the artisanal mining area.

This Code specifies the conditions for the closure of an artisanal mining area and regulates the questions relating to this closure.

In artisanal mining areas, natural persons of Congolese nationality holding artisanal mining cards are authorized to mine gold, diamonds and other mineral substances exploitable by artisanal means.

This Code assigns the power to issue artisanal miner cards to the Head of the Provincial Division of Mines.

In order to avoid abuse of authority, this Code regulates, in a clear and transparent manner, the clauses

objectives of the withdrawal of the artisanal miner's card.

This Code introduces an innovation in that the Minister of Mines may, exceptionally, authorize the holder of an artisanal miner's card to process the products of his exploitation.

***Chapter II:* OF TRANSPORT AND MARKETING OF MINING PRODUCTS ARTISANAL MINING**

This Mining Code clearly lays down the principle according to which artisanal miners can only sell their mining products to traders, counters or organizations approved by the State or on stock markets.

This Code innovates by stipulating that artisanal miners can sell their products to artists approved by the Minister of Culture and the Arts within the limits of their authorizations.

The profession of trader is open only to adult natural persons of Congolese nationality. Its exercise is subject to obtaining a trader's license issued by the Governor.

With regard to the activity of buying and selling mineral substances from artisanal mining, traders must prove their status as traders by producing their registration in the New Trade Register before being issued the trader.

As with the artisanal miner cards, this Code clearly and transparently provides for the conditions for withdrawing the trader card.

Approved purchasing counters are authorized to buy, sell and export artisanally mined mineral substances after submitting to the control of the Mining Administration and the public body in charge of the expertise. The conditions for approval as authorized counters are clearly specified in the Code.

Indeed, any major natural person of Congolese nationality, any major natural person of foreign nationality having a domicile in the National Territory as well as any legal person under Congolese law having its registered and administrative office in the National Territory and whose corporate purpose is on the purchase and sale of mineral substances, may apply for approval as an approved purchasing agency.

The conditions for refusal of approval and withdrawal of approval as well as the related remedies are clearly specified in the new Code.

This Code establishes, as a principle, that the number of buying counters is unlimited on the National Territory while the number of buyers per counter is limited by regulation.

Finally, this Code introduces an innovation consisting of the organization of stock markets in the National Territory. No stock market may operate in the Democratic Republic of

Congo without being previously approved by the Central Bank of Congo.

Only persons approved as buying counters are authorized to buy on the stock markets.

TITRE V : RIGHTS OF CAREERS

Chapter I: GENERAL

This Mining Code has the merit of governing research operations for quarry products which are classified into four categories below: 1° open permanent quarries, either on state land or on a Perimeter subject to a land title held by a third party for commercial exploitation by private persons;

2° quarries open on a temporary basis, either on state land or on a Perimeter subject to a land title held by a third party for commercial exploitation by private persons; 3° quarries open temporarily on state land for public utility works; 4° quarries open on a temporary basis to the occupant by regularly authorized or the owner of land for non-commercial exploitation or exclusively for his own domestic use.

Chapter II:

OF RESEARCH QUARRY PRODUCTS

Access to quarry product research is subject to the granting of a quarry right attested by a quarry title called a quarry product research certificate. The authorization to search for quarry products is a real, real estate, exclusive right with a validity period of one year, renewable once for a period of one year.

It may not be subject to assignment, transfer or lease.

The area subject to a Perimeter covered by the authorization to search for quarry products may not exceed 4 km² and may not be superimposed on an area subject to a mining exploitation permit.

With a few exceptions, the establishment, deposit, examination, admissibility as well as the granting of authorization for exploration of quarry products obey the same rules as those of the exploration permit under mining law.

The granting of an exploration license for quarry products is subject to proof of financial capacity, defined as being equal to five times the total amount of the annual surface area fees per quadrangle payable for the period of validity of the exploration licence. requested.

This Code also provides the rules relating to the expiry, renewal and waiver of the Exploration Authorization for Quarry Products.

***Chapter III:* OF THE OPERATION OF CAREERS**

This Code organizes two quarry exploitation rights. These are the Authorization for Permanent Quarry Exploitation and the Authorization for Temporary Quarry Exploitation.

The Authorization for Permanent Quarry Exploitation constitutes an exclusive, transferable, transferable and leaseable real estate right. This right is evidenced by a title called Certificate of Permanent Quarry Exploitation. This authorization is granted for a period of five years, renewable several times until the deposit is exhausted.

On the other hand, the Authorization for Temporary Quarry Exploitation constitutes a real estate right, exclusive but not transferable, not assignable, not to be leased. This right is evidenced by a title called Temporary Quarry Exploitation Certificate.

The Authorization for Permanent Quarry Exploitation or Temporary Quarry Exploitation is granted or refused, as the case may be, by the Head of the Provincial Division of Mines for materials in common use and by the Minister of Mines for other substances of careers.

As for the conditions for granting the Authorization for Permanent Quarry Exploitation, the same rules apply, with a few exceptions, as those for the Exploitation License.

With regard to the granting of the Authorization for Temporary Quarry Exploitation, it is granted to the first eligible persons fulfilling the precise conditions defined in this Code.

Finally, this Code organizes the rules on the application and processing of the application for Authorizations for Permanent and Temporary Quarry Exploitation as well as the expiry, renewal, transfer and waiver of said rights.

It also organizes the marketing of quarry products.

TITLE VI: SECURITIES

Mining sureties constitute, with regard to this Code, an innovation in that the ordinance-law n° 81-013 of April 02, 1981 had not organized them. In general, securities are guarantees that more or less increase the possibility for the creditor to be paid by the debtor, even if the latter later becomes insolvent.

In the context of mining investments, sureties are an important credit instrument allowing holders of mining or quarry titles to obtain the necessary funds from banking institutions to finance their activities.

First chapter : **MORTGAGES**

The mortgages instituted by this Code are in line with the new philosophy which dominates the entire law. Indeed, the new Code

is characterized by transparency, promptness, completeness and objectivity.

This Code clearly defines the procedure for the approval and registration of mining mortgages.

In addition, the new Code specifies the limits of attribution of each body which intervenes in the procedure. The Mining Cadastre and the Direction des Mines carry out, each as far as it is concerned, an investigation which consists, for the first, in verifying within 7 days, the possible existence of one or more previous mortgages and the authenticity of the mortgage deed that is the subject of the request as well as the validity of the title. For the second, this instruction consists of verifying whether the mortgage contract is duly drawn up to guarantee financing of mining activities in the Perimeter covered by the mining or quarry title.

The Minister of Mines intervenes in the decision to approve the mortgage. In case of refusal, his decision must be motivated. The mining cadastre ensures its enforceability against third parties.

It should be noted that the mining mortgage is only used for mining activities, ie the holder of the mining or quarry title cannot mortgage his title for an activity other than mining. Indeed, the legislator has organized mining mortgages to develop the mining sector. This goal would not be achieved if the holder of mining or quarry rights were allowed to mortgage his titles for other

This Code derogates from certain provisions of Law No. 73-021 of July 20, 1973 on the general property regime, land and real estate regime and securities regime on two important points: 1° The possibility for the mortgage creditor to replace the defaulting debtor or to substitute a third party for him and to request the partial or total transfer of the mining or quarry right in his own name; 2° The attribution to the person in charge of the Mining Cadastre of the prerogatives of Notary in matters of authentication of mortgage deeds.

Chapter II: **PLEDGE**

This Code also organizes the pledge in accordance with Law No. 73-021 of July 20, 1973 as amended to date. It specifies that commercial products from deposits or artificial deposits as well as quarry products are subject to pledge.

TITLE VII: **LEASING AND** **MUTATIONS**

First chapter :

DE L'AMODIATION

Like Ordinance-Law No. 81-013 of April 2, 1981, this Code defines and regulates the farm-out of Exploitation Licenses while adding the Small-scale Mining Exploitation License, the Tailings Exploitation License and the Permanent Quarry Exploitation Authorization.

As this is a private law contract, this Mining Code does not make the existence of the farm-out contract subject to the authorization of the Minister of Mines, as was the case under the old law. However, for its opposability both vis-à-vis the State and third parties, any farm-out contract must be recorded in a register kept for this purpose by the Mining Cadastre.

The procedure for examining the request for farm-out and the rules for registering the contract of farm-out are clearly specified in this Code.

It is provided in this Code that, prior to the registration of his mining right, the lessee must meet the conditions of eligibility for the mining right subject to the lease.

Chapter II: **MUTATIONS**

Section I: Assignment

This Mining Code, like its predecessor, organizes the transfer of mining rights and Authorizations

of Permanent Quarry Exploitation. It clearly and unequivocally specifies that this transfer, whether total or partial, can only be final, pure and simple.

Unlike Ordinance-Law No. 81-013 of April 2, 1981, this Mining Code does not subject the transfer of mining rights and Authorizations for Permanent Quarry Exploitation to the authorization of the Minister because not only the transfer is a private law contract, but also these authorizations have not encouraged rapid and efficient transactions for the development of the Congolese mining industry.

However, for it to take effect and be enforceable vis-à-vis third parties and the State, any contract or deed of transfer must be registered in the Mining Cadastre beforehand. Le Transferee must first meet the eligibility conditions for mining or quarry rights. The partial transfer of mining rights or Authorizations for Permanent Quarry Exploitation only takes effect from the granting of a new exploitation right.

Section II: Transmission

As under Ordinance-Law No. 81-013 of April 2, 1981, the mining rights and the Authorization for Permanent Quarry Exploitation may be subject to transfer in whole or in part under a contract of alienation, merger and by reason of death.

Like the lease and assignment contract, any act of transmission of mining rights or Authorization

of Permanent Quarry Exploitation is subject to registration in the Mining Cadastre.

Section III: Option contract

The option contract is one of the innovations of this Mining Code. It consists of recognizing the right of third parties who have financed mining research to obtain a participation in the enjoyment of the mining right or the total or partial transfer of it.

For it to take effect and be enforceable against third parties, the option contract is subject to registration in the Mining Registry.

TITLE VIII: OBLIGATIONS OF RIGHTS HOLDERS MINING AND CAREERS

***First chapter :* RELATED OBLIGATIONS VALIDITY OF LAW MINING OR QUARRYING**

Unlike Ordinance-Law No. 81-013 of April 2, 1981, this Code determines in a clear and transparent manner the conditions for maintaining the holder's legal validity. These conditions, which translate into obligations, are of two types: the start of exploration or exploitation work within a specific time limit and the payment of annual surface area rights per plot. This is an innovation introduced into the Congolese mining system.

Indeed, this Code imposes on any holder of a mining or quarry right a deadline within which he must begin his work or activities of research, development and construction of the mine. This period is, from the issue of the corresponding mining or quarry title, six months for the Exploration Permit and the Authorization for Permanent Quarry Exploitation, three years for the Exploitation Permit and a year for the Small-Scale Mining Exploitation License and the Tailings Exploitation License.

Annual surface area fees per square are paid for the first year at the time of issuance of the mining or quarry title by the holder at the rate per hectare in Congolese francs equivalent to 0.03 USD for the first two years of the first period of validity. of the Exploration Permit, in Congolese francs equivalent to 0.31 USD for the remaining years of the first period of validity, in Congolese francs equivalent to 0.51 USD for the second period of validity and, in Congolese francs equivalent to 1.14 USD for the third validity period.

This rate per hectare is worth, whatever the period of validity of his title, in the equivalent in Congolese francs of 5 USD for the holder of an Exploration Permit, 3 USD for the holder of an Exploitation Permit, the holder of a Tailings Exploitation Permit, the equivalent in Congolese francs of 2.30

USD for the holder of a Small Mine Exploitation Permit and the equivalent in Congolese Francs of 2.00

USD for the holder of an Authorization for Permanent Quarry Exploitation.

The holder of an Exploration Authorization for Quarry Products pays the annual surface area fees at the rate per hectare in Congolese francs equivalent to 0.05 USD on the issue of his title and on the date of its renewal.

The annual surface rights per square were established with the aim of avoiding the freezing of land to allow the proper functioning of the Mining Cadastre and to finance geological research. This is why the Mining Cadastre is recognized as having the authority to collect for its benefit the annual surface rights per square and to remunerate a quota to the departments of the Ministry of Mines, such as the Geology Department, the Mines Department and the Service in charge of the Protection of the Mining Environment, enforcement bodies of this Code.

Chapter II: RELATED OBLIGATIONS TO OPERATIONS UNDER OF THE MINING TITLE OR OF CAREERS

This Mining Code is innovative in that it imposes on the holder of mining rights the obligations relating to the protection of the environment during the research phase by the presentation and approval of his RAP, prior to the start of the research work.

During the exploitation phase, the holder is required to present his EIE and his PGEP

Another innovation contained in this Mining Code relates to the protection of the cultural heritage which results in the declaration of the archaeological indices and updating of the elements of the cultural heritage during the works of research and exploitation.

Safety and health obligations and those relating to planning the use of mining project infrastructure with the coordination authorities, record keeping and reporting, inspections, opening and closure of research or exploitation centers are also organized in this Code. The terms of all these obligations will be specified in the new Mining Regulations.

TITLE IX: OF THE TAX REGIME AND CUSTOMS OFFICER MINES

Under the aegis of the old legislation, holders of Personal Prospecting Authorizations, Exploration Permits, Exploitation Permits and Concessions were subject to the common law tax and customs regime, with the possibility of obtaining advantages in the matter through the Investment Code. On the other hand, the holders of the mining rights resulting from the mining conventions had the possibility of obtaining more extensive tax advantages.

The climate of haggling as well as the possibilities of blackmail that could punctuate the negotiation of mining agreements were likely to cause

apprehensions about civil servants and agents of the State, members of the interministerial commission responsible for studying the draft conventions for the purpose of reporting to the Minister of Mines.

The mining conventions have resulted in the reduction of revenue from the public treasury because of the generalization of exemptions.

Overall, the tax system in force under Ordinance-Law No. 81-013 of April 2, 1981 negatively affected the profitability and growth of mining investments.

Since taxation is one of the determining factors for mining companies in the decision to invest their capital in a given country, this Code introduces an innovation by setting up a single tax and customs regime applicable to all operators in the industrial and to all small-scale miners, without any exception resulting from the nature or duration of the mining title. It is an incentive tax and customs regime, adapted to the realities of the mining sector and based on the principle of maximizing State revenue. This system takes into account the specificities and particularities of the mining industry by organizing taxation adapted to the phases of a mining project. In order to maximize State revenue, the tax and customs regime of the Mining Code is dominated by the principle of non-exemption.

Contrary to the tax advantages granted in the mining agreements which went so far as to grant exemptions for years

detriment to the Public Treasury, those granted by this Code are mainly limited to the reduction of the rate of the contribution. As a result, the treasury fund is disinterested in any phase of the mining investment.

Unlike Ordinance-Law No. 81-013 of April 2, 1981, this - Code has the advantage of reserving a whole title to govern the taxation of mining activities in the industrial sector and small-scale mining.

First chapter : **DISPOSITIONS** **GENERAL**

In addition to being unique and applicable to all operators in the mining sector as specified above, the tax and customs regime provided for in this Code introduces the following innovations: 1° The exhaustive nature of the regime tax and customs provided for in the new Code. Indeed, the current mining law has the advantage of listing and governing all the contributions collected by the Directorate General customs and contributions, although the all collection management will be specified. in the mining regulations, in this case the mining royalty.

All these contributions and taxes apply to the mining right holder; 2° The exclusive nature of the tax and customs regime provided for in this Code. Indeed, the exhaustive character of the tax and customs regime has as its corollary its exclusive character. This means that only the contributions and customs duties provided for in this law apply to the holder of the mining titles to the exclusion of all other

present and future forms of taxation provided for in other legislative or regulatory texts;

It is important to specify that the tax and customs system for artisanal mining, which is referred to specific legislation, hardly constitutes an exception to this rule in that none of the artisanal miners trade and mining

3° The legal extension of tax and customs advantages to subcontractors and affiliated companies of the holder of the mining titles as well as to the lessee of the mining rights. Under the old legislation, subcontractors and affiliated companies could only benefit from the tax and customs advantages granted to the holder of mining rights by virtue of a mining agreement or an act of approval for a regime of the Code. investments.

4° Unlike the old one, this Code ensures the stability of the tax and customs regime. The broad tax benefits it grants to mining investors are thus safeguarded. The tax provisions of common law apply to holders of mining rights according to the rates and terms that existed on the date of entry into force of this Code. The modification of the tax and customs regime provided for in this Code is only possible when the latter is itself the subject of modification by parliamentary means. It goes without saying that no enactment other than the Code can alter the

tax provisions provided for in this Code.

Chapter II: **CUSTOMS REGIME**

This Mining Code provides for a customs regime which subjects mining activities to taxation depending on whether it concerns the phase of research, construction and development of the mine and exploitation.

In order to facilitate the benefit of the privileged customs regime, it is provided for the existence of a list of the categories of goods benefiting from this regime presented by the holder of the mining right and approved by the Joint Order of the Ministers of Mines and Finance.

The export of samples intended for analyzes and industrial tests is exempt from any customs duty or other contribution, of any nature whatsoever, upon exit.

Moving items belonging to the holder's expatriate staff are imported free of import duties and taxes.

However, the release for consumption on the Territory of the Democratic Republic of Congo of goods having benefited from the duty-free entry calls for the application of customs duties, taxes and other contributions on entry.

Provision is made for temporary duty-free importation for a period of up to 18 months.

The preferential rates of entry fees are modulated in a manner

increasing depending on whether it is the phase of research, construction and development of the mine or the exploitation phase. The rate provided for during the research period is applied in the case of imports carried out as part of the extension works.

In order to reduce the tax burden on exit and entry, the principle of non-exemption is waived in relation to exit duties, the contribution on export turnover and the contribution on import turnover. The same applies to customs remunerative taxes on entry and exit.

Chapter III: **TAX REGIME**

Section I: Real Contributions

Actual contributions are due in accordance with common law.

Section II: Mining royalties

The Congolese State has made so many sacrifices to allow the holder of mining rights to enjoy a tax and customs regime likely to contribute to the profitability of his mining investment.

He went so far as to admit exemption from export duties, the contribution on import turnover, as well as the statistics tax and the administrative fee which are compensatory taxes collected by the customs services. .

These various considerations seem largely sufficient to justify the implementation of the mining royalty. This is based on the price resulting from the sale of commercial products after deduction of certain charges exhaustively listed in this Code.

The mining royalty is divided between the State, the province and the territory. Its rate varies according to the nature of the mineral substances.

Section III: Contributions on income

The scheduled contribution on rental income and the professional contribution on remuneration are paid at the common law rate. Similarly, the tax on movables is in principle subject to the common law rate, except for the submission of dividends at a reduced rate and the exemption of interest paid by the holder of mining rights under foreign currency loans contracted abroad. The professional contribution on profits is payable at a reduced rate.

Section IV: Determination of taxable profit

The holder of mining rights is free to keep their accounts in US dollars. This standard benefits both the State and the holder of the mining right. It combats the depreciation of the value of all sums paid to the State after a certain period or at the end of the fiscal year and safeguards the interests of the investor as regards depreciation.

to

This Code provides a non-exhaustive list of expenses deductible from the professional contribution on profits.

It implements standards tending to update research and development expenses on the day of the institution of the mining exploitation title and to amortize them over two financial years at 50% per annum.

Amortizations carried out during deficit periods can be accumulated and carried forward without time limit. The same applies to professional losses resulting from fiscal years relating to the mine's research and development expenses.

This Code provides for the provision for the rehabilitation of the site in order to allow the holder of the mining title to easily discharge his environmental obligation of rehabilitation of the site.

This provision is deductible from the taxable profit and can only be taxed if it is not used within ten years of its constitution or at the end of the mining project.

Unlike Ordinance-Law No. 81-013 of April 2, 1981 in which this provision was not provided for, but only existed in the provisions of the mining agreements, this Code expressly organizes it.

Section V: Contributions on the turnover

The contribution on internal turnover is only payable to

reduced rates varying according to whether it concerns sales of products or services and according to whether the holder of the mining right is legally or actually liable.

Nevertheless, the services rendered by the holder of mining rights are taxable at the ordinary rate.

**Section VI: The exceptional
contribution on the
remuneration of
expatriates**

This tax is subject to a reduced rate in order to contribute to the profitability of the mining project.

***Chapter IV:*
OF THE TAX REGIME AND
CUSTOMS APPLICABLE TO
ARTISANAL EXPLOITATION
AND MINING
ON A SMALL SCALE**

The taxation of artisanal miners, traders and authorized purchase and sale counters for artisanal mining mineral substances is organized by

On the other hand, small-scale mining is subject to a fixed tax regime on turnover, in addition to the benefit of the customs regime provided for in this Code.

However, this Code recognizes the operator of the small mine the right to opt either for the tax and customs regime that it organizes, or for the flat rate tax regime. Such option is final and irrevocable.

**TITLE X:
FOREIGN EXCHANGE REGIME AND
GUARANTEES OF
THE STATE**

***First chapter :*
EXCHANGE**

Contrary to Ordinance-Law No. 81-013 of April 2, 1981, this Code organizes, in favor of the holder of mining rights, a liberal exchange regime like that of common law currently in force.

The holder of the mining rights has the right to transfer outside the National Territory, for the benefit of non-residents, the amounts necessary for the transfer of income, current transfers and movements of capital in direct relation with the operations authorized by virtue of his right. . These include sums relating to the payment of commissions to third parties for services rendered abroad, the acquisition or rental of equipment, social charges for expatriate employees and Congolese employees for their training at the abroad, legally declared dividends intended for non-resident partners, the purchase of goods and services from foreign suppliers and the payment of fees to non-residents for services rendered.

However, this freedom of transfer is only possible on condition that the tax contributions, customs duties, taxes and other duties due to the Public Treasury on the amount to be paid are first paid.

to transfer. Another condition established by this Code is that the transfer must be made through an Approved Bank.

This Code grants foreign personnel residing in the National Territory and holders of mining rights the free transfer of all or part of the amounts due to them after payment of taxes and social security contributions.

Chapter II: **REVENUE MANAGEMENT** **EXPORT SALES**

In connection with his exports, the holder of a mining title is required to open a main account in foreign currency with an internationally renowned bank for the management of the funds he is authorized to hold abroad and to other accounts in foreign currencies where it manages or has managed the funds resulting from its main account assigned to the service of the foreign debt or as provisions and related reserves.

This Mining Code derogates from the common law of exchange in that it authorizes the holder of a mining title to keep and manage both in his main account and in his foreign debt service accounts 60% of the revenue from his sales. on export. It is therefore obliged to repatriate 40% of export earnings.

This Code imposes on the holder of mining exploitation rights the obligation to pay the exploitation royalty, the exchange control royalty and that of transmitting a monthly report informing the Central Bank of Congo and the Direction des Mines. on the movements of funds paid into the

main account in foreign currency abroad as well as the references of the export files on the receipts paid into the account.

Chapter III: **STATE GUARANTEES**

Unlike Ordinance-Law No. 81-013 of April 2, 1981, this Code includes provisions by which the Congolese State guarantees to holders of mining or quarry rights the existence of an investment climate. resulting in the express commitment of the State to the respect of rights granted under this Code and the fulfillment of its resulting duties. Thus, it also prohibits the automatic redemption of currencies housed in the foreign currency accounts of non-resident residents.

and This prohibition also applies to the Central Bank of Congo.

In addition, the new Mining Code establishes as a principle the non-subjection of mining or quarry installations to the measure of expropriation for reasons of public utility. However, if exceptional circumstances established by law so require, fair compensation will be paid to the victim at least six months before the material act of expropriation. In the event of abuse, the victim may resort, according to his choice, to arbitration or judicial recourse.

Finally, the Congolese State guarantees the stability of the provisions constituting the present Mining Code and refrains from modifying them otherwise, except in the form provided for in this present Code.

TITRE XI : RELATIONSHIPS RIGHTS HOLDERS MINING OR QUARRYING BETWEEN THEMSELVES AND WITH THE LAND OCCUPANTS

***First chapter :* RELATIONS BETWEEN HOLDERS**

Like Ordinance-Law No. 81-013 of April 2, 1981, this Code provides rules applicable to work between two neighboring mines.

It introduces an innovation in that it establishes rights of way in favor of the holder of an Exploitation License or a Small-Scale Mining Exploitation License allowing him to cross the tailings exploitation Perimeter to access its operating Perimeter being in the depths.

***Chapter II:* RELATIONSHIPS BETWEEN HOLDERS AND THE LAND OCCUPANTS**

Restrictions on the occupation by the holder of mining rights or certain quarries with the consent of the competent authorities or the legal occupant are, as under Ordinance-Law No. 81-013 of April 02, 1981, regulated by the this Code.

This Code, like most modern Mining Codes, has established the principle of full liability of the holder for damages

caused by the occupation of the land, that is to say, caused by the work it carries out as part of its mining activities.

The principle of compensation for the occupants of the land by the holder of the mining or quarry right is reaffirmed in this Code.

This Code provides for the establishment of a zone where the activities or circulation of third parties are prohibited by the Minister for the benefit of the holder of a mining exploitation right or an Authorization for Permanent Quarry Exploitation.

Like Ordinance-Law No. 81-013 of April 2, 1981, this Code defines the rights or activities authorized to the holder of mining or quarry rights within its Perimeter. It is a question of the right to occupy land, to use water, to dig pipes and to establish means of communication which constitute legal servitudes of public interest. It specifies the outline of the right for the holders to carry out works of public utility or to dispose, for the needs of its exploitation, of the mineral substances not specified in its title.

TITRE XII : BREACHES OF OBLIGATIONS ADMINISTRATIVE AND PENALTIES

First chapter :

BREACHES OF OBLIGATIONS ADMINISTRATIVE

Unlike Ordinance-Law No. 81-013 of April 2, 1981, this Code provides for clear, objective and transparent rules relating to breaches of the administrative obligations of the holder of a mining exploitation right and the Authorization for Permanent Quarry Exploitation.

In this Code, there are only two breaches of obligations which lead to forfeiture: the non-payment of surface rights per square and the non-start of work after the issuance of the mining or quarry title.

It also organizes the procedures for noting and examining each breach of these obligations.

After observation and examination of the file, the Minister takes a decision of forfeiture which, in the event of non-exercise of the means of appeal or in the event of failure or rejection of these, leads to the cancellation of the mining or quarry right. . As a result, the deposed holder is prohibited from obtaining the mining or quarry rights again for five years.

***Chapter II:* SANCTIONS**

Apart from the forfeiture of the holder resulting in the cancellation of the mining or quarry right, the holder incurs other sanctions in the event of failure to fulfill his obligations.

Indeed, the holder may be suspended from carrying out his activities in the event of serious misconduct. Irregular keeping of documents may be sanctioned with a warning which may go in the event of a repeat offence, from a warning to a penalty payment in Congolese francs equivalent to 500 USD per day, pronounced by the competent court. In the event of non-performance of the site rehabilitation obligations subscribed to in the PGEP and the RAP, the Mining Administration may obtain from the court the confiscation, for its benefit, of the guarantee or provision for site rehabilitation. Failure to provide the report may result in a fine in Congolese francs equivalent to 1,000 USD per day of delay pronounced by the court.

The holder can be exonerated for breach of its obligations only for cases of force majeure that this Code defines and regulates.

TITRE XIII : OFFENSES AND PENALITES

This Mining Code provides for the sanctioning of certain dishonest and immoral acts which may be committed within the specific framework of mining activities.

The acts defined and sanctioned are: illicit mining activities, the theft or concealment of mineral substances, the illicit purchase and sale of mineral substances, the diversion of mineral substances, the illicit possession of mineral substances, the illicit transport of minerals, fraud,

violations of regulations on the stay of foreigners in mining areas, violations of health and safety rules, corruption of State public service agents, embezzlement, destruction, degradation and damage, insults or violence towards the agents of the Administration of Mines and the activity of the Administration of Mines and contraventions of the Orders of the Minister and the decisions of the Heads of Provincial Divisions of Mines.

With regard to acts that are similar to offenses already provided for and punished by the Penal Code, this Mining Code is largely inspired by their wordings and the penal servitude penalties imposed therein.

However, to safeguard the coercive and intimidating character of fines that monetary erosion has made derisory, the new Mining Code innovates by raising them and fixing them in Congolese francs to a stable currency.

TITLE XIV: REMEDIES

***First chapter :* DISPOSITIONS GENERAL**

In order to secure mining investments, this Code

organizes the remedies granted to the holder and to the State.

This Code organizes three types of appeal: administrative, judicial and arbitral appeals.

***Chapter II:* ADMINISTRATIVE APPEAL**

The administrative appeal obeys the rules of common law with regard to the competent jurisdictions and the applicable law. It applies to acts enacted by the administrative authorities in application or in violation of the provisions of this Code. It concerns in particular the case of refusal to grant mining rights or exploration quarries given that, at the request of the right, the applicant is not yet the holder of the right.

However, in order not to undermine the principle of speed which governs the present Code and allow the second comer to formulate his request on the Perimeter

litigation, this Code provides for an abbreviation of procedural deadlines in the event of an administrative appeal.

***Chapter III:* LEGAL APPEAL**

The matters subject to legal recourse are specified in this Code. The courts and tribunals seized

by the State, the holder or the third party apply the common law procedure provided for in the Congolese Code of Civil Procedure.

Chapter IV:
ARBITRAL RECOURSE

The organization of arbitration in this Code does not exclude the exercise of administrative and judicial remedies. It does not affect the provisions relating to breaches, penalties and sanctions provided for in this Code.

In order to secure mining investments, as was the case under the conventional mining regime, this Mining Code provides for this recourse in particular for cases of refusal of renewal, transformation of mining or quarry rights, forfeiture of the holder of mining or quarry law.

This Code first offers the possibility of internal arbitration. It also provides for the investments of nationals of other States the possibility of resorting to international arbitration such as that of the ICSID and any other arbitration of which the holder has notified the State of his choice on the day of the issuance of the mining right or of careers.

Arbitration initiated under the provisions of this Code is done in French at the place agreed between the holder and the State. The provisions of this Code, the laws of the Democratic Republic of Congo and the rules of procedure provided for in the arbitration rules are applied.

Chapter V:
**OF THE REPRESENTATION OF
THE STATE AND THE
SERVICE OF DOCUMENTS**

With the aim of coordinating and ensuring better defense of the interests of the State before the administrative, arbitration and judicial authorities in the mining sector, this Code recognizes the person in charge of the Mining Cadastre or his local representative the competence to represent the State both in plaintiff and in defence. As a result, the service of procedural documents, judgments and other decisions are notified to the State at the Mining Cadastre Office.

Any notification made outside the Mining Cadastre or its local representation is null and void.

**TITLE XV:
DISPOSITIONS
MISCELLANEOUS**

This Mining Code organizes in this title rules governing the consultation of registers and maps of mining fallout by the public. Although the consultation is free, the collection of data is subject to the payment of fixed costs.

Rules on the confidentiality of reports and research data and mining operations are also provided. The principle of adjusting the amounts expressed in the Code is set out in this title.

Finally, it is provided that the matters or questions not expressly provided for, defined or regulated by the

provisions of this Code, will be by the Mining Regulations.

TITLE XVI: DISPOSITIONS TRANSITIONAL

***First chapter :* MINING RIGHTS OF STATE BODIES IN FORCE**

This Mining Code provides that the Minister of Mines draws up and publishes a list of the titles of State bodies, public companies currently valid within forty five days of its promulgation. Securities not appearing on this list will become null and void.

***Chapter II:* RELATED REQUESTS TO MINING RIGHTS OR PENDING CAREERS**

This Mining Code specifies that applications for granting, renewal and transformation pending at its promulgation must be reformulated in accordance with its new provisions within three months of the entry into force of the Mining Regulations.

After this period, applicants for grant applications lose all rights of priority of application, while those for renewal or transformation will see their applications declared null and void.

It grants the holder of mining or quarry rights whose applications for renewal and transformation expire on the date of its

promulgation a period of three months from the entry into force of this Code to reformulate their requests in accordance with the new legislative provisions.

***Chapter III:* PARTNERSHIPS WITH THE STATE**

This Mining Code provides that mining investors who have found themselves in any partnership with the State have the option of renouncing these partnerships within three months of its promulgation. This faculty does not concern agreements not duly concluded between the State and private promoters, which are the same as public companies governed by the Congolese legislation on commercial companies.

It also organizes the renewal of mining rights or quarry authorizations expired during this partnership and which have not been renewed for reasons of force majeure or due to management attributable to the State, within three months from its entry into force.

In its transitional provisions, this Code enacts the cessation of all exploitation of the mining or quarry Perimeters carried out within the framework of partnerships without mining titles or quarry authorizations. It offers, however, without prejudice to the rights of third parties, priority to these operators to formulate new requests.

Chapter IV:

IMPLEMENTATION NEW PROVISIONS

The Mining Regulations, providing for the application of the provisions of this Code, shall enter into force within six months after the promulgation of this Code.

During this time, the admissibility of requests for the granting, renewal, transformation of mining or quarry rights, with the exception of requests for waiver and transfer, will be suspended to allow the establishment of the Mining Cadastre and the remediation of existing titles.

In order to allow holders of mining or quarry rights to validate their rights, this Code establishes a transparent validation procedure and establishes for this purpose a validation commission whose composition and powers are clearly specified.

Thus, within three months of the entry into force of the Mining Regulations, the holders of validated mining or quarry rights are required to transform their rights into the corresponding rights provided for in this Code.

As for mining rights resulting from mining agreements duly signed and approved on the date of the promulgation of this Code, their holders are invited to opt, within nine months following the entry into force of this Code, for the full application of its provisions. In all cases, the beneficiaries of the said agreements must comply with the new legislative provisions governing the forms, orientation and location of the mining Perimeters.

In order to allow the balanced implementation of the provisions of this Code during the transition, the latter has provided exceptionally for the approval of agents in mines and quarries.

TITLE XVII: DISPOSITIONS REPEALS AND FINALS

This Mining Code lists the laws and regulations that it repeals.

With regard to Ordinance-Law No. 81-013 of April 2 on general legislation on mines and hydrocarbons, the Code of Mining Agreements solely in order to meet the spirit and the letter of the clauses of stability provided for in these numerous agreements.

The texts laws and regulations not expressly cited are repealed in their provisions which are contrary to the spirit and the letter of this Mining Code.

Finally, in order to allow certain tasks to be carried out during the transition, this Code provides for the entry into force of some of its provisions on the date of its promulgation.

LAW

THE CONSTITUENT AND LEGISLATIVE ASSEMBLY – PARLIAMENT TRANSITION TO ADOPTED,

THE PRESIDENT OF THE REPUBLIC PROMULGATES THE LAW WHOSE TERMS FOLLOWS:

TITLE ONE: GENERAL

Chapter One : DEFINITIONS OF TERMS, OF THE SCOPE AND PRINCIPLES FUNDAMENTALS

Section I: Definitions of terms and scope

Article 1 : Definitions of terms

Under this Code, the following terms mean:

1. **Buyer** : any employee of a counter for the purchase of gold, diamonds and other mineral substances in which he carries out his activities in the office of an approved counter in accordance with the provisions of this Code;
2. **Mining Activities** : all services, supplies or works of the art of mining directly related to prospecting, research, at mining and mineral substances, including development, construction and infrastructure works;
3. **Mining Administration** : all public administration services and charges of
4. **Leasing** : a lease for a fixed or indefinite period, without the right to sublease, of all or part of the rights attached to a mining right or a quarry authorization for remuneration fixed by agreement between the leasing party and the lessee ;
5. **Prospecting certificate** : an administrative act confirming prospecting declaration issued by the Mining Cadastre in accordance with the provisions of this Code;
6. **Career** : any deposit of mineral substances classified as quarries that can be exploited in the open pit and/ or any treatment plant for the products of this exploitation located within the quarry Perimeter to carry out their transformation into marketable products, including the installations and the movable and immovable equipment affected to operation.
7. **Artisanal Exploitation Card** : the document that authorizes any person

- of Congolese nationality in whose name it is established, to extract and concentrate mineral substances using non-industrial tools, methods and processes in accordance with the provisions of this Code;
8. **Trader's card** : document issued in accordance with the provisions of this Code, which authorizes the person in whose name it is established to buy gold, diamonds or any other substance classified as mines from persons holding an operator's card artisanal in force and to resell these substances to approved counters;
9. **Map of mining sites or cadastral map** : an official topographic map indicating the limits of each mining or quarry Perimeter in force, or for which the request is pending, kept up to date for each province and zone by the Mining Cadastre in accordance to the provisions of Chapter II of Title I of this Code;
10. **Approved trading post** : any person authorized to buy artisanally mined mineral substances from traders or artisanal miners, with a view to reselling them locally or exporting them in accordance with the provisions of this Code;
11. **Date of commencement of effective operation** : the date of shipment of the first load of commercial products, regardless of the nature of the commercial sale,
- with the exception of samples sent abroad for analysis and testing;
12. **Diversion of minerals** : any change of destination of mineral substances, belonging to others, by any means of transport;
13. **Development and construction** : any activity by which a person engages, through land development work, construction of infrastructure, installation and testing of materials and equipment, to develop his project. mining or quarrying, with a view to ensuring its commercial viability;
14. **Mining right** : any prerogative to carry out research and/or exploitation of mineral substances classified as mines in accordance with the provisions of this Code. The Exploitation Permit, the Tailings Exploitation Permit and the Small Mining Exploitation Permit are mining rights;
15. **Quarry rights** : any prerogative to carry out research and/or exploitation of mineral substances classified as quarries in accordance with the provisions of this Code. The Quarry Products Exploration Authorization, the Temporary Quarry Exploitation Authorization and the Permanent Quarry Exploitation Authorization are quarry rights;

16. **Processing entity** : any person who carries out processing operations on mineral substances; non-industrial tools, methods and processes;
17. **Processing Entity** : any person who carries out processing operations on mineral substances;
18. **State** : the Democratic Republic of Congo, in all its administrative subdivisions personalized services. and his or
19. **Environmental Impact Study, EIA, in acronym** : the prior scientific analysis of the foreseeable potential impacts of a given activity on the environment as well as the examination of the acceptability of their level and the mitigation measures allowing to ensure the integrity of the environment within the limits of the best available technologies at an economically viable cost;
20. **Exploitation** : any activity by which a person engages, from an identified deposit, and by means of surface and/or underground works, in the extraction of mineral substances from a deposit or an artificial deposit. , possibly to their processing in order to use them or to market them; and
21. **Artisanal Mining** : activity by which all a natural person of Congolese nationality engages, in an artisanal mining area delimited on the surface and in depth up to a maximum of thirty meters, to extract and concentrate mineral substances using
22. **Small-Scale Mining** : any activity by which a person engages in small-scale and permanent exploitation, requiring a minimum of fixed installations using semi-industrial industrial processes, after the discovery of a deposit ;
23. **Exploitation of Mine Tailings** : any activity by which a third party, natural or legal person, extracts substances from an artificial deposit in order to possibly process them and use or market them;
24. **Deposit** : any natural mineral deposit that can be exploited profitably under current economic conditions;
25. **Artificial deposit** : any artificial deposit that can be exploited profitably under current economic conditions; them
26. **Artificial deposit** : any artificial concentration of mineral substances on the surface resulting from the exploitation of mines and/or discharges resulting from mineral and metallurgical processing;
27. **Geothermal deposit** : all natural mineral deposits classified at high or low temperature and from which energy can be extracted in thermal form, in particular through the hot and underground waters they contain. vapors contain;

28. **Mineral Deposit** : any abnormal and natural concentration of mineral substances on the surface or in depth of the earth's crust;
29. **Mine** : any deposit or artificial deposit of mineral substances classified as mines, exploitable in the open pit or underground, and/or any treatment or processing plant for the products of this exploitation located within the mining Perimeter, including the installations and movable property equipment assigned to and operation;
30. **Ore** : any rock containing one or more minerals possessing one or more chemical elements having an economic value;
31. **Mineral** : the set of chemical elements constituting a natural body, simple or compound, organic or inorganic, generally or
a few exceptional cases, in the liquid or gaseous state;
32. **Minister** : the Minister in charge of mines and quarries;
33. **Trader** : any natural person of Congolese nationality who engages in the purchase and sale of mineral substances from artisanal mining in accordance with the provisions of this Code;
34. **Non-resident** : a person who is not a resident of the Democratic Republic of the Congo;
35. **Mining Operation** : any research activity and/or exploitation of mineral substances;
36. **Public body in charge of expertise** : the technical public service endowed with administrative and financial autonomy, the object of which is the expertise of precious mineral substances;
37. **Perimeter** : an area delimited on the surface and indefinitely in depth on which relates a mining right or a quarry right;
38. **Precious stones** : precious mineral substances consisting of one or more chemical elements and possessing the particular properties which thus give them a high market value. These are: diamond, emerald, ruby, sapphire, chrysoberyl and topaz;
39. **Person** : a natural or legal person;
40. **Rehabilitation Mitigation Plan, RAR in acronym** : the plan required for operations under a mining right or exploration quarry, or an Authorization for Temporary Quarry Exploitation, consisting of the commitment to carry out measures to mitigate the impact of its in environment as well as measures

- rehabilitation of the place of their establishment, including the commitment of the holder, to provide or constitute a financial security to ensure or guarantee the cost of mitigation and rehabilitation of the environment.
41. **Project Environmental Management Plan, PGEP in acronym** : the environmental specifications of the project consisting of a program for the implementation and monitoring of the measures envisaged by the EIA to eliminate, reduce and possibly compensate for the harmful consequences of the project on the environment ;
42. **Marketable Products** : all mineral substances, in any form whatsoever, extracted by virtue of mining and/or quarry exploitation rights and/or any product made from these substances in concentration, treatment or processing for commercial purposes;
43. **Prospecting** : any activity by which a person engages in investigations, by means of the study of available information, close observations, the taking and analysis of samples found on the surface of the earth, in subsurface terrain or in watercourses, using in particular geological and geochemical techniques, including various methods such as remote sensing, in order to discover indications of the existence of a mineral deposit for economic or scientific;
44. **Exploration** : any activity by which the holder of a mining or quarry exploration right engages, based on indications of the existence of a mineral deposit, and by means of surface or in-depth work, in using geological, geophysical, geochemical, including various methods such as remote sensing, to highlight the existence of a deposit of mineral substances, to delimit it, and to evaluate the quality and quantity of the reserves as well as the technical and commercial possibilities of their exploitation;
45. **Mining Regulations** : all the measures for implementing the provisions of this Code, taken by Decree of the President of the Republic;
46. **Waste from Mines** : waste rock or backfill from mining operations or any solid or liquid residue from mineralogical or metallurgical processing;
47. **Affiliated Company** : any company which directly or indirectly holds more than 50% of the holder's voting rights or one in which voting rights are held directly or indirectly by the holder. This term also designates all companies which have the common characteristic of having more than 50% of their voting rights held directly or indirectly by a company which holds this percentage of the holder, directly or indirectly;

48. **Subcontractor** : person all providing equipment or carrying out work and/or provision of necessary services on behalf of the holder as part of his mining activities under his Mining Title, in particular the infrastructure and including construction of the industrial, administrative, socio-cultural and other necessary for the project as well as all other services directly related to the mining project;
49. **Mineral substance** : any inert natural or artificial body containing one or more minerals in amorphous or crystalline, solid, liquid or gaseous form having an economic value. Quarry products are mineral substances within the meaning of this Code;
50. **National Territory** : the soil, the under soil and waters constituting on June 30, 1960 the territory of the Democratic Republic of the Congo within its limits of August 1 , 1885, as modified by subsequent conventions, its territorial sea delimited by Law No. 74-009 of July 10, 1974, its exclusive economic zone and its continental shelf;
51. **Quarry Titles** : official certificates issued by the Mining Cadastre in accordance with the provisions of this Code and recording the Quarry Authorizations. The Quarry Products Research Certificate, Permanent Quarry Exploitation Certificate and the Temporary Career are career titles;
52. **Mining Titles** : official certificates issued by the Mining Cadastre in accordance with the provisions of this Code and recording the mining rights. The Exploration Certificate, Exploitation Certificate, Tailings Exploitation Certificate and the Small Scale Exploitation Certificate are mining titles;
53. **Holder** : any person in whose name a mining or quarry right is granted and a mining title or quarry title established, in accordance with the provisions of this Code and who carries out or has carried out the operations authorized by virtue of his mining title or careers. However, the lessee is assimilated to the holder;
54. **Processing** : mineralogical and/or metallurgical process which results in obtaining a marketable mineral substance from the extracted ores.
55. **Transformation** : everything industrial process which consists in changing the form and nature of a treated mineral substance and in obtaining marketable semi-finished finished products;
56. **Artisanal Mining Zone** : the geographical area, delimited on the surface and in depth, by the Minister, and containing one or more Artisanal Mining deposits.

Article 2: Scope

Prospecting, research, exploitation, processing, transport and marketing of mineral substances are governed by the provisions of this Code which apply only in their entirety and as a whole.

The artisanal mining of mineral substances as well as the marketing of these are also governed by the provisions of this Code.

The reconnaissance, exploration and exploitation of liquid or gaseous hydrocarbons as well as activities or operations concerning thermal or mineral waters are excluded from the scope of this Code. They are governed by specific legislation.

Section II: Fundamental principles

Article 3: Ownership of mineral substances

Deposits of mineral substances, including artificial deposits, underground water and geothermal deposits found on the surface of the ground or contained in the subsoil or in the waterways of the National Territory are the exclusive, inalienable and imprescriptible property of State.

However, holders of mining or quarry exploitation rights acquire ownership of market products by virtue of their right.

Ownership of deposits of mineral substances, including groundwater and geothermal deposits referred to in paragraph 1 of this article constitutes a property right distinct and separate from

rights deriving from a land concession. In no way can the land concessionaire avail himself of his title to claim any right of ownership whatsoever over the deposits of mineral substances, including groundwater and geothermal deposits contained in his concession.

Article 4: Classification of mineral deposits

Mineral deposits are classified into mines and quarries.

Are classified as mines: deposits or deposits of mineral substances not classified as quarries, other than solid hydrocarbons, gaseous liquids. and

The following are classified as quarries: deposits or deposits of non-metallic mineral substances that can be used as building materials, for gravel in the general industry, for amendment for land cultivation, including in particular sand, chalk, gravel, lime and cement stones, laterite, fuller's earth and smectic clays, fossil copals and diatomites, with the exception of marble, granite, phosphates, nitrates, salts alkalis and other associated salts which are classified as mines in the same deposits.

Notwithstanding the above classification, the President of the Republic may on his own initiative or on the proposal of the Minister, after consulting the Directorate of Geology of the Ministry of Mines, if there is opportunity, decide to classify, declassify or reclassify a substance

mines into quarry products and vice versa.

Article 5: Authorization of mining and quarrying operations

Any person is authorized to engage in research or non-artisanal exploitation of mineral substances in the National Territory provided that he holds a valid mining or quarry right granted by the competent authority in accordance with the provisions of this Code.

Any person of Congolese nationality is authorized to engage in artisanal mining of mineral substances in the National Territory provided that he holds an artisanal miner's card issued or granted by the competent authority in accordance with the provisions of this Code.

Any person is authorized to market mineral substances in the National Territory provided that they hold a trader's card or an approval as a trading post issued or granted by the competent authority in accordance with the provisions of this Code.

to

Article 6: Prohibited areas

If national security, the safety of populations, the incompatibility of mining activity and quarry work with other existing or planned uses of the soil or subsoil as well as the protection of the environment so require, the President of the Republic may, on his own initiative or on the proposal of the Minister, after consulting the

Mining Cadastre, declare an area

prohibited for mining and/or quarrying activities.

The declaration of classification of a prohibited area is instituted without time limit. The Declaration Decree is published in the Official Journal.

The Mining Cadastre draws up and updates the map of areas prohibited from mining and quarrying on a scale of 1:200,000 at the largest.

The mining rights and/or existing quarries prior to the declaration of a prohibited area persist in the fullness of the rights they confer and the obligations they impose in accordance with the provisions of this Code.

Article 7: Reserved substances

If the safety of the populations so requires, the President of the Republic may, by Decree, on the proposal of the Minister, after consulting the Geology Department, declare a mineral substance a "reserved substance" which he subjects to special rules.

The Decree classifying a mineral substance as a "reserved substance" specifies the rules and provisions to which this substance is subject. It is published in the Official Journal.

Uranium and thorium ores and, in general, all radioactive ores are placed under the regime of reserved substances provided for in the above paragraphs of this article.

Chapter II :

THE ROLE OF THE STATE AND THE DISTRIBUTION OF COMPETENCES

Article 8: Role of the State and its organizations

The State ensures the development of the mineral substances which it owns by appealing in particular to private initiative in accordance with the provisions of this Code. Its main role is to promote and regulate the development of the mining sector through private initiative.

However, the State may engage, through specialized bodies created for this purpose, in soil or subsoil investigation activities for the sole purpose of improving the geological knowledge of the National Territory or for scientific purposes. which do not require obtaining a mining right or a quarry right.

The State may also, through public legal persons or special bodies created for this purpose, either alone or in association with third parties, engage in an activity governed by this Code. In this case, public legal persons and specialized State organizations with a mining vocation are subject to the provisions of this Code in the same way as private persons.

Article 9: Of the President of the Republic

In accordance with the provisions of this Code, the Chairman of the Republic is competent to: a) enact the Mining Regulations for the application of this Code; (b) classify, downgrade or reclassify the

mineral substances in mines or quarry products and vice versa; c) declare, classify or declassify an area prohibited for mining or quarrying;

d) declare, classify or downgrade a mineral substance as a "reserved substance"; e) confirm the reservation of a deposit subject to the call for tenders made by Order of the Minister.

The President of the Republic exercises the above prerogatives by way of Decree taken on his own initiative or on the proposal of the Minister after consulting the Geology Department or the Mining Cadastre.

The exercise of the prerogatives granted to the President of the Republic in letter a of this article cannot be delegated.

The Decree of the President of the Republic is published in the Official Journal.

Article 10: Of the Minister

In accordance with the provisions of this Code, the Minister is competent for:

a) granting or refusing to grant mining and/or quarry rights for mineral substances other than commonly used building materials; b) withdraw the mining and/or quarry rights, forfeit the holder of a mining or quarry right, acknowledge the declarations of renunciation of the mining and/or quarry rights and record the expiry of the mining and quarry right; c) authorize the export of raw minerals;

d) establish artisanal mining zones; e) approving and withdrawing approval from counters for the purchase of artisanal mining products; f) exercise supervision over institutions, public or parastatal bodies engaged in mining and quarrying activities; g) reserve the deposit to be submitted to the call for tenders; h) approve mortgages; i) accept or refuse the extension of a mining or quarry title to associated substances; j) issue authorizations for the treatment or transformation of artisanal mining products; k) propose to the President of the Republic the classification, reclassification or declassification of associated substances, mineral substances classified as mines or quarry products and vice versa as well as prohibited areas; l) establish an interdiction zone; m) appoint and convene the members of the Interministerial Commission responsible for selecting the tenders relating to the exploitation of a deposit submitted to the call for tenders as well as the members of the Interministerial Commission responsible for examining the lists of goods to be import for mining activities; n) approving agents in mines and quarries.

With the exception of the prerogatives provided for in letter k of this Code, the Minister exercises the above prerogatives by means of an Order.

The Minister's Order is published in the Official Journal.

Article 11: Of the Provincial Governor and the Head of Division Provincial of Mines

In accordance with the provisions of this code:

The Provincial Governor is responsible for:
a) issuing trader cards for artisanal mining products; b) decide on the opening of quarries for public utility works on state land.

The Provincial Governor exercises the above prerogatives by means of a provincial decree. The provincial decree is published in the Official Journal.

The Head of the Provincial Division of Mines is competent to: a) issue artisanal miner cards; b) grant the right to search and to operate permanent or temporary quarries for building materials in common use.

Article 12: Mining Cadastre The

Mining Cadastre is a public service with legal personality and financial autonomy. It is placed under the supervision of the Ministers having mines and finance in their attributions. Its statutes, its organization and its functioning are fixed by Decree of the President of the Republic. To cover its operating costs, the Mining Cadastre is authorized to collect and manage the costs of filing files and the rights

annual surface areas per square.

The Mining Cadastre is responsible for registering: a) the application for the granting of mining and/or quarry rights; b) mining and/or quarry rights granted as well as refusal decisions; c) the case of withdrawal, cancellation and forfeiture of mining or quarry rights; d) transfers and leasing of mining rights; (e) mining sureties.

The is also responsible for the cadastral examination of applications for mining and/or quarry rights, the extension of mining or quarry rights to other substances, the coordination of the technical and environmental examination of applications mining or quarry rights as well as the issuance of the Prospecting Certificate.

The Mining Cadastre certifies the minimum financial capacity of applicants for mining rights and

He retains the mining and quarry titles.

It regularly keeps its registers and maps of mining fallout according to a specific national cadastre open to public consultation.

It notes the renewals of mining and/or quarry rights in accordance with the provisions of this Code.

It notifies the opinions of the mining instructions concerned to the applicants concerned and issues them the mining and quarry titles by virtue of the rights granted by the competent authority.

It issues its opinions in the event of classification, declassification or reclassification of a prohibited area.

It is the decision-making authority in matters of transfer and leasing of mining and quarry rights and registers them.

He strikes out the entry of the mining or quarry Perimeter on the cadastral map.

He has the power of notary in matters of authentication of deeds of mortgage, leasing and transfer of mining and quarry rights.

The Mining Regulations lay down the procedures for the registration of the acts provided for in this Code, the coordination, the technical environmental examination of the applications, the nomination of the holders of the mining instructions to the persons concerned and the models of the mining or quarry titles .

Article 13: Geology Department

The Directorate of Geology is responsible for the promotion of the mining sector through basic geological research, the compilation and publication of information on geology as well as the publication and popularization of said information.

The Geology Department engages

the investigation and study activities provided for in article 8 paragraph 2 of this Code.

It alone is authorized to receive or claim the deposit of control samples of any sample or batch of samples taken on the National Territory for analysis or testing by giving visa in accordance with the provisions of this Code.

The Geology Department issues its opinions in the event of: a) classification, reclassification of mineral substances into mines or quarry products or ~~downgrading~~ and vice versa; b) opening and closing of an artisanal mining area; c) classification or declassification of a substance declared as a "reserved substance".

The Mining Regulations determine the organization and operation of the Geology Department.

Article 14: Department of Mines

The Directorate of Mines is responsible for the inspection and control of mining activities and quarry works in terms of safety, hygiene, work conduct, production, transport, marketing and social matters.

The Directorate of Mines is responsible for compiling and publishing statistics and information on the production and marketing of mining and quarrying products.

It alone has the authority to control and inspect industrial mining, small-scale mining and artisanal mining.

It receives and examines requests for approval for purchasing counters.

It issues its opinions in the event of: a) granting of mining and quarry exploitation rights; b) opening of an artisanal mining area; c) examination of applications for approval as a buying counter for gold, diamonds and other artisanal mining mineral substances.

The Mining Regulations establish the organization and functioning of the Department of Mines.

Article 15: Of the Service Responsible for Environmental Protection mining

The Service Responsible for Protection

of the Mining Environment within the Ministry of Mines exercises, in coordination with the other State bodies responsible for the protection of the environment, the prerogatives which are devolved to it by this Code and by any other regulation in the field of environmental protection,

of

notably :

a) the definition and implementation of mining regulations in terms of environmental protection with regard to: the regime for prospecting;

the scheme for artisanal miners; - the directives for the operations of exploration and exploitation of mines and quarries; - the procedures for monitoring obligations in terms of environmental protection. b) the technical instruction of the RAP in relation to the exploration operations for mineral substances classified in mines and quarries; and c) the technical examination of the EIE and the PGEF presented by the applicants for the mining and/or quarry exploitation rights.

Article 16: Restriction of competence

Apart from the Ministry of Mines, its services and its bodies provided for in this Code and responsible for its administration, no other service or public or state body is competent to enforce the provisions of this Code and its implementing measures.

**Chapter III :
PROSPECTING**

Article 17: Access to prospecting

Mining prospecting is free on all the National Territory outside: a) protected areas and natural reserves of flora and fauna as well as in protected areas governed by specific laws; b) areas declared prohibited in accordance with Article 6 of this

Code ;

c) restricted areas and prohibition in accordance with Articles 279 and 282 of this Code; d) Perimeters of mining rights and/or of existing careers.

Any person wishing to engage in mining prospecting in the National Territory must make a prior declaration to the Mining Registry.

The Mining Regulations set the conditions for declarations prior to prospecting.

Article 18: Prospecting Certificate

Within five days following receipt of the Prospecting declaration, the Mining Registry issues a Prospecting Certificate valid for the extent of an administrative territory for a non-renewable period of two years. However, a person can obtain successive Prospecting Certificates for the same territory.

If the Mining Cadastre fails to issue the Prospecting Certificate within the time limit set out in the preceding paragraph, the receipt of the Prospecting declaration is equivalent to the Prospecting Certificate.

The Prospecting Certificate is not a mining right. It is not exclusive and does not confer any priority for obtaining a mining or quarry right.

Article 19: Prospecting activity

Anyone can freely carry out Prospecting operations

affecting the local topography, not the territory indicated on its Prospecting Certificate, including the collection of samples for analysis in the laboratory of its choice.

The quantity and volume of samples to be taken by a holder of the Prospecting Certificate are specified by the Mining Regulations.

Article 20: Prospecting conditions

The holder of the Prospecting Certificate is required to: a) comply with applicable regulations on environmental protection; b) inform the local authority of his arrival and departure from each administrative territory where he carries out his Prospecting work; c) not to carry out exploration or mining operations; d) comply with the regulations on the collection of samples.

Article 21: Samples

Any person who engages in Prospecting operations may send outside the National Territory the samples he has taken in the territory indicated on his Prospecting Certificate for testing provided that he has submitted a control sample and a description, including their number, volume and weight from the Geology Department of the Ministry of Mines or its local office and has obtained its visa on a copy of the description.

The person who obtains the approval of the Geology Department on a copy of the description of the samples that he has taken in accordance with the preceding paragraph acquires ownership of the samples described therein. The samples deposited are the property of the State.

The Mines Administration guarantees the holder of the Prospecting Certificate who has deposited samples the confidentiality of these.

Article 22: Prospecting for quarry

products The provisions of this chapter also apply to prospecting for quarry products.

The terms of application of this provision are specified in the Mining Regulations.

TITLE II: DISPOSITIONS MUNICIPALITIES

***First chapter :* OF ELIGIBILITY**

Article 23: Eligibility for mining and quarry rights

Without prejudice to the provisions of article 27 below, the following are eligible for mining and quarry rights:

a) any adult natural person of Congolese nationality as well as any legal person under Congolese law which has its registered and administrative office in the National Territory and whose corporate purpose relates to mining activities; b) any adult natural person of foreign nationality as well as any legal person governed by foreign law; (c) any organization with a scientific vocation.

The eligible persons referred to in letter b of this article are required to elect domicile with a mining and quarrying agent established in the National Territory and to act through him.

The legal entities governed by foreign law and the organizations with a scientific vocation mentioned in letters b and c of this article are only eligible for mining and/or exploration quarry rights.

Article 24: Election of domicile

The choice of domicile referred to in the previous article is express and can only be made in writing.

All notifications, requests and proceedings for the execution of an act for which the domicile has been elected, are validly made at this domicile.

Article 25: Agents in mines and quarries

Agents in mines and quarries are approved beforehand by the Minister because of their respectability, morality, skills and in-depth knowledge in mining legislation or in the management of the field of mines or quarries.

Besides the representation, mining and quarrying agents have the task of advising and/or assisting any person interested in the granting and exercise of mining and quarrying rights as well as in the related litigation.

The Mines Administration maintains and publishes the list of authorized representatives and updates it annually.

The Mining Regulations set the conditions for the approval of agents in mines and quarries.

Article 26: Eligibility for exploitation artisanal

Without prejudice to the provisions of article 27 below, only adult natural persons of Congolese nationality can acquire and hold artisanal miner cards and trader cards.

In the strict compliance with the provisions of Article 27 of this Code, are eligible for counter title

for the purchase of mineral substances from artisanal mining: a) any adult natural person of Congolese nationality; b) any adult natural person of foreign nationality residing in the National Territory; c) any legal entity governed by Congolese law having its registered and administrative office in the National Territory and whose corporate purpose relates to the purchase and sale of mineral substances from artisanal mining.

Article 27: Ineligible persons

A) agents and civil servants of the State, Magistrates, members of the Armed Forces, the Police and the Security Services, employees of public bodies authorized to carry out mining operations.

However, this incompatibility does not concern their participation in the capital of mining companies; b) any person under legal incapacity provided for in Article 215 of Law No. 87-010 of August 1, 1987 on the Family Code;

c) any person subject to a ban, in particular: - a person sentenced by a judgment that has become final for offenses against the

mining and quarry legislation or those relating to the economic activities of its mining and quarry rights and its affiliated companies, for ten years; - the person from whom the artisanal mining or trading card has been withdrawn for three years; - the person from whom the approval as counters for the purchase and sale of artisanal mining mineral substances has been withdrawn for five years.

Chapter II:

MINING PERIMETERS AND OF CAREERS

Article 28: Form of mining and quarry Perimeters

Mining or quarry rights are granted for mineral substances within the Perimeter.

The Perimeter is in the form of a polygon made up of whole contiguous squares, subject to the limits taxable by the borders of the National Territory and those relating to the prohibited and protected reserve areas as specified in the Mining Regulations.

The National Territory is subject to a mining cadastral grid according to the system of appropriate coordinates specified in the Mining Regulations. This grid defines the uniform and indivisible squares whose sides are oriented North-South and East-West.

The Perimeter does not include squares that are not part of the Perimeter subject to mining or quarry rights.

Article 29: Location of Mining and quarrying perimeters

The geographical location of the Perimeter is identified by the coordinates of the center of each square of which it is composed.

The Perimeters are shown on 1:200,000 scale maps held by the Mining Cadastre.

The Mining Regulations set the terms of the mining cadastral grid as well as governing the identification of mining and quarry Perimeters.

Article 30: Encroachments of mining and quarry

Perimeters The Perimeters of mining and quarry rights as well as artisanal mining areas are exclusive. They cannot encroach on each other, except in the following cases: a) the Perimeter of a mining exploration right may be superimposed on the Perimeter of a quarry right of exploration for temporary exploitation; b) The Perimeter of a mining exploitation right may be superimposed on the Perimeter of a temporary exploitation research quarry right. The part of the Perimeter of an exploration right for quarry products on which the Perimeter of a mining exploitation right is superimposed, is automatically extinguished as a result;

c) The Perimeter of an exploration right for quarry products may be superimposed on the Perimeter of a mining exploration right; d) The Perimeter of a quarry exploitation right may be superimposed on the Perimeter of a mining exploration right or, with the consent of the holder or by decision of the Minister, on part of the Perimeter of a operation.

Article 31: Demarcation of mining or quarry Perimeters

Within two months of the issue of a mining or quarry exploitation title, the holder proceeds, at his own expense, to the demarcation of his Perimeter.

The demarcation consists of the installation of a terminal at each of the vertices of the Perimeter covered by its title by installing a permanent post there indicating the mentions of the name of the holder, the number of its title and that of the identification of the terminal.

The methods of carrying out the demarcation are determined by the Mining Regulations.

**Chapter III:
OF THE GRANTING PROCEDURE
MINING RIGHTS OR
CAREERS AND
ISSUANCE OF TITLES
MINING AND QUARRYING**

Article 32: Principle of transparency of procedures

With a view to ensuring transparency, objectivity, efficiency and speed in the processes of receipt, examination, decision and notification relating to applications for the granting of mining or quarry rights as well as in the issue of the titles granted relating thereto, the procedure provided for in this chapter applies, subject to the provisions specific to each mining and quarry right, to the granting of the mining and quarry rights organized in this Code.

The procedure for granting mining or quarry rights and issuing the related titles is strictly applied.

Article 33: Mining rights and

**careers subject to a call
for tenders**

If the public interest so requires, the Minister exceptionally submits to a call for tenders, open or restricted, the mining and quarry rights relating to a deposit studied or held by the State possibly services, which is considered an asset of known significant value.

In this case, the Minister reserves the mining rights on the deposit to be submitted to the call for tenders.

The reservation of mining rights on the deposit submitted to the call for tenders must be confirmed by the President of the Republic within thirty days of the entry into force of the Minister's Order relating thereto.

The call for tenders is concluded within a period of one year from the entry into force of the Order reserving the deposit to be submitted to the call for tenders.

The call for tenders, specifying the terms and conditions of the tenders as well as the date and address to which the tenders must be submitted, is published in the Official Journal. It can also be published in local and international specialized newspapers.

Tenders submitted in accordance with the terms and conditions of the call for tenders are promptly examined by an Interministerial Commission whose members are appointed and convened by the Minister in order to select the best tender on the basis of:

a) program of proposed operations and related financial expenditure commitments; b) available financial and technical resources of the Offeror; c) the Offeror's previous experience in conducting the proposed operations; d) various other socio-economic benefits for the State, the province and the surrounding community, including the signing bonus offered.

The selection and notification of bids are made according to procedures generally accepted or recognized by international mining practice.

At the conclusion of the tender procedure, the Minister publishes the result of the selection and the lifting of the reservation.

The Mining Regulations determine the operating methods of the Commission provided for in paragraph 6 of this article.

Article 34: Priority of instruction

Notwithstanding the granting of mining or quarry rights following the call for tenders procedure provided for in the preceding article, and unless they are inadmissible, requests for mining or quarry rights for a given Perimeter are entered in the chronological order of their filing.

As long as a request is pending, no other request for the same Perimeter, re in whole or in part, can be processed.

**Article 35: Request for rights
mining or quarrying**

Any request for mining or quarry rights is written on a form to be obtained from the Mining Registry for the right concerned and includes the following information: a) the identity, nationality, domicile and contact details of the applicant and/or of his representative if the request is submitted by the latter; b) the reason or company name, nationality, registered office and, where applicable, the place of business if it is a legal person and/or the identity of its representative if the request is made by the latter; c) the professional and legal situation of the applicant and the address of the registered office of the legal person, if applicable; d) the type of mining or quarry right requested; e) indication of the mineral substances for which the mining or quarry right is requested; (f) the geographic location of the

Perimeter requested;

g) the number of squares constituting the area of the required Perimeter; h) the identity of the applicant's affiliated companies; i) the nature, number and area of the Perimeters of mining or quarry rights already held by the applicant and its affiliated companies.

The application file includes the application form duly completed and signed, the applicant's identity documents and the other documents required depending on the type of right applied for. The applicant files the

application file with the Mining Cadastre.

The Mining Regulations set the model for the application form for mining or quarry rights.

Article 36: Language of the request

The request for institution, renewal, transfer or lease of mining and/or quarry rights and/or request for extension of other provisions of this Code is written in French.

All other documents produced or attachments to the request are written in French or accompanied by a translation into French duly certified by a translator approved by the courts.

Article 37: Filing fees

A tax is levied, as filing fees, on the occasion of the filing of each application for institution, renewal, extension, transfer or lease of a mining or quarry right.

Any request of this nature must, under penalty of inadmissibility, be accompanied by deposit fees provided for in the paragraph above.

This fee is non-refundable regardless of the suite booked on demand.

Article 38: Admissibility of the request

The application for mining or quarry rights is admissible only if it meets the following conditions:

a) the accuracy of the information required in Article 35 of this Code; (b) production of proof of payment of filing fees; c) compliance of the shape and location of the Perimeter with the provisions of Articles 28 and 29 of this Code; d) if it is a request for mining rights or for permanent quarry exploitation: - the existence of the entire Perimeter requested within the Perimeter covered by the Exploration Permit or the Quarry Products Exploration Authorization; - production of proof of the applicant's registration in the New Trade Register if he is legally subject to this obligation.

The Mining Cadastre decides on the admissibility of the request when the file is submitted.

If the request is declared admissible, the Mining Cadastre delivers to the applicant a receipt indicating the day, hour and minute of the deposit, which is authentic, and registers the request in the corresponding register, with mention of the day, hour and minute of the deposit.

Article 39: Examination of the request

In accordance with the provisions of article 34 of this Code, the instruction of the request begins with the cadastral instruction followed by the technical instruction and the environmental instruction.

Article 40: Cadastral instruction

The Mining Cadastre carries out the cadastral investigation within a maximum of ten working days from the filing of the application.

For instruction purposes, the Cadastre Mining verifies whether: a) the applicant is eligible for the type of mining or quarry right requested; b) the limits on the number of mining or quarry rights, the shape and surface area of the requested Perimeter have been respected; c) the requested Perimeter encroaches on a Perimeter subject to a mining or quarry right or a request pending investigation.

During the cadastral examination of applications for mining and/or quarry rights, the following rules apply to encroachments: a) when an application for mining and/or exploration quarry rights relates to a Perimeter of which more than 25 % encroach on another valid mining or quarry Perimeter or is submitted while another request is under consideration, this request is rejected. b) when an application for mining and/or exploration quarry rights relates to a Perimeter of which a maximum of 25% overlaps another Perimeter or is submitted while an application is under review, the situation is corrected so as to eliminate the encroachments.

At the conclusion of the instruction cadastral, the Mining Cadastre proceeds to: a) the provisional registration of the requested Perimeter on the cadastral map. This

registration is valid for the duration of the examination of the application; b) the posting of the result of the investigation in the consultation room of its premises.

A copy of the cadastral opinion is provided to the applicant; c) the transmission of the file accompanied by the cadastral opinion to the competent authority for decision, in the event of an unfavorable opinion; d) the transmission of the file to the services indicated for the technical examination and for the environmental examination of the requests for the mining rights of exploitation of authorization for exploitation, in the event of favorable opinion or to the authority competent when it comes to applications for mining rights and exploration quarries.

Article 41: Technical instruction

In accordance with the provisions of Article 14 paragraph 5 letter a and for the purposes of technical investigation, the Department of Mines determines whether the conditions for granting the requested mining or quarry right are met. It transmits its technical opinion to the Mining Cadastre within the instruction period prescribed for each type of request provided for in this Code.

Within a maximum period of five working days from the date of receipt of the technical opinion, the Mining Cadastre shall: a) display the result of the technical opinion in the consultation room of its premises. A copy of the said notice is communicated to the applicant; b) the transmission of the application file, with the cadastral opinion and the technical opinion, to the competent authority for decision.

Article 42: Education environmental

In accordance with the provisions of article 15 of this Code and the provisions concerning each type of mining and/or quarry rights, the service responsible for the protection of the mining environment examines the EIA and the PGEP relating to the request for mining rights. operating license or the Authorization for Permanent Quarry Exploitation as well as the RAP relating to an application for Authorization for Temporary Quarry Exploitation in accordance with the provisions of this Code.

It transmits, at the conclusion of the investigation, its environmental opinion to the Mining Registry within the time prescribed for each type of mining and/or quarry rights.

Within a maximum period of five working days from receipt of the environmental notice, the Mining Cadastre shall: a) display the result of the environmental notice of the department responsible for the mining environment in the room determined by the Mining Regulations.

A copy of the environmental notice is sent to the applicant. b) the transmission of the application file, with the cadastral opinion and the technical opinion, to the competent authority for decision.

The service responsible for the protection of the mining environment also examines the RAP submitted by the holder of the mining or exploration quarry right and sends, at the conclusion, its environmental opinion to the Mining Registry within the time prescribed in the Mining Regulations.

Article 43: Award decision

Upon receipt of the application file with cadastral opinion, and, where applicable, favorable technical and environmental opinions, the competent authority takes and transmits its decision to grant the Mining Cadastre within the decision period prescribed for each type of mining right application. or careers.

In this case, the Mining Cadastre proceeds to the registration of the granted right, to the notification of the decision of granting to the applicant and to its display in the room determined by the Mining Regulations.

In the event that the competent authority does not transmit its decision in accordance with paragraph 1 above, the decision to grant the mining or quarry right is deemed to have been granted.

The applicant can ask the Mining Cadastre to proceed with the registration of his right and the delivery of the related title.

Article 44: Of the decision of refusal of granting

Upon receipt of the application file with cadastral opinion, and if necessary, unfavorable technical and environmental, the authority takes and transmits its reasoned decision of refusal to the Mining Cadastre within the time limit. prescribed for each type of application for mining or quarry rights.

In this case, the Mining Cadastre proceeds to the registration of the decision of refusal to grant the requested rights, to the notification of the decision to the applicant and

its display in the room determined by the Mining Regulations.

In the event that the competent authority does not transmit its decision in accordance with paragraph 1 of this article, the Mining Cadastre shall immediately strike off the registration of the Perimeter on the cadastral map. The act of cancellation is notified to the applicant.

Article 45: Time limit for decision to grant or refuse

The time limit for granting or refusing to grant mining or quarry rights assigned to the competent authority by the provisions of this Code begins to run on the day of receipt of the file transmitted by the Mining Cadastre with the cadastral, technical, if necessary, environmental opinions required.

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The transmission of the file to the competent authority by the Mining Cadastre is done by any means of communication such as e-mail, fax, registered mail or by bearer mail with acknowledgment of receipt.

In all cases, the transmitted file is supposed to be received no later than one working day in the event of transmission by e-mail or fax and eight working days for other means of communication.

However, it is supposed to be sent with acknowledgment of receipt the same day in the case of bearer mail.

The Mining Cadastre reserves a copy of the letter transmitting the file to the applicant.

The competent authority seized of the file by the Mining Cadastre in turn takes, within 30 working days of receipt of the said file, the decision to grant or refuse the requested right and notifies it to the applicant.

Article 46: Legal registration

If the Mining Cadastre does not register the mining or quarry right in accordance with paragraph 4 of article 43 of this Code within five working days from the request for registration, the applicant may, by request addressed to the President of the High Court with territorial jurisdiction, with a copy and the elements of the file to the Public Prosecutor of this jurisdiction, to obtain a judgment equivalent to a mining or quarry title according to the

cas.

Within forty-eight hours of receipt of the request, the President of the High Court with territorial jurisdiction decides the case and, if necessary, the Court notifies, by means of a bailiff, the day and time of the hearing to the applicant and to the Public Prosecutor.

Pursuant to the provisions of Article 9 of Ordinance-Law No. 82-020 of March 31, 1982 on the Code of Judicial Organization and Jurisdiction as amended and supplemented to date, the Public Prosecutor's Office issues its opinion verbally on the benches. This notice is recorded in the court docket.

Without there being any need for postponement, the case is called, heard, pleaded and

taken under advisement at the hearing determined in the notice of hearing date.

Under penalty of inadmissibility, the request referred to in the preceding paragraph must: a) be introduced within eight working days from the expiry of the five-day period provided for in the first paragraph of this article; b) contain in original or in certified true copy, in addition to the elements of the request provided for in article 35 of this Code, the receipt of his request, the proof of the payment of expenses of deposit of his request and the copies of the cadastral notices, technical and, where applicable, environmental requirements.

The Tribunal's decision is made within 72 hours of the case being taken under advisement and must: a) note the absence of the granting decision from the competent authority within the decision period allocated to it; b) determine the Perimeter covered by the mining or quarry right applied for, its geographical location and the number of whole squares constituting its area; c) enjoin the Mining Cadastre to register the device of the judgment in its registers and to issue the corresponding mining or quarry title and to indicate the mining or quarry Perimeter on the Map of mining fallout.

In any event, the judgment obtained is equivalent to a mining or quarry title.

Article 47: Issue of title

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 delivers to the applicant, against payment of the annual surface area fees relating thereto, the mining or quarry titles noting the requested rights. At the time of delivery of the title, the Mining Cadastre gives a receipt for payment of the annual surface area fees to the applicant and registers the mining or quarry title in the corresponding register.

Without prejudice to the provisions of Article 198 of this Code, the annual surface rights per square must be paid, for the first year, no later than thirty working days from the granting of the requested right. After this period, the right granted automatically becomes null and void.

Article 48: End of the investigation of the application

The examination of the application for mining and/or quarry rights ends on the day of notification of the decision granting the applicant or of the decision of the judge provided for in article 46 of this Code at the Mining Registry.

In the event of a refusal decision and subject to the provisions of Articles 313 and 314 of this Code, the examination of the application for mining and/or quarry rights ends on the day of notification of the decision to the applicant.

After the issuance of the title, the mining and/or quarry rights granted are shown on the map of the mining sites.

Article 49: Extension of the validity of mining and/or quarry rights

during the investigation In the event that a request for transformation of a mining or exploration quarry right into that of exploitation or that of renewal of a mining or exploration quarry right is under examination at the time of its expiry, the validity of this right is extended until a decision has been made on the said application.

TITRE III : MINING RIGHTS

Chapter One : MINING RESEARCH

Article 50: Scope of the Permit to Exploration

The Exploration Permit grants its holder the exclusive right to carry out, within the Perimeter on which it is established and for the duration of its validity, exploration work for mineral substances classified as mines for which the permit is granted. granted and the associated substances if the holder requests the extension of the permit to these substances.

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

The holder of a permit Research is authorized to take samples of mineral substances within the Perimeter covered by its Permit

of Research for analyzes or industrial tests in the laboratory or in the factory of his choice.

Without prejudice to customs legislation, if the holder wishes to send the samples taken abroad for testing, he must first file a description of the said samples including their number, volume and weight with the Geology Department of the Ministry of Mines and obtain the visa of this service on a copy of the description, which is valid for the samples taken.

The holder of an Exploration Permit is required to submit to the Geology Department of the Ministry of Mines a control sample of any sample or batch of samples taken from the Perimeter covered by his title. Under no circumstances may research exploitation work degenerate into

As long as a Perimeter is the subject of an Exploration Permit, no other application for mining rights for all or part of this Perimeter can be processed, except for the application for an Exploitation Permit from the holder of the said Exploration Permit.

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

Article 51: Nature of the Permit to Exploration

The Exploration Permit is a real, real estate, exclusive, assignable and transferable right according to the provisions of this Code.

This right is evidenced by a mining title called "Exploration Certificate".

Article 52: Duration of the License Research

The duration of the Exploration Permit is: a) four years renewable twice for a period of two years at each renewal for precious stones; b) five years renewable twice for a period of five years at each renewal for other mineral substances.

Article 53: Limitations

The area of the Perimeter covered by an Exploration License cannot exceed a maximum of 400 km²

A person and its affiliates cannot hold more than fifty Exploration Permits.

In all cases, the area granted to them cannot exceed 20,000 km² over the whole of the National Territory.

Article 54: Establishment, filing, admissibility and application for Permit to Research

The applicant must establish his request for the Exploration Permit and file it with the Mining Registry for his

investigation in accordance with the provisions of Articles 35 to 42 of this Code.

Proof of minimum financial capacity is attached to the application.

Article 55: Technical instruction and environmental aspects of the Exploration Permit

The Exploration Permit application cannot be subject to the technical and environmental instructions.

minimum required is equal to ten times the total amount of annual surface area fees payable for the last year of the first period of validity of the exploration permit applied for.

The applicant is required to prove that he has, in order to carry out his mining exploration programme, own funds, borrowed funds or even a bank guarantee likely to cover the Perimeters of both old and new Exploration Permits requested.

Article 56 : Conditions for granting the Exploration permit

To obtain an Exploration Permit, the applicant must provide proof of his minimum financial capacity as defined in Article 58 of this Code.

Any person eligible for an Exploration Permit may request certification of their minimum financial capacity from the Mining Cadastre at any time without applying for an Exploration Permit.

Article 57: Grant or refusal to grant of the Exploration Permit

Without prejudice to the provisions of Article 46 of this Code, the Exploration Permit relating to a defined Perimeter is granted or refused by the Minister to the applicant who has met the conditions for granting the Permit within a period which may not exceed thirty days. working days from the date of receipt of the file transmitted by the Mining Registry.

The forms and documents to attach to the application for certification of minimum financial capacity are determined by the Mining Regulations.

The Mining Cadastre examines the request for certification of the minimum financial capacity and certifies the permitted number of additional square kilometers for which the applicant has demonstrated his financial capacity within a period not exceeding thirty days from the date of filing of the request.

Any refusal to grant the Exploration Permit is reasoned and gives right to the appeals provided for by the provisions of articles 313 and 314 of this Code.

Article 58: Proof of capacity minimum financial

In accordance with article 56 of this Code, the financial capacity

Article 59: Extension of the permit to other substances

Before proceeding with the active search for mineral substances other than those for which his

Research has been established, the holder must obtain the extension of his license to these

other materials. Such an extension is automatic if: a) the Exploration Permit is currently valid; b) the holder describes the information which makes him believe in the existence of the mineral substances for which the extension of the permit is requested.

The modalities of the extension procedure are determined by the Mining Regulations.

Article 60: Renunciation of the Permit of Research

The holder of an Exploration Permit may waive at any time, in whole or in part, the right covering his Perimeter.

The declaration of partial or total renunciation addressed to the Minister specifies the coordinates of all or part of the Perimeter renounced and that retained. It takes effect on the day of the act of the Minister or in any case, within three months from the filing of the declaration.

The part of the Perimeter subject to renunciation must consist of whole squares.

The part of the remaining Perimeter must respect the form of a mining Perimeter provided for in article 28 of this Code.

The Perimeter covered by the Exploration Permit is free, in whole or in part, as the case may be, of any right from the act of the Minister.

The total or partial waiver does not give rise to any reimbursement of

fees and charges paid to the State for granting or maintaining the permit. It does not relieve the holder of his responsibility relating to the protection of the environment.

Article 61: Expiration of the Exploration Permit
The Exploration Permit

expires when it reaches the last day of its last period of validity or when it has not been renewed at the end of the first periods of validity, nor transformed an Exploitation License or a Small-Scale Mining Exploitation License.

In this case, the Perimeter covered by the Exploration Permit is free of all rights from the date of expiry of the Permit.

When the Exploration Permit expires, the Mining Cadastre immediately notifies the holder of the expiry of his title with a copy to the Geology Department.

However, the holder is not relieved of his responsibilities in terms of environmental rehabilitation after the expiry of his title.

Article 62: Renewal of the Exploration Permit

The Exploration Permit is renewed if the holder has not failed in his obligations to maintain the validity of the permit provided for in articles 196 to 199 and following of this Code and provided that he submits a report of the research work during the previous period of validity of his title and the results obtained.

The request for renewal of the Exploration Permit is addressed by the applicant to the Mining Registry at least three months before the date of expiry of the permit, and must contain the following information: a) the particulars provided for in letters a, 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 affiliated companies; d) the nature, number and area of the Exploration Permit Perimeters held by the holder and its affiliated companies.

Under penalty of inadmissibility, the Research Certificate in the holder's possession and proof of payment of the deposit fees are attached to the application.

The Mining Cadastre decides on the admissibility of the request when the file is submitted.

If the request is admissible, the Mining Cadastre initiates the cadastral investigation in accordance with the provisions of article 40 of this Code.

On the occasion of each renewal, the holder of the Exploration Permit automatically renounces 50% of the Perimeter covered by his permit.

If the Minister does not react to the renewal request duly submitted within thirty days of the filing of the file, the requested renewal is acquired.

Without prejudice to the provisions of Article 46 of this Code, the Cadastre Minier registers the renewal within five days

working days following the date on which the renewal is supposed to be granted.

Any refusal to renew an Exploration Permit must be reasoned and opens the right to the appeals provided for in Articles 317 to 320 of this Code.

Article 63: Processing

partial permit Searches for Exploitation Permits or Small Scale Exploitation Permits Mine

The holder of an Exploration License may at any time request the partial transformation of it into an Exploitation License or a Small-Scale Mining Exploitation License for part of the area covered by his Exploration License while maintaining his exclusive research rights over the rest of the area, provided that the provisions of Articles 28 and 29, 69 to 76 and 103 to 105 of this Code are complied with.

The holder of an Exploration License may also apply for an Exploitation License or a Small-Scale Mining Exploitation License for a Perimeter which includes the areas of several Exploration Licenses.

If necessary, the holder of an Exploration License may request the transformation of his initial Exploration License into multiple Exploration Licenses on the part of the Perimeter not transformed into an Exploitation License or a Small-Scale Mining Exploitation License. in order to comply with the provisions of this Code on the form of the Research Perimeter. If applicable, the holder

must respect the limit on the number of Exploration Permits that a single person can hold.

The duration of the multiple permits is equal to the unexpired duration of the initial permit.

The unprocessed part of the Perimeter remains subject to the terms and conditions of the valid Exploration Permit.

MINING *Chapter II:*

Article 64: Scope of the Exploitation License

The Exploitation License 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, development, construction and exploitation works aimed at the mineral substances for which the permit is established and the associated substances if he has requested an extension. It also allows, without limitation, to: a) enter the exploitation Perimeter to carry out mining operations; b) build the necessary infrastructure facilities for mining; c) use the water and wood resources located within the mining Perimeter for the purposes defined in the EIE and the PGE (see Article 65) to transport and market its commercial products

in itself

from the Perimeter operations; e) carry out operations of concentration, metallurgical or technical transformation of mineral substances extracted from the deposit within the exploitation Perimeter; f) carry out mine extension works.

As long as a Perimeter is the subject of an Exploitation License, no other application for mining or quarry rights for all or part of this same Perimeter can be processed.

However, an applicant to whom the holder of the Exploitation License has refused his consent to the opening of a quarry, in the Perimeter, may file an application for a Authorization of Quarry Exploitation on a part of the Perimeter which is the subject of the Exploitation License but which is not used for mining operations.

Where applicable, the application is investigated and is the subject of an administrative dispute in which the holder and the applicant participate if the latter submits, with his application, evidence that the holder refused to give his consent in bad faith.

The Mining Regulations determine the rules of substance and form of this dispute.

Article 65: Nature of the Exploitation License

The Exploitation License is a real, real estate, exclusive, transferable right,

transferable and transferable in accordance with the provisions of this Code.

This right is established by a mining title called Certificate of Exploitation.

Article 66: Scope of the Exploitation

License The Exploitation

License authorizes the exploitation of the mineral substances for which it is specifically established. These mineral substances are those that the holder has identified and for which he has demonstrated the existence of an economically exploitable deposit.

The Exploitation License may extend to associated substances in accordance with the provisions of Article 77 of this Code.

Article 67: Duration of the Permit of Exploitation

The period of validity of the Exploitation License is thirty years renewable several times for a period of fifteen years.

Article 68: Limitations of the

Exploitation License The

surface area of the Perimeter subject to the Exploitation License is that of the Exploration License from which it derives or that of the part of the Perimeter of the Exploration License transformed into an Exploitation License.

A person and its affiliates cannot hold more than fifty Exploitation Licenses.

Article 69: Establishment of the permit application of Exploitation

The applicant draws up his request for an Exploitation License and files it with the Mining Registry in accordance with Articles 35 and 37 of this Code.

The following documents are attached to the application: a) a copy of the valid Research Certificate; b) the report on the result of research regarding the nature, quality, volume and geographical location of the mineral resource identified; c) the feasibility study for the exploitation of the deposit; d) the technical framework plan for the development, construction and operation of the mine; e) EIA and EMPP for the project; f) the report on the consultations with the authorities of the local administrative entities and with the representatives of the surrounding communities;

- g) the plan for the contribution of the project to the development of the surrounding communities; h) the financing plan with identification of the sources of financing targeted;
- i) proof of payment of deposit fees.

Article 70: Admissibility and examination of the application for the Exploitation License

The request from
Exploitation Permit is received and processed under the conditions and procedures set by the provisions of Articles 38 to 45 as supplemented by those of Articles 74 to 76 of this Code.

Article 71: Conditions for granting the Exploitation License

granting of the Exploitation License is subject to the following conditions on the part of the applicant: a) demonstrate the existence of an economically exploitable deposit by presenting accompanied by a technical framework plan for the works development, construction and operation of the mine; b) demonstrate the existence of the financial resources necessary to carry out his project according to a financing plan for the development, construction and operation of the mine as well as the rehabilitation plan for the site upon its closure. This plan specifies each type of financing, the sources of financing, the probable availability; (c) obtain prior approval of the project's EIA and EMPP; d) transfer 5% of the shares of the applicant company's share capital to the State. These units are free of all charges and cannot be diluted.

Article 72: Granting of the Permit operating

Without prejudice to the provisions of Article 46 of this Code, the Exploitation License is granted by the Minister to the holder of the Exploration License who has met the conditions for granting the License within a period which may not exceed thirty

working days from the date of receipt of the request sent to it by the Mining Cadastre.

Any refusal to grant the Exploitation License is reasoned and gives the right to appeal provided for by the provisions of Articles 317 to 320 of this Code.

Article 73: Justifications for the refusal to grant the Exploitation License

The Exploitation License cannot be refused only if:
a) the feasibility study is rejected; b) the financial capacity of the applicant is insufficient;
c) the EIA has been definitively rejected in accordance with the provisions below.

The feasibility study cannot be rejected only for the following reasons:
a) its non-compliance with the direction of the Ministry of Mines specifying its content in accordance with generally recognized international practice;
b) the presence of an obvious error; c) its non-compliance with the EIA.

Proof of the applicant's financial capacity can only be rejected for one of the following reasons: a) non-compliance of the financing plan with the feasibility study; b) the manifest insufficiency of the justifications of the probable availability of the financing which is obtained from the sources explained by the

Proof of financial capacity cannot be rejected if the applicant has

produces, in the case of external financing, certificates from identified sources of financing proving the feasibility of financing within the parameters envisaged by the applicant, and in the case of internal financing, the financial statements of the person or company certified by a Chartered Accountant or a Court-approved Accountant demonstrating self-financing capacity.

Article 74: Time limit for the technical examination of the application for the Exploitation License

The technical examination of the application for the Exploitation License declared admissible is carried out within a period which may not exceed sixty working days from the date of receipt of the application file sent by the Mining Cadastre to the Department of Mines.

Article 75: Time limit for the environmental examination of the application for the Exploitation License

The environmental examination of the EIE and the PGEP relating to an application for the Exploitation License declared admissible shall be carried out within a period which may not exceed one hundred eighty working days from the date of transmission of the application file by the Department of Mining Cadastre to the service responsible for the protection of the mining environment of the Ministry of Mines.

Article 76: Decision of the Minister

If the cadastral opinion on an application for an Exploitation License is unfavorable, the Minister makes his decision to reject the application within fifteen working days from the date of

receipt of the application file sent to it by the Mining Cadastre.

If the technical opinion on an application for an Exploitation License is unfavorable but the cadastral opinion favourable, the Minister takes his decision of rejection or conditional preliminary approval ~~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 Exploitation License are favorable but the environmental opinion has not yet been issued, the Minister takes a preliminary and conditional decision within twenty days. working days from the date of receipt of the application file sent to it by the Mining Registry and defers its final decision to grant or refuse the Exploitation License until receipt of the environmental opinion.

The conditional preliminary ^{and} decision of the Minister has the effect of definitively ratifying the cadastral and technical opinions. It makes its final award decision conditional on receipt of a favorable environmental opinion.

The Minister takes and sends his decision to grant or refuse the Exploitation License to the Mining Cadastre within thirty days from the date of receipt of the environmental notice sent to him by the Mining Cadastre.

Article 77: Extension to others substances

Before carrying out exploration or exploitation activities targeting mineral substances other than those for which his Exploitation License was issued, the holder is required to obtain the extension of his license to these other associated or non-associated substances. associated.

L'extension from
Exploitation permit for associated mineral substances is by right if the holder of the permit demonstrates that they are found with the substances for which the permit was granted in a state of association such that it necessarily involves their simultaneous

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

However, if the holder of an Exploitation License wishes to extend it to non-associated substances, he must follow the procedure required for issuing his valid Exploitation License.
In this case, he updates and submits the documents approved during the examination of his initial permit application, including the operations planned for the exploitation of the additional substances.

L'extension from
Exploitation License for associated or non-associated mineral substances is granted by the Minister for a period that does not exceed the unexpired period of the Exploitation License.

Article 78: Expiry of the Exploitation License

The Exploitation License expires at the end of a period of validity not followed by renewal in accordance with the provisions of this Code or when the deposit is exhausted.

At the expiry of the Exploitation License, the Mining Cadastre immediately notifies the holder of the expiry of his title, reserving a copy to the Department of Mines.

In this case, the Perimeter covered by the Exploitation License is free of all rights from the date of expiry of the license.

Article 79: Renunciation of the Permit of Exploitation

The holder of an Exploitation License may, by declaration addressed to the Minister, renounce at any time in whole or in part the right covering his Perimeter.

The declaration of partial renunciation specifies the contact details of the part of the Perimeter renounced and those of the retained part. It takes effect on the day of the act of the Minister or in any case, within three months from the filing of the declaration.

The part of the Perimeter subject to renunciation must consist of whole squares.

The part of the remaining Perimeter must respect the form of a mining Perimeter provided for in article 28 of this Code.

The Perimeter covered by the Exploitation License is free, in whole or in

party, as the case may be, of all rights from the act of the Minister.

The total or partial waiver does not entitle the holder to any reimbursement of the fees and costs paid to the State for the granting or maintenance of the permit. It does not relieve the holder of his responsibility relating to the protection of the environment and his commitments towards the local community.

Article 80: Renewal of the Exploitation

License

The Exploitation License is renewable for successive periods of five years and the holder must maintain the validity of his license provided for in Articles 196 to 199 of this Code; b) demonstrates the non-exhaustion of the deposit through an update of the feasibility study; c) demonstrates the existence of the financial resources necessary to continue to carry out his project according to the mine's financing and operating work plan as well as the rehabilitation plan for the site upon closure. This plan specifies each type of financing targeted and the justifications for their probable availability; d) Obtain approval of the updated EIA and EMPP; e) subscribes in good faith to a commitment to actively continue its operation.

The application for renewal of Exploitation License is addressed by the holder of the Exploitation License to the Mining Cadastre at least one year and not

more than five years before the expiry date of the Exploitation License.

This request must include the following information:

- a) the information provided for in letters a, b and c of article 35 of this Code;
- b) the identity of the affiliated companies;
- c) the nature, number and area of the Perimeter held by the holder and its affiliated companies.

Under penalty of inadmissibility, the title of the valid Exploitation License and proof of payment of the deposit fees are attached to the request.

The Mining Cadastre decides on the admissibility of the request when the file is submitted.

If the application is declared admissible, the Mining Cadastre initiates the cadastral, technical and environmental investigation in accordance with the provisions of Articles 39 to 42 of this Code.

The study of the technical document provided by the operator is limited to the verification of the update of the feasibility study and the commitment that it has subscribed to in good faith.

Le environmental examination period for the approval of the update of the EIE and the PGEP of the holder cannot exceed ninety working days from the transmission of the file by the Mining Cadastre to the department responsible for environmental protection Ministry of Mines.

After the investigation, the Cadastre Minier sends the application file, with the technical advice of the Directorate of

Mines and Environment, to the Minister within a maximum period of five working days from receipt of the environmental notice.

When an application for renewal duly filed within this period has not been the subject of a refusal notified to the applicant within a period of thirty days from the receipt of the application file by the Minister, the renewal is deemed to be granted.

With regard to the registration of the renewed right, the penultimate paragraph of article 62 of this Code is applied.

The renewal of the Exploitation License cannot be refused for reasons other than those provided for in Article 73 of this Code.

Any refusal to renew an Exploitation License is reasoned and gives right to appeal in accordance with the provisions of Articles 317 to 320 of this Code.

Article 81: Right to carry out the treatment or transformation of mineral substances

Subject to the provisions of Article 10, letter j, the processing or transformation of mineral substances may be carried out either by the holder of an Exploitation License, or by a Processing Entity or a Transformation Entity.

Article 82: Authorization for processing or transformation

Any person who intends to engage solely in the processing of mineral substances must apply for and obtain a processing or processing authorization which comes under specific legislation.

Article 83: Treatment or processing plants

The establishment and operation of a mineral substance processing or transformation plant are subject to the regulations on environmental protection provided for by this Code and by specific legislation on the environment.

Article 84: Transportation and storage of mining products The holder of an Exploitation License has the right to transport ~~or transported by~~ the transporter of his choice, the mining products which come from the Exploitation Perimeter .

of son

He also has the right to store his mining products in fenced sites, fitted out for this purpose, located around the places of loading, on condition that he respects the regulations on the safety of the site and on the control of pollution. industrial.

Article 85: Marketing of mining products

Subject to the provisions of the following paragraph, the marketing of mining products originating from the exploitation Perimeters is free. The holder of an Exploitation License can sell his products to the customers of his choice at freely negotiated prices.

However, the Minister's authorization is required for the export of raw minerals for processing outside the National Territory. This authorization will only be granted if the holder who requests it demonstrates both: a) the non-existence of a possibility of treatment in the National Territory at an economically profitable cost for the mining project; b) the advantages for the Democratic Republic of Congo in the event that the export authorization is granted.

Chapter III: OF THE EXPLOITATION OF MINE DISCHARGES

Article 86: Access to the exploitation of mine tailings

The Exploitation License carries the right to exploit the artificial deposits located in the mining Perimeter covered by the permit, unless this Exploitation License excludes specifically the exploitation of artificial deposits.

The holder of an Exploitation License may assign the right to exploit artificial deposits located within his mining Perimeter to third parties while retaining his rights to the subsoil. In this case, he requests the partial transformation of his Exploitation License into a Mining Tailings Exploitation License as well as the transfer of this license to the transferee.

The Minister may also grant a Tailings Exploitation License on an artificial deposit that is not the subject of an Exploitation License.

Article 87: Perimeters

exploitation of tailings The area constituting the

Perimeter covered by the License for Exploitation of Tailings must comply with the provisions of article 28 of this Code.

The geographic location of the mining Perimeter covered by the Tailings Exploitation License is identified in accordance with the provisions of Article 29 of this Code.

Article 88: Scope of the Tailings Exploitation License

Article 64 of this Code governs the scope of the Tailings Exploitation License.

However, the right granted to the holder of the Tailings Exploitation License is limited to the surface it covers and does not extend in depth.

Article 89: Nature of the Permit Tailings Exploitation

The Tailings Exploitation License is a real, real estate, exclusive, assignable, transferable and leaseable right in accordance with the provisions of this Code.

This right is evidenced by a mining title known as the Tailings Exploitation Certificate.

Article 90: Duration of the Permit

Tailings Exploitation

The duration of the Tailings Exploitation License is five years, renewable several times for the same duration.

Article 91: Establishment, filing, the admissibility and examination of the application for the Exploitation License for Tailings

The applicant for a Tailings Exploitation License completes the application for his License and submits it to the Mining Registry for examination in accordance with the provisions of Articles 38 to 42 and 45 as supplemented by those of Articles 74 to 76 of this Code. .

Notwithstanding the provisions of the preceding article, the applicant who is a holder of a Tailings Exploitation License must present the deed of partial transfer to the Mining Registry for registration, to which must be attached his request for a Tailings Exploitation License.

Article 92: Conditions for granting and Granting of the Tailings Exploitation License The conditions for granting the Tailings Exploitation License and the granting thereof are governed by the provisions of Articles 71 and 72 of this Code.

Article 93: Refusal to grant the Permit for Exploitation of Tailings The conditions for refusing to grant the License for Exploitation of Tailings are determined by the provisions of article 73 of this Code.

Article 94: Expiry of the Tailings Exploitation License The Tailings Exploitation License expires under the same conditions as

those of the Exploitation License provided for in article 78 of this Code.

Article 95: Renewal of the Tailings Exploitation License The renewal application for the Tailings Exploitation License is filed, examined, granted or refused in accordance with the provisions of Article 80 of this Code.

Article 96: Waiver of the Tailings Exploitation License The holder of a Tailings Exploitation License at any time, in whole or in part, the Perimeter covered by his license in accordance with the provisions of Article 79 of this Code.

Chapter IV: SMALL-SCALE MINING Article 97: Access to small-scale mining

Without prejudice to the provisions of Articles 23 to 25 and 27 of this Code, any person who proposes to mine small scale a mine must apply for and obtain a Small Scale Mining License.

Article 98: Small scale mining deposits

When the technical conditions characterizing certain deposits of mineral substances do not allow them to be exploited on an economically profitable large scale, but allow small-scale mining with a minimum of fixed installations using semi-industrial or industrial processes,

are considered small-scale mining deposits.

These small-scale mining deposits may result from exploration work undertaken by the holder of an Exploration Permit or from work carried out by the State in accordance with Article 8 paragraph 2 of this Code.

The Small-scale mining deposits resulting from exploration work undertaken by the State are subject to invitation to tender in accordance with Article 33 of this Code.

The Perimeter in which the small-scale mining deposit is located is that of the Exploration Permit from which it derives or that of the part of the Perimeter of the Exploration Permit converted into a Small-Scale Mining Exploitation Permit.

If the small-scale mining deposit results from exploration work undertaken by the State, the Perimeter covered by the Small-scale Mining Exploitation License is that determined by the State. It must be of such a nature as to allow mining.

The shape and location of the Perimeters containing the small-scale mining deposit covered by the Small-scale Mining Exploitation License are governed by the provisions of articles 28 and 29 of this Code.

The Mining Regulations set the parameters that characterize small-scale mining, in particular the volume of reserves, the level

investment, production capacity, number of employees, annual capital gain and degree of mechanization

Article 99: Scope of the Small-scale Mining Exploitation License

The provisions of article 64 of this Code govern the scope of the Small-scale Mining Exploitation License.

The Small-Scale Mining Exploitation License confers on its holder the right to transform his license into an Exploitation License if the technical conditions of the exploitation justify it.

Article 100: Nature of the Permit

Small Mine Exploitation License

The Small Mine Exploitation License is a real, real estate, exclusive, assignable, leaseable right that can be transferred according to the provisions of the Code and to

This right is evidenced by a mining title called Small Mine Exploitation Certificate.

Article 101: Duration of the Permit

Small Mine Exploitation License

The period of validity of the Small Mine Exploitation License is variable, but cannot exceed ten years, including renewals.

However, subject to the opinion of the Directorate of Mines, the Minister may extend the Small-Scale Mining Exploitation License depending on the case and for substances whose exploitation exceeds ten years.

Article 102: Scope of the Small-

scale Mining Exploitation License The Small-scale

Mining Exploitation License confers on its holder the right to exploit the mineral substances for which it is specially established and for which the holder has identified and demonstrated the existence of a deposit.

The Small-Scale Mining Exploitation License may extend to associated or non-associated substances in accordance with the conditions provided for in Article 77 of this Code.

Article 103: Establishment, filing, admissibility and examination of the application for the Small-Scale Mining Exploitation License The establishment,

filing, admissibility and examination of the application for the Exploitation of Small Mines are governed by the provisions of Articles 69, 70, 74 to 76 of this Code.

Article 104: Conditions for the granting of the Small-scale Mining Exploitation License

In addition to the conditions provided for in letters b and c of article 71 of this Code, no one may obtain a Small-scale Mining Exploitation License if he does not demonstrate the existence of a deposit whose technical factors do not allow profitable industrial exploitation by presenting a feasibility study accompanied by a technical framework plan for the development, construction and exploitation

In addition to the conditions listed above, any person of foreign nationality must create a company under Congolese law in association with one or more persons of Congolese nationality whose participation may not be less than 25% of the share capital.

Article 105: Granting and refusal to grant the Small-Scale Mining Exploitation License

The granting or refusal to grant the Small-Scale Mining Exploitation License is governed by the provisions of Articles 72 and 73 of this Code.

Article 106: Expiry of the Small-scale Mining Exploitation License The Small-scale Mining

Exploitation License expires under the same conditions as those of the Exploitation License provided for in article 78 of this Code.

Article 107: Renewal of the Exploitation License of Little Mine

The provisions of Article 80 of the Code apply to the application as well as to the granting or refusal of the renewal of the Small-Scale Mining Exploitation License.

Article 108: Renunciation of Exploitation License of Little Mine

The provisions of Article 79 of this Code on the waiver of

Mining Perimeter apply to the waiver of all or part of the small-scale mining Perimeter by the holder.

TITLE IV: OPERATION ARTISANAL MINES

***First chapter :* OPERATION ARTISANAL**

Article 109: Establishment of an artisanal mining zone

When the technical and economic factors which characterize certain deposits of gold, diamonds or any other mineral substance do not allow industrial or semi-industrial mining, industrial, but allow small-scale mining, such lodgings are erected, within the limits of a determined geographical area, in a small-scale mining zone.

L'institution of zone
artisanal mining is made by means of an Order of the Minister after consulting the Directorate of Mines and the Governor of the province concerned.

A mining Perimeter covered by a valid mining title cannot 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

L'institution of one zone
of artisanal mining is notified to the Mining Cadastre which shows it on the mining fallout maps. As long as an artisanal mining zone exists, no mining title can be granted there except for an exploration permit requested by a group of artisanal miners who work in the zone.

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

The Mining Regulations set the conditions for the exceptional granting of the Exploration Permit to the group of artisanal miners.

Article 110: Closure of an area artisanal mining

When the factors which justified the establishment of an artisanal mining zone have ceased to exist or a new deposit not covered by artisanal mining comes to be

discovered, the Minister, on the advice of the Geology Department, closes the artisanal mining area.

The closure of an artisanal zone
mining area is notified to the Mining Registry, which informs the Artisanal Miners who are required to vacate the artisanal mining area within sixty days from the notification of the closure decision.

The artisanal group of operators
working in the area

artisanal mining concerned has a right of first refusal to request a permit for industrial or small-scale mining in accordance with the provisions of the Code.

This group has a period of thirty days from the information of the closure made by the Mining Registry to make known whether it intends to exercise its right of pre-emption in accordance with the provisions of this Code.

The Mining Regulations determine the terms of access of the group of artisanal miners to industrial or small-scale mining.

Article 111: Authorization

artisanal mining

In artisanal mining areas, only holders of artisanal mining cards valid for the area concerned are authorized to mine gold, diamonds or any other mineral substance that can be mined on an artisanal basis.

Artisanal miner cards are issued by the Head of Provincial Division of Mines within the jurisdiction to eligible persons who apply for them and who undertake to comply with regulations, standards, safety and environmental protection, safety in the artisanal mining areas, in accordance with the procedures which are fixed by the Mining Regulations after having read them.

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

The duration of the artisanal miner's card is one year, renewable for the same duration without limitation.

In the event of loss, destruction or theft of the artisanal miner's card, no duplicate will be issued. The holder is required to object, however, the holder may request a new one.

The Mining Regulations lay down the procedures for establishing the artisanal miner's card.

Article 112: Obligations of the holder of the

artisanal miner's

card

The holder of an artisanal map miner's card must respect the standards in terms of safety, hygiene, use of water and protection of the environment. that apply to its operation in accordance with the regulations in force. It must compensate farmers for any damage caused by its activity.

The Mining Regulations lay down the procedures for implementing the standards in terms of public safety, public health and the environment.

Article 113: Processing of artisanal mining products

The artisanal mining card does not authorize its holder to process the products of artisanal mining.

However, the processing of products by the artisanal miner cannot

be done only with prior authorization granted by the Minister.

Article 114: Withdrawal of the artisanal miner's card

The artisanal miner's card can be withdrawn by the Head of the Provincial Division of Mines or by his local representative who issued it after a formal notice of thirty days without remedying the situation by the person who holds the card, for any breach of the obligations provided for in article 112 of this Code.

If applicable, the person from whom the card has been withdrawn is not eligible to obtain a new artisanal miner card for three years, unless he completes a training course in appropriate artisanal mining technique, organized or approved by the Mining Administration.

The withdrawal of the artisanal miner's card gives right to the recourses provided for in the provisions of articles 315 and 316 of this Code.

The Mining Regulations lay down the procedures for organizing training courses in artisanal mining techniques.

**Chapter II:
OF TRANSPORT AND
MARKETING OF
EXPLOITATION PRODUCT
ARTISANAL**

Article 115: Transport of artisanal mining products

Subject 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 the products of or mineral substances if he does not have the artisanal miner's card or the valid trader's card or if he is not an approved buyer working for an approved buying counter.

However, the Mines Administration grants artists approved by the Ministry of Culture and the Arts a special authorization to hold or transport a limited quantity of these substances for the needs of their profession.

The procedures for the acquisition and control substances holding artists are specified in the Mining Regulations.

Article 116: Marketing of artisanal mining products

Artisanal miners can only sell their mining products to traders, stock markets, trading houses or organizations approved or created by the State. They may also sell their mining products to artists approved by the Ministry of Culture and the Arts, within the limits of the authorizations referred to in paragraph 2 of article 115 of this Code.

Approved traders may only sell artisanal mining products to trading houses or organizations approved or created by the State, as well as on stock markets.

Approved artists cannot sell the products of exploitation

unworked artisanal products only under special authorization obtained for the exceptional cases of liquidation of excessive stocks.

The Mining Regulations lay down the procedures for establishing the special authorization.

Article 117: Traders of artisanal mining products

Holders of a valid trader's card for an artisanal mining zone are authorized to buy gold, diamonds or any other artisanally exploitable mineral substance from persons who hold artisanal mining cards.

Trader's cards are issued by the Governor of the province to adults of Congolese nationality who request them. The applicant for a trader's card must, in support of his request, produce proof of his registration in the New Trade Register.

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

The duration of the trader's card is one year. It is renewable for the same duration and without limitation.

In the event of loss, destruction or theft of the merchant card, the holder is required to file an objection. However, the latter can request a new one.

The Mining Regulations lay down the procedures for establishing the trader's card.

Article 118: Obligations of holders of trader's cards

The approved trader must sell to counters or organizations approved or created by the State as well as to the stock markets approved by the State the products of the artisanal exploitation that he buys. . He must also provide reports of his activity in accordance with the relevant regulations.

Article 119: Withdrawal of the trader card

The trader's card may be withdrawn by the Governor of the province who issued it after a formal notice of thirty days, without remedying the situation by the person who holds the card, for any breach of the obligations incumbent on this person under of article 118 of this Code. If so, the person from whom the card was withdrawn is not eligible to obtain a new trader's card for three years.

The withdrawal of the trader's card gives right to the remedies specified in articles 315 and 316 of this Code.

Article 120: Approved counters

Approved counters are authorized to buy, sell and export artisanally mined mineral substances in accordance with the provisions of this Code and its implementing measures.

Approval as a counter for the purchase and sale of artisanal mining mineral substances is granted by the Minister.

Approval as a counter for the purchase and sale of mineral substances from artisanal mining is valid for a period of one year, renewable without limitation.

A fixed fee, the amount of which is determined by regulation, is collected upon approval and at each renewal.

Article 121: Number of approved counters The number of approved counters for the purchase of gold, diamonds and other mineral substances from artisanal mining is limited.

However, the number of buyers per counter is limited by regulation.

Article 122: Buyers of approved counters To exercise the profession of buyer of approved counters, it is necessary: a) work valid for nationals; b) submit recent medium format photographs to the Direction des Mines; c) hold an authorization to stay and travel in mining areas for expatriate buyers; d) comply with the regulation of counter activities.

The Mining Regulations lay down the procedures for requesting, examining, granting or refusing approval as a buyer as well as the circulation of

foreign buyers in artisanal mining areas.

Article 123: Application for approval as a counter for the purchase and sale of artisanal mining mineral substances

The application for approval as a counter for the purchase and sale of gold, diamonds or other mineral substances from artisanal mining is sent by any eligible person in accordance with paragraph 2 of article 25 of the this Code, to the Department of Mines and includes the following elements: a) proof of registration in the New

Trade Register; b) the notarial statutes, if it is a legal person; c) the extract from the criminal record of the first residence dating back no more than three months and the certificate of good conduct, life and morals, in the case of a natural person;

d) the National Identification number; (e) proof of holding an account opened in the applicant's name in an approved bank; f) Bank registration letter

Central Congo.

Article 124: Examination of the application for approval as a counter for the purchase and sale of artisanal mining mineral substances

The Directorate of Mines acknowledges receipt of the request, registers it in an ad hoc register, examines it and ensures that it is regular as to form, has it rectified or supplemented for all that

than necessary. It can provoke any necessary investigation.

In the event of an investigation, it requires useful information on the authentication of the attached documents with the public services that issued them.

In all cases, the examination of the application cannot exceed sixty days from the date of filing of the application for approval. After this period, the favorable opinion of the Department of Mines is deemed granted and this, without prejudice to the provisions of article 123 above.

After investigation, the Directorate of Mines sends the file with advice to the Minister for decision. The Directorate of Mines notifies the applicant of its opinion and its transmission to the Minister.

Article 125: Approval and refusal of approval If the opinion of the Department of Mines is favourable, the Minister takes the decision within a period which may not exceed thirty working days. After this period, the applicant has the right to appeal in accordance with the provisions of Articles 313 and 314 of this Code.

If the opinion of the Department of Mines is unfavorable, the Minister makes the decision to refuse approval within a period which may not exceed fifteen working days from the date of receipt of the file transmitted by the Department of Mines.

The decision of refusal is reasoned and gives right to the appeals provided for by the provisions of articles 313 and 314 of this Code.

Article 126: Obligations of approved counters

Approved counters must, on the one hand, submit to control during the purchase and sale of artisanal mining products by the Mines Administration and by any body expertise, and on the other hand, provide reports of their activities in accordance with this Code and its implementing measures.

Approved counters are also bound by the following obligations: a) communicate to the Minister and the

Central Bank of Congo from the date of approval, the fixed and controllable locations of the purchasing offices for gold, diamonds and other artisanal mining mineral substances;

b) buy gold, diamonds and other artisanally mined mineral substances presented to authorized trading houses regardless of their size, quantity and quality; c) pay the taxes and duties relating to their activities; d) own at least one building made of durable materials in each center of activities.

Article 127: Withdrawal of approval as a counter for the purchase and sale of artisanal mining mineral substances

Approval as a counter for the purchase and sale of mineral substances from artisanal mining may be withdrawn by the Minister after formal notice of thirty days, without remedying the situation by the approved counter in question, for any breach of the bonds him

falling under the provisions of Article 126 of this Code. Where applicable, the counter deprived of its rights is not eligible for approval as a counter for five years.

Withdrawal of approval as a counter for the purchase and sale of artisanal mining mineral substances is provided for by the provisions of Articles 313 and 314 of this Code.

Article 128: Stock markets

No stock market for the purchase and sale of gold, diamonds and other artisanal mining mineral substances may operate in the territory without prior approval from the Central Bank of Congo.

Only persons approved as buying counters for gold, diamonds and other artisanal mining mineral substances are authorized to buy on the stock markets.

The Mining Regulations specify the conditions for authorizing, organizing and financing the stock markets.

TITRE V : RIGHTS OF CAREERS

First chapter : GENERAL

Article 129: Authorizations of quarry operations

Research operations for quarry products and the exploitation of

careers are authorized by the State under the conditions specified in this title.

The Head of the Provincial Division of Mines is competent to grant authorizations for quarry research and authorizations for the exploitation of quarries for building materials in common use.

Only the Minister is competent to grant quarrying authorizations for other quarrying substances.

The Mining Cadastre is competent to issue titles to applicants who have obtained requested quarry authorizations.

Article 130: Scope of quarry authorizations

The rights of the holder of a quarry authorization relates to the quarry substances which may be found on the ground or in the subsoil under an area whose form complies with the provisions of article 28 of this Code. .

Article 131: Change of classification of a mineral substance

In the event of a change in the classification of a mining substance to a quarry substance, the holder of a mining title established for the substance in question retains all the rights attached to his title in relation to the substance until his title expires.

In the event of classification of a quarry product which is the subject of a Quarry Exploitation Authorization

Permanent in the category of mining products, the holder of the Exploitation Authorization has the right to the institution of a license to exploit the substance in his name, subject to requesting it within one year. after the date of change of classification. However, its Exploitation Authorization remains in force.

After obtaining the assent of the competent service of the Ministry of Land Affairs and the opinion of the municipal provincial administrative authorities concerned as well as that of the Mining Cadastre, the Provincial Governor may open, on state land which is not the subject of a Mining, a quarry for public utility works.

Article 132: Classification of careers

Quarries are classified into four categories:

a) permanent quarries open either on state land or on a Perimeter covered by a land title held by a third party for commercial exploitation by private persons; b) quarries open on a temporary basis, either on state land or on a Perimeter subject to a land title held by a third party for commercial exploitation by private individuals; c) quarries open temporarily on state land for public utility works; d) quarries open on a temporary basis to the occupant by regularly authorized or the owner of land for non-commercial exploitation or exclusively for his own domestic use.

The provincial decree of opening of a specific public utility quarry: a) the authority and the public service exploitation works; b) the private company to which said service; c) the location of the quarry in accordance with the provisions of article 29 of this Code; d) substances whose extraction is authorized; e) the conditions; f) the extraction plan; g) the duration of the works and the procedures for restoring the premises after exploitation.

When the execution of works of public utility is entrusted to a private company, the latter is subject to the payment of the extraction tax in accordance with the provisions of the law. common.

The exploitation of each type of quarry is subject to a separate form of authorization specified below.

Article 133: Authorization opening quarries for works of public utility

Article 134: Authorization for non-commercial exploitation of quarries for domestic use

The exploitation of quarries opened on a temporary basis by the duly authorized occupant or the owner of land for non-commercial exploitation exclusively for his own

domestic use does not require prior authorization or declaration. However, this activity remains strictly subject to safety and environmental protection regulations.

**Article 135: Authorization to
Exploration and commercial
exploitation of quarries**

Exploration and commercial exploitation of quarries are authorized in accordance with the provisions of the following chapters of this title.

Any collection of materials on the land of the national land domain or their outbuildings for use other than domestic is considered as quarrying and is subject to the same conditions as permanent quarrying.

**Chapter II:
OF RESEARCH
QUARRY PRODUCTS**

**Article 136: Scope of the
Authorization to
Product Research
Careers**

The scope of the Exploration Authorization for quarry products is the same as that of the Exploration Permit provided for in article 50 of this Code.

When a Perimeter is the subject of an Exploration Authorization from Quarry Products, no other request for authorization for quarries on the same Perimeter is admissible, except for the request for Authorization to Exploit

Quarries requested by the holder of the said Research Authorization.

The Exploration Authorization for Quarry Products confers on its holder the right to obtain an authorization to exploit quarries for all or part of the mineral substances which are the subject of the Exploration Authorization within the area covered by the Exploration Authorization, if it discovers a deposit.

However, a mining title may be issued in a Perimeter which is the subject of an Exploration Authorization for Quarry Products.

If an Exploitation License is established on the same area which is the subject of an Exploration Authorization for Quarry Products, the latter is automatically extinguished.

**Article 137: Nature of the
Authorization to
Product Research
Careers**

The Quarry Product Research Authorization is an exclusive, non-transferable, non-transferable and non-leasable real estate right.

This right is evidenced by a title of quarries called, Quarry Product Research Certificate.

**Article 138: Duration of
Authorization to
Product Research
Careers**

The duration of the Authorization Quarry Product Research is

one year, renewable once for the same duration.

Article 139: Limitations

The area covered by an Exploration License for Quarry Products may not exceed a maximum of four square kilometres.

The Research Perimeter for quarry products cannot be superimposed on an area which is already the subject of a Mining Exploitation License. The existence of a mining research Perimeter does not prevent the establishment on the same land of a Research Perimeter for quarry products.

An individual and affiliates may not hold more than ten career product research authorizations.

Article 140: Request

**Authorization to
Product Research
Careers**

The applicant must draw up his request for an Exploration Authorization for Quarry Products and submit it to the Mining Registry for examination in accordance with the provisions of Articles 34 to 42 of this Code.

Article 141: Conditions for granting

**Authorization to
Quarry Product Research**

Without prejudice to articles 23 to 25 and 27, the granting of the Authorization Quarry Product Research is subject to justification by the

applicant of his minimum financial capacity.

Article 142: Granting of

**Authorization to
Product Research
Careers**

Without prejudice to the provisions of Article 46 of this Code, the Exploration Authorization for Quarry Products is granted or refused by the Head of Provincial Division of Mines, within a period which may not exceed twenty working days from the date of receipt of the file.

Any refusal to authorize research on quarry products is reasoned and opens the way to the appeals provided for by articles 313 and 314 of this Code.

**Article 143: Proof of capacity
minimum financial**

capacity The minimum financial capacity required is equal to five times the total amount of the annual surface area fees per quadrangle payable for the period of validity of the Quarry Products Exploration Authorization requested.

Proof of minimum financial capacity is established in accordance with the provisions of article 58 paragraphs 2 to 4 of this Code.

Article 144: Expiry of the

**Authorization to
Product Research
Careers**

The Research Authorization of Career Products expires when it reaches the last day of its last period of validity or when it has not been renewed at the end of the first period

of validity, or when it has not been transformed into a Quarry Exploitation Authorization or when an Exploitation License is granted within the quarry product research Perimeter.

The Minister notes the expiry of the title, after consulting the Geology Department. In this case, unless an Exploitation License is granted, the Perimeter covered by the Exploration Authorization is free of all rights from the date of expiry of the license.

Article 145: Renewal and waiver of Authorization Product Research Careers

The Exploration Authorization for Quarry Products is renewable once for a period of one year, if no Exploitation License has been granted on the quarry exploration Perimeter.

The renewal application must be filed at least sixty days, and not more than ninety days, before the expiry date of the Exploration Authorization for Quarry Products.

Any request for renewal duly filed within this period which is not the subject of a refusal notified to the applicant within a period of thirty days, after the date of filing of the application, is deemed to have been granted.

Any refusal to renew an Exploration Authorization is reasoned and gives right to the appeals provided for by Articles 313 and 314 of this Code.

The waiver of the Exploration Authorization for Quarry Products is subject to the same rules as those of the Exploration Permit provided for in Article 60 of this Code.

**Chapter III:
OF THE EXPLOITATION OF
CAREERS**

Article 146: Scope of the Quarry Exploitation Authorization Permanent

Except for its last three paragraphs, Article 64 relating to the scope of the Exploitation License applies to the Authorization for Permanent Quarry Exploitation.

However, as long as a Perimeter is the subject of an Authorization for Permanent Quarry Exploitation, no other application for authorization for quarries or mining rights on the same area can be processed.

Article 147: Scope of the Authorization for Temporary Quarry Exploitation

Without prejudice to the provisions of Article 146 above, the Authorization for Temporary Quarry Exploitation sets the quantity of substances to be extracted, the taxes to be paid as well as the conditions for occupying the land necessary for sampling and related activities. . It also specifies the obligations of the beneficiary, particularly with regard to the environment and the restoration of the premises after sampling.

Any quantity in excess of the volume set in the Authorization by

Exploitation may be confiscated or subject to additional taxation. of one

As long as a Perimeter is the subject of a Temporary Quarry Exploitation Authorization, no other quarry authorization may be granted there.

However, the holder may, before the expiry of his authorization, request the transformation of the temporary authorization into a permanent authorization. To do this, he follows the procedure relating to the granting of the Authorization for Permanent Quarry Exploitation.

Article 148: Nature of

exploitation authorizations

The Authorization for Permanent Quarry Exploitation constitutes a real, real estate, exclusive, assignable, transferable and leaseable right in accordance with the provisions of this Code.

This right is evidenced by a quarry title called, Certificate of Permanent Quarry Exploitation.

The Authorization for Temporary Quarry Exploitation constitutes a real estate right, exclusive, transferable, transferable and leaseable.

This right is evidenced by a quarry title called the Temporary Quarry Exploitation Certificate.

Article 149: Duration of

quarrying authorizations

The validity period of the Quarry Exploitation Authorization

Permanent is five years renewable several times for the same duration.

However, its holder has the right to request a new Temporary Exploitation Authorization for the same Perimeter which would take effect on the expiry of the current authorization. During the term of his Temporary Quarry Exploitation Authorization, only the holder has the right to apply for a new Exploitation Authorization on the same Perimeter.

The validity period of the Authorization for Temporary Quarry Exploitation is one year, non-renewable.

Article 150: Perimeters

A Permanent or Temporary Quarry Exploitation Authorization may be granted over the entire Perimeter which is the subject of the valid Exploration Authorization for Quarry Products held by the applicant or over a part of Perimeter in accordance with the provisions of Article 28 of this Code.

If the Perimeter has not been the subject of a Quarry Exploration Authorization, it must comply with the provisions relating to the form provided for in Article 28 of this Code and not exceed a maximum of four square kilometers.

The quarrying Perimeter cannot be superimposed on an area which is subject to Authorization for Quarry Exploration or a mining exploitation right held by

a third party who has not given written consent.

The existence of a mining exploration Perimeter does not prevent the establishment on the same land of a quarrying Perimeter.

However, the Minister may authorize the establishment of a Perimeter for mines on a Perimeter subject to an Exploitation License or a Small-Scale Mining Exploitation License if the holder of the Perimeter has not in bad faith. Where applicable, the application is investigated and is the subject of an administrative dispute in which the holder and the applicant participate if the latter submits, with his application, evidence that the holder refused to give his consent in bad faith.

The terms of this procedure are specified in the Mining Regulations.

A person and his affiliates can only hold a maximum of ten Authorizations for the Permanent Exploitation of quarry products.

Article 151: Application for Authorization for Quarry Exploitation

The applicant writes his application for Authorization for Permanent Quarry Exploitation and files it with the Mining Registry in accordance with Articles 35 to 37 of this Code. The documents indicated in Article 69 of this Code are attached to the application.

The content of the application for the Quarry Exploitation Authorization

Temporary as well as the documents to be attached are specified in the Mining Regulations.

Article 152: Admissibility and examination of the application for Authorization for Permanent and Temporary Quarry Exploitation

The Application for Permanent or Temporary Quarry Exploitation is received and examined in accordance with the provisions of Articles 38 to 42 as supplemented by Articles 156 to 158 of this Code.

Article 153: Competent authority

The Authorization for Permanent or Temporary Quarry Exploitation is granted or refused by decision of: a) Head of Provincial Division of Mines for construction materials for everyday use; b) Minister on the technical advice of the Directorate of Mines and after the assent of the competent service of the Ministry of Land Affairs as well as that of the local administrative authorities for other quarry substances.

Article 154: Grant conditions of the Quarry Exploitation Authorization Permanent

Without prejudice to Articles 34 to 42, the granting of the Authorization to Exploit Carrières Permanente is subject to the following conditions: a) demonstrating the existence of a deposit, as proved by a study accompanied by a technical framework plan for the work

development, construction and operation of the quarry; b) prove the existence of the financial resources necessary to carry out the project according to the financing plan for the development, construction and operation of the quarry as well as the rehabilitation of the site upon its closure.

This plan specifies each type of financing, the types of financing targeted in the plan, the availability; (c) obtain prior approval of the project's EIA and EMPP; d) provide proof of the consent of the land concessionaire, the area which is the subject of the application for the authorization to operate the quarry is located in the land Perimeter of the latter; e) provide, if the requested Perimeter is included in the Perimeter of a valid mining Exploitation right, consent of the holder of this right or establish that his consent was refused in bad faith.

Article 155: Justifications for the refusal of the grant

The Exploitation Authorization of Carrières Permanente can only be refused if: a) the feasibility study is rejected, b) the financial capacity of the applicant is insufficient; c) the EIA has been definitively rejected; (d) the owner of the land title refuses in good faith to give his consent to the opening of the quarry; or if e) the holder of a mining exploitation right has refused in good faith to

give consent to the opening of the quarry.

The feasibility study for the Authorizations for Permanent Quarry Exploitation can only be rejected on the grounds of non-compliance with the directive of the Ministry of Mines specifying its content in accordance with generally recognized practice in the region, the presence of manifest error, or non-compliance with the EIA.

Proof of the applicant's financial capacity can only be rejected for the non-compliance of the Financing Plan with the feasibility study or for the manifest insufficiency of the justifications of the availability of financing obtained from the sources identified by the applicant.

Proof of financial capacity cannot be rejected if the applicant has produced, in the case of external financing, certificates from identified sources of financing of the feasibility of financing within the parameters envisaged by the applicant, and in the case of internal financing, the financial statements of the person or company, certified by an approved auditor, demonstrating its capacity for self-financing.

Article 156: Time limit for investigation

The **technical** examination of an application for Authorization for Permanent Quarry Exploitation is carried out within a period which may not exceed forty-five days from the date of receipt of the application file sent by the Mining Cadastre at the Directorate of Mines.

**Article 157: Time limit for investigation
environmental demand**

The environmental investigation of the EIE and the PGEP relating to an application for Authorization for Permanent Quarry Exploitation is carried out within a period which may not exceed one hundred and eighty days from the date of receipt of the application file. the request transmitted to the service in charge of the Mining Environment transmitted by the Mining Cadastre.

file of the application by the Mining Cadastre and defers its final decision to grant or refuse to grant the Authorization for Permanent Quarry Exploitation until receipt of the environmental notice.

The preliminary and conditional decision of the competent authority has the effect of definitively ratifying the favorable cadastral and technical opinions. It makes its final award decision conditional on receipt of a favorable environmental opinion.

**Article 158: Decision of the Authority
Competent**

If the cadastral opinion on an application for Authorization for Permanent Quarry Exploitation is unfavourable, the competent authority renders its decision to reject the application within fifteen working days from the date of receipt of the file from the request sent to it by the Mining Cadastre.

The competent authority takes and sends its decision to grant or reasoned refusal of the Authorization for Quarry Exploitation Permanent in the Mining Cadastre within thirty days from the date of receipt of the environmental notice sent to it by the Mining Cadastre

**Article 159: Conditions for granting
Quarry
Exploitation Authorization
Temporary**

If the technical opinion on an application for Authorization for Permanent Quarry Exploitation is unfavorable, the competent authority takes its decision of rejection or conditional preliminary approval within thirty working days of the application file sent to it by the Mining Cadastre.

The Exploitation Authorization of Temporary Quarries is granted to the first eligible person who submits an admissible application in accordance with the provisions of Articles 34 to 40 of this Code, and who meets the following conditions:

a) demonstrate the existence of an economically exploitable deposit by presenting a plan of technical supervision of the quarry exploitation. If the quarry is located on a Perimeter subject to a land title held by a third party, the latter's written consent to the opening of the quarry;

If the cadastral and technical opinions, following the examination of the request for Exploitation Permit, are favourable, but the environmental opinion has not yet been issued, the competent authority takes a preliminary and conditional decision within twenty working days from the date of transmission of the

- c) present, if the quarry is located on a Perimeter subject to an Exploitation License held by a third party, the latter's written consent to the opening of the quarry, or proof that the consent has been refused in bad faith.

Article 160: The deadline for the technical and environmental instructions of the request

The technical and environmental instructions for an application for Authorization for Temporary Quarry Exploitation must be carried out within a period which may not exceed fifteen days from the date of transmission of the application file to the competent departments of the Ministry of Mines.

Article 161: Decision period The

competent authority shall take and transmit its reasoned decision to grant or refuse the Authorization for Temporary Quarry Exploitation to the Mining Registry within forty-five days from the date of the submission of the request.

After this period, the authorization requested is, subject to the provisions of article 159 above, deemed to have been granted and paragraphs 2 and 4 of article 43 of this Code apply.

The applicant may, if necessary, have recourse to registration by judicial means in accordance with the provisions of article 46 of this Code.

Article 162: Extension to others substances

Before carrying out research or exploitation activities targeting quarry substances other than those for which his Exploitation Authorization is established, the holder is required to obtain the extension of his authorization to these other substances. Such an extension is automatic if the holder requests it in accordance with the provisions of this article.

To obtain the extension of his authorization to substances other than those for which the authorization is issued, the holder must follow the same procedure as that provided for the institution of the current Exploitation Authorization.

The extension is granted for the period

not expired for the duration of the holder's Exploitation Authorization.

Article 163: Expiry of the Authorization for Permanent Quarry Exploitation

The Authorization for Permanent Quarry Exploitation expires under the same conditions as the Exploitation License as provided for in Article 78 of this Code.

Article 164: Renunciation of the Quarry Exploitation Authorization Permanent

The holder of an Authorization for Permanent Quarry Exploitation may waive at any time, in whole or in part, the right relating to the area covered by his authorization.

The

waiver must be addressed by letter to the authority which granted the authorization.

The waiver letter specifies the contact details of the waived party and the retained party.

The renounced part must be made up of whole squares, and the retained part must respect the conditions on the form of an exploitation Perimeter specified by this Code.

The waiver will take effect three months after the date of receipt of the letter of waiver by the competent authority.

The total or partial waiver does not entitle the holder to any reimbursement of the fees and costs paid to the State for the granting or maintenance of the authorization. Furthermore, the waiver does not relieve the holder of his liability with regard to the payment of fees and taxes in connection with the authorized operation during the period preceding the waiver, protection of the environment, nor his commitments to the local community.

**Article 165: Renewal of
Quarry
Exploitation Authorization
Permanent**

The Authorization for Permanent Quarry Exploitation is automatically renewable for successive periods of five years if the holder has not failed in his obligations to maintain the validity of the authorization provided for in Articles 196 to 199 of this Code.

The licensee shall file in support of its renewal application an update of the feasibility study which demonstrates

the non-exhaustion of the deposit as well as its commitment to continue to exploit it actively.

The examination of the file is carried out in accordance with the provisions of articles 39 to 42 of this Code.

The study of the technical document provided by the applicant is limited to checking the update of the initial feasibility study, and a commitment made in good faith. The renewal of the Authorization for Permanent Quarry Exploitation can only be refused for the same reasons as for the granting of a Permanent Quarry Exploitation Authorization. However, the holder must obtain approval for an update of his EIE and his PGEP to continue his work beyond the term of the original permit.

The renewal application must be filed at the earliest within twelve months, and at the latest within six months preceding the expiry date of the Authorization for Permanent Quarry Exploitation. The Mining Registry sends the application file, with the technical opinion of the Service des Mines, to the competent authority within a maximum period of sixty days.

The renewal whose application is duly filed within this period and which is not the subject of a refusal notified to the applicant within a period of ninety days after the date of filing of the application, is deemed granted.

Any refusal to renew an Authorization for Permanent Quarry Exploitation is reasoned and gives right to the appeals provided for by this Code.

Even if the Authorization for Temporary Quarry Exploitation is not renewable, its holder has the right to request a new Authorization for Temporary Exploitation for the same Perimeter which would take effect on the expiry of the initial authorization. During the term of his Temporary Quarry Exploitation Authorization, only the holder has the right to submit a request for a new exploitation authorization on the same Perimeter.

on site safety and industrial pollution control.

Article 167: Marketing

The marketing of commercial products that come from the Perimeters subject to the Authorization to Exploit the same products as the Exploitation Authorization may sell his products to the customers of his choice at freely negotiated prices.

**Chapter IV:
TRANSPORTATION,
STORAGE AND
MARKETING OF
QUARRY PRODUCTS**

**Article 166: Transportation and
storage of quarry products**

The holder of a Quarry Exploitation Authorization has the right to transport, or to have transported by the transporter of his choice, the quarry products which are the subject of his authorization and which come from his Exploitation Perimeter.

He also has the right to store his quarry products in fenced sites, fitted out for this purpose, located around the places of loading, provided that he complies with the regulations.

**TITLE VI:
SECURITIES**

**First chapter :
MORTGAGES**

**Article 168: Property subject to
mortgages**

The following are liable to mortgages within the meaning of this Code: a) the Exploitation License, the Tailings Exploitation License, the Small Mine Exploitation License and the Quarry Exploitation Authorization Permanent, in whole or in part; the buildings by incorporation located in the mining exploitation Perimeter, in particular the factories, the installations and the machines built for the concentration, the treatment and the transformation of the mineral substances contained in the

deposits or in artificial deposits;
b) immovables by destination
assigned to mining operations.

**Article 169: Mortgage
approval
procedure**

Any mortgage contract relating to one of the assets listed in Article 168 of this Code must first be approved by the Minister at the request of the mortgage creditor or holder.

The request for approval of the mortgage is addressed to the Cadastre Minier. The following elements are attached: a) the mortgage deed or contract indicating the amount or estimate of the debt secured by the mortgage; b) a certified true copy of the mining or quarry title whose right is affected by the mortgage.

Subject to the paragraphs below, the request for approval of the mortgage is processed in accordance with Articles 40 and 41 of this Code.

The Mining Cadastre carries out the cadastral investigation of the request within a maximum period of seven working days. This cadastral investigation consists of verifying the possible existence of one or more previous mortgages and the validity of the request and the validity of the title establishing the mining or quarry right covering the Perimeter the object of the mortgage.

The technical instruction is carried out by the Direction des Mines. It consists of

check whether the mortgage contract is duly drawn up to guarantee financing of the holder's mining activities in the Perimeter which is the subject of his mining or quarry title.

The Department of Mines sends its technical opinion to the Mining Cadastre within ten working days of receipt of the file sent to it by the Mining Cadastre.

The Minister takes and transmits his reasoned decision of approval or refusal to the Mining Registry within forty-five days from the date of submission of the application.

Without prejudice to the provisions of article 46, the Mining Cadastre registers the mortgage within five days following the transmission of the Minister's approval decision.

The Head of the Mining Cadastre or his representative has the power of notary in matters of authentication of mortgage contracts.

**Article 170: Reasons for refusal of
mortgage approval**

The Minister cannot refuse to set up to approve the a mortgage only when: a) the value of the mortgage is less than the secured debt. In the event of a prior mortgage, the contract can only relate to the unencumbered part of the asset; b) the mortgage secures claims unrelated to the business

mining for which it is granted; (c) the amount of financing obtained is insignificant; d) the mortgagee is prohibited from holding mining and/or quarry rights; e) the holder's mining or quarry exploitation right is no longer valid.

Any refusal to approve a mortgage must be reasoned and gives the right to exercise the remedies provided for in the provisions of Articles 313 and 314 of this Code.

Article 171: Registration and enforceability of mortgage deeds

The mortgage is registered against the payment of a registration fee, the amount of which is specified by the Mining Regulations.

To be enforceable against third parties, any mortgage approved by the Minister must be entered on the back of the mining or quarry title before being entered in a register established and kept for this purpose in the Mining Cadastre in accordance with the procedure provided for by the Mining Regulations.

Article 172: Realization of the mortgage

In the event of a finding of default by the holder of his obligations towards the mortgagee on the due date set in the deed agreed and mortgage, the latter may initiate the enforcement procedure in accordance with

However, the mortgagee may, by way of derogation from the provisions of article 261 of law n°73-021 of July 20, 1973 on the general property regime, land and real estate regime and securities regime as amended and supplemented to date, replace the defaulting debtor and thus request the partial or total transfer of the mining or quarry right to his own name if he meets the eligibility conditions provided for in article 23 of this Code.

The letter requesting transfer of the right in favor of the mortgagee is addressed to the Mining Registry. It must: a) be accompanied by a certified true copy of the mortgage deed, b) certify that the mortgagee is eligible for the mining or quarry right concerned by the mortgage to be made; c) contain its commitment to assume the rights and obligations arising from the mining or quarry right concerned by the hypothec to be realised.

If the mortgagee is not eligible for mining and/or quarry rights, he is granted a period of six months, either to comply with the eligibility rules, or to be substituted by another person eligible for mining or quarry rights affected by the mortgage.

Article 173: Cadastral investigation with a view to transfer

Subject to the provisions below, the Mining Cadastre carries out the cadastral investigation in accordance with the provisions of article 40 of this Code.

At the conclusion of the instruction cadastral, the Mining Cadastre proceeds: a) to the provisional registration of the mining or quarry right concerned by the mortgage on the cadastral map. This registration is valid throughout the duration of the instruction; b) the display of the result of the investigation in a room determined by the Mining Regulations. A copy of the notice is given to the applicant; c) rejection of the application in the event of an unfavorable opinion and notification of the rejection decision to the applicant.

In the event of a favorable opinion, the Mining Cadastre registers the transfer and issues a new title drawn up in the name of the mortgage creditor or the substituted third party within five days.

The validity of the new pass corresponds to the unexpired period of validity of the initial pass.

After the period of five days provided for in paragraph 3 of this article, the mortgage creditor or the substituted third party may avail himself of the provisions of article 46 of this Code.

The transfer of the mining or quarry right in the name of the mortgage creditor or of the substituted third party is carried out within one month from receipt of the request.

Article 174: Effect of transfer

In the event of realization of the mortgage and transfer of the mining or quarry rights for their benefit, the mortgagee or the substituted third party are required to assume all the obligations

arising from the initial title vis-à-vis the State and third parties.

Article 175: Legal mortgages

The provisions of Articles 253 to 255 of Law No. 73-021 of July 20, 1973 on the general property regime, land and real estate regime and securities regime as amended and supplemented to date relating to Treasury and rescuer mortgages, apply as long as they are not contrary to those provided for in this Code.

**Chapter II:
PLEDGE**

**Article 176: Product pledges
merchants**

Commercial products from deposits or artificial deposits are subject to pledge.

The pledge relating to commercial products is governed by the provisions of Articles 322 to 336 of Title IV of Law No. 73-021 of July 20, 1973 on the general property regime, land and real estate regime and security regime as amended and completed to date.

**TITLE VII:
LEASING AND
MUTATIONS**

**First chapter :
DE L'AMODIATION**

Article 177: Farm-out contract

Amodiation consists of a lease for a fixed or indefinite period, without

option of subletting, of all or part of the rights attached to a mining right or a quarry authorization, for a remuneration fixed by agreement between the lessor and the lessee.

The mining rights and/or research careers cannot be farmed out.

Any farm-out contract must include, under penalty of nullity, a resolutive clause: a) for non-payment by the lessee of taxes, duties and royalties due to the State; b) for non-observance of the laws and regulations which may entail administrative financial consequences leasing it.

or

detrimental to

Any farm-out contract must include, under penalty of nullity, clauses fixing the conditions of maintenance and reinvestment necessary for the reasonable exploration and development of the deposit.

Any farm-out contract includes the joint and several liability of the farm-out and the lessee vis-à-vis the State. The lessee is, notwithstanding any clause to the contrary, liable for the taxes, duties and royalties due under the mining or quarry title. However, in the event of default by the lessee, the lessor is liable vis-à-vis the State, subject to its right of recourse against the defaulting lessee.

Article 178: Examination of the application for farm-out

Subject to the provisions below, the Mining Cadastre carries out the cadastral investigation in accordance with the provisions of article 40 of this Code.

At the conclusion of the instruction cadastral, the Mining Cadastre proceeds: a) to the provisional registration of the Permit concerned by the leasing on the cadastral map. This registration is valid throughout the duration of the instruction; b) the display of the result of the investigation in a room determined by the Mining Regulations. A copy of the notice is given to the applicant; c) rejection of the application in the event of an unfavorable opinion and notification of the rejection decision to the applicant.

In the event of a favorable opinion, the Mining Cadastre registers the farm-out contract within five days in accordance with the provisions of article 171 of this Code.

After this period, the lessee may avail himself of the provisions of article 46 of this Code.

The validity of the lease contract corresponds to the unexpired period of validity of the lessor's title.

Article 179: Registration of the farm-out contract

Prior to the conclusion of the contract, the lessee must demonstrate that he is eligible for the mining right or the authorization of the quarries concerned by his contract.

To be enforceable against third parties, any farm-out contract must be registered

in a register established and kept for this purpose in the Mining Cadastre in accordance with the procedure provided for in the Mining Regulations.

The registration of a farm-out contract is subject only to the control of the eligibility of the lessee by the Mining Administration according to the procedure provided for in the Mining Regulations.

The farm-out contract is registered by the Mining Cadastre against payment of a registration fee, the amount of which is determined by the Mining Regulations.

Article 180: Rights of the lessor

The lessor may, notwithstanding any clause to the contrary, either exercise personally or through any person he designates, and may also monitor and inspect the work of the lessee.

The Direction des Mines communicates to the lessor the observations that it addresses to the lessee and must inform him of its inspection reports.

Article 181: Exemption from

liability of the lessee

Without prejudice to

the provisions of the last paragraph of article 177 of this Code, the lessee is civilly and criminally liable vis-à-vis third parties.

However, the lessee may be released from all liability if he proves that:

a) the damage occurred before the existence of the farm-out contract; b) the harmful event occurred after the existence of the farm-out contract, but before the commencement of the exploitation of the place of

c) the damage is caused by fraudulent exploitation carried out either by the lessor or by a third party.

Chapter II: MUTATIONS

Section I: Assignment

Article 182: Deed of transfer

Mining rights and Authorizations for Permanent Quarry Exploitation may be subject to total or partial transfer. This assignment is final and irrevocable. In the absence of provisions to the contrary, the common law on transfer applies.

Any partial transfer must comply with the provisions of Articles 28 and 29 of this Code.

In addition, any partial transfer of a mining exploitation right or an Authorization for Permanent Quarry Exploitation only takes effect from the granting of a new mining or quarry exploitation right.

The transferee must first be a person eligible to request and hold the mining rights or the Authorizations for Permanent Quarry Exploitation.

The deed of transfer must contain the commitment of the transferee to assume

all the obligations of the holder vis-à-vis the State resulting from the mining right or the Authorization for Permanent Quarry Exploitation concerned.

Article 183: Investigation of the

transfer request

The transfer request is processed in accordance with the provisions of Articles 40 and 178 of this Code.

Article 184: Registration and opposability of

the deed of transfer

In the event of partial transfer of mining or exploration quarry rights, the Mining Registry issues a new mining or quarry title.

In the event of a partial transfer of the Authorization for Permanent Quarry Exploitation rights, the partial transfer is recorded at the time of the granting of the new right.

To be enforceable against third parties, the registration of the transfer deed is done in accordance with the provisions of article 171 of this Code.

Article 185: Transfer of rights

Subject to the provisions of Articles 40 and 178 of this Code, the technical examination of the application file for the transfer of the mining right or the Authorization for Permanent Quarry Exploitation in the name of the transferee is carried out within twenty days. working days from the date of transmission of the application file to the Department of Mines by the Mining Cadastre.

The technical examination consists of: a) verifying the financial capacity of the transferee; b) verify the assumption of the obligations of the assignor by the assignee;

c) determine, where applicable, that any change that the transferee proposes to the initial documents on the basis of which the mining right or the Authorization for Permanent Quarry Exploitation was granted does not modify the essential project.

Any refusal to transfer the mining right or the Authorization for Permanent Quarry Exploitation must be reasoned and gives right to the appeals provided for by the provisions of Articles 315 and 316 of this Code.

The transfer of the mining right or the Authorization for Permanent Quarry Exploitation is recorded in the appropriate register kept by the Mining Cadastre in accordance with article 172 immediately after the notification of the transfer to the Mining Cadastre.

The transfer can only concern the mining rights or the Authorizations for Permanent Quarry Exploitation that are currently valid.

Article 186: Obligations of the assignor after assignment

Notwithstanding any clause to the contrary, the transfer does not release the initial holder

of its obligations vis-à-vis the State for the payment of costs and charges in connection with its mining or quarry title during the period in which it held it, nor of its obligations to rehabilitate the environment.

Section II: Transmission

Article 187: Acts of transmission

Mining rights and Authorizations for Permanent Quarry Exploitation are subject to transfer in whole or in part under a merger contract and by reason of death. In the absence of provisions to the contrary, the common law on transfers applies.

The person in whose favor the transmission is made must first be eligible for mining or quarry rights.

Article 188: Acts of partial transfer

The partial transfer of mining rights and Authorizations for Permanent Quarry Exploitation is carried out in compliance with the provisions of Articles 28 and 29 of this Code.

Article 189: Examination of the application for transmission

The examination of the application for transmission of mining or quarry rights is carried out in accordance with the provisions of articles 40 and 178 of this Code.

Article 190: Registration and opposability of deeds of transfer

To be opposable to third parties, the registration of the deeds of transmission is done in accordance with the provisions of articles 171 and 184 of this Code.

Article 191: Deed of transfer by virtue of a merger contract and by reason of death

The conditions and procedures for the admissibility and examination of deeds of transfer by virtue of a merger contract and by reason of death are those provided for the deeds of transfer of mining rights organized by this Code.

Article 192: Obligations of the transferee

Notwithstanding any clause to the contrary, the person in whose favor the transfer is made remains liable vis-à-vis the State and third parties for all the obligations of the initial holder of the mining right or Authorization for Permanent Quarry Exploitation.

Section III: Option contract

Article 193: Option contract

The Exploration Permit may be the subject of an option contract. This is concluded freely between the parties and gives its beneficiary the right to obtain a participation in the enjoyment of the mining exploitation right resulting from the Exploration License or in the transformation

total or partial of it if he carries out a certain investment and/or work within the framework of the mining activities concerning the Exploration Permit in question.

Article 194: Registration of option contracts

The registration of option contracts is in accordance with the provisions of article 171 of this Code.

Article 195: Transfer of rights

The provisions applicable to the transfer of the mining right apply to the transfer of the mining right in the event of an option.

**TITLE VIII:
OBLIGATIONS OF
RIGHTS HOLDERS
MINING AND QUARRYING**

**First chapter :
RELATED OBLIGATIONS
TO THE VALIDITY OF THE LAW
MINING OR QUARRYING**

Article 196: Obligations to maintain the validity of the

right In order to maintain the validity of his mining or quarry right, the holder must: a) start the work within the period specified in article 197 of this code; b) pay the surface area fee per square relating to its title each year before the deadline set in article 199 of this Code.

Failing to fulfill one or other of these obligations, the holder is deprived of

his right pursuant to the procedure provided for in Articles 286 to 291 of this Code.

Failure by the holder to fulfill the obligations listed in the following chapters is sanctioned by fines and/or possibly by an order to suspend operations or, in the event of violations, by legal proceedings.

Article 197: Obligation to start work

The holder of an Exploration Permit is required to begin the exploration work within six months from the issue of the title evidencing his right.

The holder of an Exploitation License is required to begin development and construction work within three years from the issue of the title evidencing his right.

The holder of a Small-Scale Mining Exploitation License or a Tailings Exploitation License is required to begin development and construction work within the issuance of the title evidencing his right.

The holder of an Authorization for Permanent Quarry Exploitation must begin work within six months of the issue of the title confirming his right.

The Mining Regulations establish the methods of application of this provision.

Article 198: Obligation to pay the annual surface area fee per quadrangle

To cover the costs of the services and the management of the rights recorded by the mining titles, annual surface area fees are collected per quadrangle on each mining or quarry title issued, for the benefit of the Mining Cadastre, which remunerates a portion to the services of the Ministry of Mines responsible for the administration of this Code.

The holder of Exploration Permits, Exploitation Permits, Tailings Exploitation Permits, Small Mining Exploitation Permits, Exploration Authorization for Quarry Products and Quarry Exploitation Authorization Permanente pay the surface rights for the first year when the mining or quarry title is issued.

The holder pays the annual surface rights per square for each following year before the end of the first quarter of the calendar year.

However, the annual surface area fees are paid per plot on a prorata temporis basis when the initial title is issued or in the last year of the title's period of validity.

The annual surface area fees per square are paid at the counter of the Mining Cadastre which issued the mining or quarry title. The latter gives receipt to the holder at the time of payment.

The Mining Regulations lay down the procedures for recovering the annual surface area rights per quadrangle for each year.

Article 199: Modalities of rights

annual surface area per square

The fees per square are set by the Mining Regulations so that they are the approximate equivalent of the amounts provided for in the paragraphs below per hectare.

The holder of an Exploration Permit pays the annual surface area fees per square the amount in Congolese Francs equivalent to 0.03 USD per hectare for the first two years of the first period of validity, in Congolese Francs equivalent to 0.31 USD per hectare for the remaining years of the first period of validity, in Francs Congolais equivalent to 0.51 USD per hectare for the second period of validity, in Francs Congolais equivalent to 1.46 USD per hectare for the third period of validity of its title.

The holder of the Exploitation Permit pays the annual surface area rights per quadrangle in the amount of Congolese Francs equivalent to 5.00 USD per hectare regardless of the period of validity of his title.

The holder of the Tailings Exploitation Permit pays the annual surface area rights per quadrangle in the amount of Congolese Francs equivalent to 8.00 USD per hectare regardless of the period of validity of his title.

The holder of one Small Mine Exploitation Permit pays annual surface area rights per square the amount in Congolese Francs equivalent

at USD 2.30 per hectare regardless of the period of validity of his title.

The holder of an Exploration Authorization for Quarry Products pays the annual surface area fees per quadrangle in the amount in Congolese Francs equivalent to 0.05 USD per hectare on the issue of his title and on the date of its possible renewal.

The holder of an Authorization for Permanent Quarry Exploitation pays annual surface area fees in the amount of Congolese Francs equivalent to 2.00 USD per hectare regardless of the period of validity of his title.

Article 200: Obligation to pay the annual surface rights per square in the event of partial transformation of a mining right

In the event that the holder requests a partial transformation of the Perimeter which is the subject of his Exploration License into a Perimeter of a mining exploitation right, the squares concerned follow, after the transformation, the regime of the rates applicable to surface rights. per square due for this permit.

Article 201: Payment of annual surface area fees per quadrangle in the event of a preliminary and conditional decision

In the event of a preliminary and conditional decision provided for in Articles 76 and 158 of this Code, the holder of a mining or exploration quarry right pays the annual surface area fees per quadrangle by virtue of his exploration title.

However, in the event of the granting of a mining or quarry exploitation right, he pays the annual surface area rights per square at the rate provided for such a right, possibly supplementing the rights previously paid for the mining or exploration quarry title. up to the amount remaining due to cover the annual surface area rights resulting from the issue of the exploitation title.

Chapter II: RELATED OBLIGATIONS TO OPERATIONS UNDER OF THE MINING TITLE OR OF CAREERS

Section I: Protection of the Environment

Article 202: During prospecting

Any person who engages in prospecting for mining or quarry products is required to comply with the code of conduct established by the Mining Regulations for this activity.

Article 203: During research

Before beginning exploration work for mining or quarry products, the holder of an Exploration Permit or an Exploration Authorization for Quarry Products must draw up and obtain the approval of a PAR for the proposed activity.

The terms of the RAP and its approval are set by regulation.

The approval of the RAP falls within the competence of the service responsible for the protection of the environment within the

Ministry of Mines in collaboration with the Minister of the Environment.

Article 204: During operation

Any applicant for an Exploitation Permit, a Tailings Exploitation Permit, a Small-Scale Mining Exploitation Permit or Quarry Exploitation Authorization is required to submit an environmental impact statement accompanied by a project environmental management plan and obtain approval for its EIA and EMPP as well implement the EMPP.

The environmental impact study presents a description of the ecosystem before the mining operations, including the fauna and flora; soils and topography; air, ground and surface water quality. It specifies the aspects which may be affected qualitatively and quantitatively by the mining activity or the exploitation of quarries.

It also contains the measures envisaged for the protection of the environment, the elimination or limitation of pollution, the reconstitution of the sites as well as to verify the envisaged effectiveness of the

measures.

The holder of mining and quarry rights is required to provide security to guarantee the fulfillment of their environmental obligations during exploration and/or exploitation. In addition, the holder of the mining rights is authorized to constitute a provision for the rehabilitation of the site in accordance with the provisions of article 258 of this Code.

The terms of application of this provision, including financial security, are set by the Mining Regulations.

Section II: Protection of Cultural Heritage

Article 205: Declaration of

archaeological clues

The holder of a mining or quarry right is required to inform the local administrative authority and the authority responsible for Culture, Arts and Museums, of the discovery of archaeological evidence if research or

these

operations reveal the existence of these clues.

Article 206: Discovery of elements of the national cultural heritage

In the event of updating elements of the national cultural heritage, movable property and others, the holder is prohibited from moving these objects. In this case, he informs, in writing and without delay, the local administrative authority and the authority responsible for Culture, Arts and Museums.

The holder is required to remove, secure and preserve, as the case may be, these elements of the national cultural heritage at the expense and on behalf of the State, if the local administrative authority and the authority responsible for Culture, Arts et Musées concerned does not remove them or secure them within sixty days of the notice notifying the discovery.

Section III: Security and Hygiene

Article 207: Special regulations

Mining is subject to safety, health and protection measures enacted by special regulations.

Article 208: Jurisdiction of the Mines Administration

The holder of mining and/or quarry rights must comply with the measures ordered by the Mines Administration with a view to preventing or eliminating the causes of the dangers that the work poses to public safety and health, conservation of deposits, springs and public roads.

In case of emergency or refusal by the interested parties to comply with these measures, these are taken and executed automatically at the expense of the interested parties.

In the event of imminent danger, the agents of the Mines Administration authorized for this purpose immediately take the necessary measures to avert the danger and may, if necessary, address any useful requisitions to the local authorities and operators for this purpose.

The agents of the Administration of Mines, duly authorized, have the status of Judicial Police Officer to search for and record any infringements of this Code and its implementing measures.

**Article 209: Declaration
accident occurring in a mine
or quarry**

Any serious or fatal accident occurring in a mine or quarry or in its outbuildings must be reported, without

time and by the fastest means of communication, to the knowledge of the Department of Mines and the administrative and judicial authorities within the jurisdiction.

Article 210: Publication of safety instructions

Any holder of a mining or quarry exploitation right is required to publish safety instructions with regard to the specific operating conditions. These instructions are forwarded to the Department of Mines and brought to the attention of its personnel and the public having access to its operating site.

The Mining Regulations determine the procedures for publishing safety instructions.

Article 211: Use of explosive products

Any holder of a mining or quarry title making use of explosive products is subject to special regulations on these products appended to the Mining Regulations.

Section IV: Infrastructure

**Article 212: Authorization to infrastructure
construction and
planning**

The holder of mining rights or Authorizations for Permanent Quarry Exploitation is required to build and maintain all the infrastructures necessary for the activities related to the titles or the related environmental authorization in accordance with the provisions of this chapter.

Any infrastructure to be built by the holder is the subject of a plan submitted to the competent authority of the administration for visa, after consultation with the territorially competent local authority.

Article 213: Use of project

infrastructure The communication channels created by the holder inside or outside the mining or quarry Perimeter may be used, when no obstacle results therefrom. operation and subject to the agreement of the holder, by the services of the neighboring mining, industrial and commercial establishments at their request, in return for fair compensation fixed by mutual agreement between the parties, and including a participation of the interested parties in the maintenance of the said roads.

The communication channels created outside and inside the Perimeter may be open to the public under the conditions provided for in the preceding paragraph subject to fair compensation to be agreed between the holder and the municipality or the local cadastral entity whose inhabitants use these means of communication.

Article 214: State law on infrastructures

Unless there is an express and written agreement to the contrary between the holder and the State, any public utility infrastructure built by the holder of a mining or quarry right which remains in place on the expiry or cessation of the validity of his , falls into the public domain of the State.

Section V: Miscellaneous Obligations

Article 215: Relations with local authorities

Before starting his activities, the holder of a mining or quarry right has the obligation to present himself to the local authorities of the jurisdiction and to give them, against receipt, a copy of his mining or quarry title.

Article 216: Records and reports

The holder of the mining or quarry titles has the obligation to keep the registers, to prepare and file the reports of his activities in accordance with the Mining Regulations.

Article 217: Inspections

The holder of mining or quarry titles must submit to the inspections carried out by the agents responsible for inspecting mining or quarry operations.

In all cases, these inspections take place during the opening hours of the offices, workshops or construction sites.

The Mining Regulations determine the procedures for carrying out these inspections.

Article 218: Opening and

closure of a research or exploitation center

Any opening or closure of a research or mining exploitation center or permanent quarry must be declared without delay to the Mines Administration according to the methods set by the Mining Regulations.

TITLE IX:

OF THE TAX REGIME AND CUSTOMS OFFICER FOR MINES

First chapter : **DISPOSITIONS GENERAL**

Article 219: Targeted taxpayers

The holder is subject to the tax and customs regime defined in this title for all his mining activities carried out on the National Territory.

Without prejudice to the provisions of Article 223 of this Code, the tax and customs regime provided for in this title also applies to affiliated companies and subcontractors.

The concentration, treatment and/or transformation activities carried out by the holder of the mining right and/or its affiliated companies and subcontractors benefit from the tax and customs regime provided for in this Code.

However, research activities for quarry products or quarry exploitation are subject to the common law tax and customs regime.

Article 220: Exhaustive tax and customs

regime Subject to the provisions of Articles 221 and 222, the tax and customs regime applicable to mining activities on the National Territory is that defined in Title IX of this Code, to the exclusion of all other forms. present and future taxation.

From the entry into force of this Code, are only applicable to the holder, the contributions, the customs duties, the taxes, the royalties and the

other fees due to the Public Treasury below according to the terms provided for in this Title: a) the contributions applicable to the holder are: the contribution on vehicles, the contribution on the area of mining and hydrocarbon concessions, the land contribution, ~~professional~~ contribution on profits, the contribution on rental income, the professional contribution on remuneration, the exceptional contribution on the remuneration of expatriates and the contribution on internal turnover; b) the duties collected by the Customs Administration applicable to the holder in the National Territory are: import duties and consumption and excise duties; c) the holder is subject to the special road traffic tax, surface rights and mining royalties; d) without prejudice to the provisions of article 234 paragraph 3, the holder, the affiliated companies and the subcontractors are subject, within the framework of the exercise of activities unrelated to their mining projects, to royalties and compensatory taxes which contribute the operating costs of public administrations and personalized public services.

By way of derogation from article 221, the contributions referred to in articles 235 to 239, 244 to 246, letter a and b not included and 259 paragraph 4 apply and are deemed to apply to the holder at the rates and terms of right common having

existed on the date of promulgation of this Code.

Article 221: Amendments to the tax and customs regime

Subject to the provisions of article 222 below, the tax and customs regime defined in this Code can only be modified in accordance with the provisions of article 276 of this Code.

Article 222: More favorable tax and customs provisions If

common law legislation adopted or promulgated on the National Territory after the date of entry into force of this Code, provides for more favorable tax or customs provisions than those contained in this Code, these new provisions are immediately applicable as of right upon their entry into force.

Article 223: Benefit from the regime applicable to the holder of mining titles Also benefit

from the benefit of the entire tax and customs regime provided for by this Code: a) Affiliated companies carrying out mining activities provided for in this Code; b)

Subcontractors carrying out mining activities which fall within the scope of this Code and which result exclusively from the contracts entered into with the holder.

Article 224: Tax and customs procedure

Without prejudice to the provisions of this Code, the tax procedure and

applicable customs duty is that of the law common.

The collection procedure and the practical terms of the distribution provided for in Article 242 are set by the Mining Regulations.

**Chapter II:
CUSTOMS REGIME**

Section I: General

Article 225: From the list of goods benefiting from the privileged regime

Before starting the work, the holder presents the list comprising the number and value of the movable goods, equipment, vehicles, mineral substances and other inputs which fall within the scope of the privileged regime provided for in this Code. The list must first be approved by Joint Order of the Ministers of Mines and Finance within thirty working days of receipt of the letter requesting approval from the Ministry of Mines and the copy to the Ministry of Finance.

If at the end of this period, no response is given, the list is deemed approved, the deposit receipt being authentic. In this case, the competent authorities are required to issue the Order of Approval within seven clear days.

In case of refusal to approve the list, the decision must be written and motivated.

This list indicates the categories of non-obsolete materials, goods and equipment, necessary respectively for the research, construction and development phase as well as for the operation phase of the project benefiting from the customs regime defined below. .

Provisions of consumables, reagents and those of maintenance products necessary for daily use, but not directly related to mining activity, are excluded from the said lists.

The importation by the holder or its subcontractors of materials, goods, equipment and other goods which do not appear on the approved lists, is subject to the provisions of the legal system common.

The Mining Regulations establish the methods of organization and functioning of the Interministerial Commission upon to assist the Ministers referred to in paragraph 1 above.

Article 226: Export of samples

As part of the project, the export by the holder of samples intended for industrial analyzes and tests is exempt from any customs duty or other contribution, of any nature whatsoever, when leaving the National Territory.

Notwithstanding the provisions of Article 234 of this Code, samples exported in violation of

article 50 paragraph 3 of this Code are subject to any legal imposition common.

Samples sold to third parties for the benefit or by the fact of the holder, before or after analysis, are taxable at the ordinary rate.

Any export of samples of a commercial nature is also taxable. This is particularly the case for samples exported in exorbitant quantities in relation to reasonable analysis needs.

Article 227: Imports of moving objects belonging to expatriates

Moving objects belonging to expatriate staff employed by the contractor within the framework of the project are exempt from import duties and taxes in accordance with customs legislation.

Article 228: Release for consumption on the National Territory of imported goods

Materials, goods and equipment imported under the preferential customs regime cannot be sold on the National Territory without the authorization of the Customs Administration. Any person violating this provision is liable to the penalties laid down by customs regulations. The release for consumption of the said materials, goods and equipment is subject to the payment of the duties and taxes remaining due, at the rate in force on the date of the transfer, calculated on the basis of the updated residual value established from the elements of the declaration of initial import.

Article 229: Consequences of stopping the project on/or before term

In the event that the project is Stopped on/or before term, the materials, goods and equipment which have benefited from the preferential customs regime must either be re-exported , or be released for consumption on the National Territory after adjustment of the customs regime by payment of the duties and taxes remaining due calculated on the basis of the updated residual value established from the elements of the initial import declaration.

The declaration of the work stoppage must be immediately made to the Customs and Mines Administration.

Article 230: Transfer of goods, materials and/or equipment

In the event of multiple mining titles held by the holder and/or the operating company, the transfer of goods, materials and/or equipment from one project to the other must be the subject of prior written information to the customs administration.

In the case of a transfer of equipment used within the framework of a given mining title, on the project relating to another mining title belonging to a different holder, this transferee holder must benefit from a customs regime similar to that of the assigning party and the latter must, in order to do so, obtain the prior written authorization of the Customs Administration.

Article 231: Importation under temporary exemption

Goods, equipment and materials introduced by the holder into the Territory

National and intended for re-export are temporarily admitted free of customs duties with the authorization of the Customs

Administration for a period of six months. This period may be extended twice for the same duration if, for reasons beyond the control of the holder, it cannot be respected.

Section II: Regimes applicable to the different phases of the Project**Article 232: Entrance fees at**

preferential rates Prior to the effective commissioning of the mine as determined in accordance with the provisions of this Code, all goods and products for strictly mining purposes imported by the holder, its affiliates and subcontractors are subject to an entry 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 the beginning of the effective exploitation, recorded in accordance with the provisions of this Code, all the goods and products with a strictly mining vocation, imported by the holder as well as his affiliates and subcontractors, are subject to the single rate of 5%, provided that these assets appear on the list provided for in the first paragraph of article 225 of this Code.

Fuels, lubricants, reagents and consumables intended for mining activities are subject to an import duty

single 3% for the duration of the project.

Article 233: Imports into the extension works

The holder of a mining title who makes an expansion investment after the start of operation of the mine may, for the material, equipment and inputs to be imported in this context, benefit from the preferential customs regime provided for in the first paragraph. of article 232 of this Code provided that he submits a request to the Mining Registry and demonstrates that the work to be carried out is intended to increase the production capacity of the mine by at least 30%. The application must indicate the date on which the extension work will be completed.

After examination of the request in accordance with the provisions of articles 40 and 41 of this Code and without the file being transmitted to the Minister, the Mining Cadastre issues an authorization for assent to the holder who may avail himself of it with the customs authorities to benefit of the customs regime applicable during the construction and development period. The list of imports relating to the extension works will be appended to the authorization.

The issuance of an authorization is only possible in the event of a favorable cadastral, technical and environmental opinion. However, in the event of refusal to issue the authorization, the holder retains the right to exercise the means of appeal provided for in Articles 315 and 316 of this Code.

In the event that the extension works are not completed in the manner or within the period indicated at the time of the request referred to in the first paragraph above and/or in the event that the production capacity does not actually increase by 30%, the holder is retroactively liable, on the imports made, for the entry fees applicable to the rate of Exploitation.

in

However, in the event of fraud on the declaration during importation in connection with this provision, the holder is liable to import duties and the contribution on turnover on importation at the ordinary rate.

Article 234: Exit right Without prejudice

to the provisions of article 226 paragraphs 2 to 4 of this Code, the holder is totally exempt on exit, for his exports in connection with the mining project, from all customs and other duties. contributions of any kind.

However, in addition to the application of ordinary law taxation, fraudulent and irregular exports made by the holder are subject to the fines and penalties provided for in customs legislation.

royalties and fees for services rendered for the export of commercial products or goods for temporary export for improvement may not exceed 1% of their value.

Article 235: Consumption and excise duties

The holder is liable for excise duties of and

in accordance with common law, except for the mineral oils designated in article 7 of OL n°68/010 of January 6, 1968 intended and exclusively related to mining activity.

Chapter III: TAX REGIME

Section I: Real Contributions

Article 236: Land tax

The holder is liable for the land tax in accordance with common law only on the buildings for which the tax on the area of the mining and hydrocarbon concessions is not due.

Article 237: Contribution on vehicles The holder is liable for the vehicle contribution in accordance with common law.
on them

However, the contribution on vehicles is not due on vehicles for transporting people or materials, handling or traction, used exclusively within the confines of the mining project.

Article 238: Contribution on the area of mining and hydrocarbon concessions

The holder of a permit Recherches is liable for the contribution on the area of the mining and hydrocarbon concessions at the rates in Congolese francs equivalent to

USD 0.02 per hectare for the first year, in Congolese Francs equivalent to
0.03 USD per hectare for the second year, in
Congolese francs equivalent to
0.035 USD per hectare for the third year and in
Congolese francs equivalent to

\$0.04 per hectare for subsequent years.

The holder of a mining exploitation right is liable for the contribution on the area of the mining and hydrocarbon concessions at the rates in Congolese francs equivalent to 0.04 USD per hectare for the first year, in Congolese francs equivalent to 0, 06 USD per hectare for the second year, in Congolese francs equivalent to 0.07 USD per hectare for the third year and in Congolese francs equivalent to 0.08 USD per hectare for the other following years.

Article 239: Special road traffic tax

The holder is liable for the special road traffic tax in accordance with common law.

Section II: Mining Royalty

Article 240: Base of the mining royalty

The holder of the mining exploitation title is subject to a mining royalty, the base of which is calculated on the basis of the value of the sales made less the costs of transport, the costs of analysis relating to the quality control of the commercial product at sale, insurance costs and marketing costs. The sale price must be greater than or equal to the price that could be obtained for any sale of the product to an unaffiliated entity.

The holder is liable for this royalty on any commercial product from the date of the start of effective operation.

The mining royalty is due at the time of the sale of the product.

Article 241: Rate of the mining royalty

The mining royalty rate is 0.5% for iron or ferrous metals, 2% for non-ferrous metals, 2.5% for precious metals, 4% for precious stones, 1% for industrial minerals, solid hydrocarbons and other substances not mentioned, and 0% for construction materials for uses

currents.

Article 242: Distribution of the mining royalty The

mining royalty is paid by the holder of the mining exploitation title to the Public Treasury. The latter is responsible for distributing the revenue from the mining royalty according to the following distribution key: 60% will remain with the Central Government, 25% are paid into an account the Administration of the Project where the project is located and 15% on an account designated by the City or Territory in whose jurisdiction the operation takes place.

The funds resulting from the distribution referred to in the preceding paragraph of this article, in favor of the Decentralized Administrative Entities above, are allocated exclusively to the construction of community interest.

The Mining Regulations determine the terms of the collection and distribution of the mining royalty according to the key decreed above as well as the body responsible for it.

Article 243: Tax credit

The holder benefits from a tax credit equal to one third of the mining royalty paid on the products sold to a processing entity established on the National Territory.

Section III: Contributions on Revenue

Article 244: Professional contribution on remuneration

The holder is legally liable for the professional contribution on the remuneration payable by employees at the common law rate.

Article 245: Scheduled contribution on rental income The holder is

liable for the scheduled contribution on rental income in accordance with common law.

Article 246: Contribution to movable property

The holder is liable for the contribution on movable income in accordance with common law, with the exception of the following income: a) interest paid by the holder under loans contracted in foreign currency abroad which are exempt from the movable contribution ;

If the holder is a natural person, the benefit of the advantages granted in letter a of this article is only possible when it is proven that the loans have been exclusively allocated to the mining project.

Interest paid by the holder to affiliates under loans contracted abroad is only exempt from the movable tax if the interest rates and other loan conditions are as favorable or better than the rates and conditions that the holder of a mining title, as the case may be, could obtain from lenders who are not affiliates.

- b) dividends and other distributions paid by the holder to its shareholders which are subject to the tax on movables at the rate of 10%.

Article 247: Professional

contribution on profits

The holder is liable for the professional contribution on profits at the rate of 30%.

Subject to the provisions on installments and by way of derogation from Decree-Law No. 058 of February 18, 1998 instituting the prepayment known as Bénéfice Industriel et Commercial, in the acronym BIC, the tax regime for advance payment of the professional contribution on BIC is not applicable to the holder of a mining title.

Nevertheless, the latter has the obligation to collect the BIC withholding tax.

Section IV: Determination of taxable profit

Article 248: Taxable profit

The net operating profits subject to the professional contribution are determined with the law

accountant, to the tax legislation in force and to the provisions of articles 249 to 258 of this Code.

By way of derogation from the Congolese legislation on accounting, the holder may keep his accounts in foreign currency listed by the Central Bank of Congo.

Article 249: Depreciation

The amount of the first annuity for exceptional depreciation is equal to 60% of the cost price of the asset in question.

Declining balance depreciation applies for each of the following taxable periods.

Are excluded from the declining balance depreciation system:

- a) depreciable elements whose normal duration of use is less than four years or more than twenty years; b) patents, trademarks, goodwill, name and any other intangible assets.

Subject to the provisions of the preceding paragraphs of this article and of article 250 of this Code, it applies the provisions of common law with regard to depreciation.

Article 250: Deferred amortization

Amortizations carried out during a deficit period are deemed to be deferred. They can be accumulated and carried over without time limit to subsequent years up to the amount of taxable income.

Article 251: Deficit carry forward

The professional losses of an accounting year may, at the express request of the taxpayer addressed to the tax authorities, be deducted from the profits made during the following years up to the fifth following the loss-making year, in accordance with tax legislation.

The absence of a declaration or the late submission of a declaration for a given fiscal year excludes any possibility of subsequently admitting the deduction of the loss experienced the year relating to this fiscal year.

Article 252: Research expenses

and development

The amount of research and development expenses incurred by the holder, other than those related to the acquisition of fixed assets, discounted on the day of the holding and is amortized by the company operation during the next two financial years at 50% per annum.

The professional loss of an accounting year resulting from the application of the provisions of the preceding paragraph is carried over without time limit to subsequent years.

Article 253: Capital gains and losses on the sale of mining titles

The holder includes the capital gain or loss realized on the occasion of the sale of a mining title in the basis of the professional contribution on the profits.

The professional capital gain or loss thus realized is equal to the

difference between the total sale price and the unamortized amount of research and development expenses.

The transferee of a mining title amortizes the acquisition price of the mining title acquired as an expense to be spread.

Article 254: Deduction of interest paid

abroad

Interest paid by the holder to affiliates by virtue of external loans shall only be deductible from the tax base professional contribution on profits if the interest rates and the other conditions loans available or better than the rates and terms that the holder can obtain from lenders who are not affiliates.

Article 255: Deduction of the mining royalty

The mining royalty paid by the holder is deductible from the tax base for the professional contribution on profits.

Article 256: Deductible professional expenses

Without prejudice to the provisions of this Code, the following are in particular considered as professional expenses deductible from tax: the rent actually paid and rental expenses relating to buildings or parts of buildings assigned to the exercise of the profession and all general expenses resulting in particular from their maintenance and lighting. However, the rental value of buildings or parts of buildings owned by the taxpayer is not considered as rent or as a rental charge;

b) general expenses resulting from the maintenance of equipment and movable objects assigned to the operation; c) the salaries, wages, bonuses and indemnities of employees and workers in the service of the operation, benefits in kind insofar as they have been added to the remuneration. However, the remuneration of the holder's family members, other than his spouse working with him, can only be deducted insofar as it does not exceed a normal salary or wages which would be paid to a third party unrelated to the holder and that she suffered as such the contribution on capital borrowed from third parties and engaged in the operation and all similar charges, rents or royalties relating thereto; Partners in non-stock companies are not considered as third parties.

Under no circumstances may the interest on mortgages on buildings rented out, in whole or in part, be considered as deductible professional expenses;

e) transport, insurance, brokerage and commission costs. However, expenses consisting of commissions, brokerage, commercial travel, vacations, occasional or non-occasional fees, gratuities and other remuneration of any kind are only deductible if justified by the 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. Similarly, with regard to commissions and brokerage, the deduction will only be allowed after justification of the setting in order with regard to the contribution on the turnover. In the absence of an exact declaration of the aforementioned sums and/or of their beneficiaries or of providing proof of payment of the contribution on the turnover, the said sums are added to the profits of the person who paid them, without prejudice to the penalties provided for in case of fraud; f) the amount of the profit distributed among the members of the staff of the company; g) the salaries granted in joint-stock companies to members of the Board of Directors when it is justified that they correspond to normal salaries in relation to the nature of the real and permanent functions exercised in the company on the National Territory; h) depreciation of fixed assets of the profession; the actual contribution having the character of an operating charge paid within the deadline, provided that it was not established automatically.

The sums paid by the holder to a natural or legal person under foreign law with which he is linked, either by way of a direct participation in its capital, or through participations held by one or more other companies of the same group, in remuneration for a service rendered, are likely to be admitted to the professional responsibilities of the company only on the triple condition that:

- a) the quality of the service rendered is clearly demonstrated; b) the service in question cannot be rendered on the National Territory;
- c) the amount of the remuneration corresponds to the actual value of the service rendered.

Article 257: Provision for deposit

reconstitution The holder is authorized to constitute, free of the professional contribution on profits, a provision for deposit reconstitution, the maximum amount of which is equal to 5% of the taxable profit in respect of the fiscal year in which it was formed.

This provision must be used before the expiry of a period of three years from the end of the financial year during which the provision was constituted, either in research activities on the National Territory or in participations in the capital companies that exclusively hold one or more exploration permits on the National Territory.

If it has not been used under the conditions defined in the preceding paragraph, the provision for replenishment of the deposit is reintegrated into the taxable profit for the fourth financial year following that during which it was constituted.

Article 258: Provision for rehabilitation of the site

The holder is required to constitute, free of the professional contribution on the profits, a provision for rehabilitation of the site, the maximum amount of which is equal to 5% of the taxable profit in respect of the fiscal year in which it was formed.

The maximum amount of the allocation for this provision is equal to 0.5% of sales for the financial year during which it is made.

In the event that the holder is required to constitute a provision or to fulfill other financial obligations pursuant to the regulations on the protection of the environment, the amount of this second provision or of these obligations is deducted from the maximum amount authorized for the allocation as a provision for the rehabilitation of the site.

This provision must be used before the expiry of a period of ten years from the end of the financial year during which it was constituted. The balance of this unused provision is reintegrated into the taxable profit for the eleventh financial year following that during which the said provision was constituted.

The balance of this provision not used at the end of the last financial year of the project is reintegrated into the taxable profit for this financial year.

Section V: Contributions on the Turnover

Article 259: Contribution on the domestic turnover

The holder is liable for the contribution on domestic turnover on sales made and services rendered on the National Territory.

Sales of products to a processing entity located on the National Territory are expressly exempted.

The other sales of products within the National Territory constitute the taxable contribution and the applicable rate is 10%.

The services rendered by the holder are taxable at the ordinary rate.

The holder bears the Contribution on the turnover at a preferential rate of 5% when he is the beneficiary of the services related to his corporate purpose.

The acquisition by the holder of locally produced goods is taxable at the rate of 3% for goods related to mining activity.

Section VI: Contribution

Exceptional on Remuneration of Expats

Article 260: Preferential regime

The holder is liable for the exceptional contribution on the remuneration of expatriates at the rate of 10%. It is established according to the remuneration generated by the activity of the work carried out or the employment occupied in Congo and is deductible from the tax base for the professional contribution on the

Article 261: Small-scale mining The tax and customs regime applicable to small-scale miners, traders and authorized counters is governed by regulations in accordance with the procedures set by the Mining Regulations.

Article 262: Small-scale mining Small-scale mining is subject to the customs regime provided for in Articles 225 to 235 of this Title.

Without prejudice to the provisions of common law, small-scale mining is subject to the single tax regime with regard to the contributions for which the holder of the mining title is liable and this, in relation to the mining activities.

The single tax rate for small-scale mining activities is set at 10% of the turnover resulting from the sale value of market products.

The payment of the flat-rate tax provided for in the preceding paragraph exempts the holder from the payment of the mining royalty, the movable property contribution, professional contribution, the exceptional contribution on the remuneration of expatriates and the contribution on the turnover indoors.

The flat rate tax is due at the time of the sale.

The portion of the mining royalty to be distributed is determined in accordance with the

Chapter IV: OF THE TAX REGIME AND CUSTOMS APPLICABLE TO ARTISANAL EXPLOITATION AND MINING ON A SMALL SCALE

provisions of Articles 240 to 242 of this Code.

The terms and conditions for collecting the fees provided for in the preceding paragraphs are set by the Mining Regulations.

The small-scale mine operator may choose either to remain in the single taxation regime or to be governed by the provisions of Chapters I and III of this Title.

The option thus made is irrevocable.

TITLE X: EXCHANGE REGIME AND STATE GUARANTEES

First chapter : EXCHANGE

Section I: Conversion of currencies into Congolesse Francs

Article 263: Freedom of conversion at the market rate

The holder of the mining rights benefits from the freedom to convert into Congolesse francs the capital contributions, the funds advanced by the shareholders, the drawdowns on loans and the foreign currency receipts from the sale of the products, at the best rate of conversion. exchange offered by approved banks on the day of the conversion operation.

However, the holder of mining rights may resort, for the exchange of fiduciary money, to approved non-bank intermediaries other than financial couriers.

Section II: Transfers of funds to abroad

Article 264: Transfers of income, current transfers and transfers due to capital movements

Without prejudice to the provisions of the last three paragraphs of this article, the holder of the mining rights is authorized to carry out for the benefit of non-residents, after payment of the taxes and contributions due, transfers of income, current transfers and transfers due to following capital

movements in direct relation with the operations authorized under its mining law:

- a) payment for goods and services from foreign suppliers if it has not been able to find the same goods and/or services in sufficient quantity, equal quality and price as well as identical delivery conditions on the local market; b) acquisition or rental of imported equipment; c) the payment of commissions to third parties for services rendered abroad; d) the payment of fees to persons residing abroad, for services rendered; e) the payment of "royalties" relating to the rights granted to the holder by foreign third parties; f) training abroad for Congolesse employees and social charges for expatriate employees, in particular bonuses, professional fees, transport and moving expenses; g) funds corresponding to dividends duly and legally declared, intended for distribution to non-resident shareholders or partners of the holder; (h) the funds corresponding to the sale of the shares and any sum

from the sale or liquidation of the company's assets, as well as any compensation for expenses incurred by the shareholders, provided that the ratio of borrowed funds to equity does not exceed 75:25.

Furthermore, foreign personnel residing in the National Territory, employed by the holder of a mining title, are guaranteed the free conversion and free transfer of all or part of the sums due to them, provided that the interested parties have paid for their taxes and various contributions in accordance with the legislation in force in the Democratic Republic of Congo.

The transfer of the funds necessary for the operations listed above must be made only through the channel of an approved bank subject to the subscription of an exchange document.

Any other transfer abroad is subject to the exchange regulations in force.

Article 265: Control of transfers for the benefit of affiliated companies Notwithstanding

the provisions of Article 264, transfers for the benefit of affiliated companies of the holder in payment for the goods supplied or services rendered must be justified in relation to the prices practiced on the market for similar goods or services.

The terms of this justification are defined by the Mining Regulations.

**Chapter II:
REVENUE MANAGEMENT
EXPORT SALES**

Article 266: Export of mining products

The holder is authorized to freely export and market all of his production on the international markets of his choice. Foreign currency receipts relating thereto must be collected within thirty days of the date of shipment of exports from an African port, with the exception of installment sales.

The holder has the obligation to subscribe, for all his export operations, an exchange document in accordance with the exchange regulations in force.

Article 267: Main account and foreign debt service accounts

Notwithstanding the provisions of articles 1 to 9 of Ordinance-Law n°67/272 of 23 June 1967 relating to the regulatory powers of the Bank Centrale du Congo in terms of exchange regulations and its implementing measures, the holder who exports the products of the authorized mines has the right as well as the obligation to: a) open an account in foreign currency called

"Main Account" with a foreign bank of international reputation which will have business relations with a correspondent for the management of the funds which it is authorized to hold outside the National Territory;

b) communicate to the Central Bank of Congo and in the smallest details, all the coordinates of the main account; c) pay the export earnings that he is authorized to keep outside the National Territory in accordance with the provisions of article 269 below into his main foreign account before any redistribution; d) pay from the main account the service of its foreign debt, including principal, interest, commissions and penalties according to the loan agreements concluded with the foreign lenders; e) Communicate the loan agreements concluded with foreign donors to the Mining Administration to confirm whether the loan agreements fit the plan of a duly authorized mining operation.

In the case of loan agreements between affiliated companies, it also confirms that the terms of the loan are no less favorable to the holder than the terms of a bargain between unaffiliated parties. It notifies the Central Bank.

The holder is authorized to open accounts in foreign currencies with foreign banks of international reputation where he manages or has managed the funds paid from his main account necessary for the service of his foreign debt, as well as for the provisions and legal, statutory and free.

Article 268: Foreign currency accounts

The holder who exports the products of the mines can open and hold an account

or a group of foreign currency accounts with approved ~~loan official bank~~ whose Democratic Republic of Congo, to manage the foreign currency receipts and expenditures of the project that it operates under its mining law. He enjoys the freedom to keep in foreign currency all the receipts from the export sales of the products of the project without obligation to convert them into national currency.

If he has opened several accounts, the holder of a mining right has the obligation to designate the account deemed "National Main account" which must receive beforehand all sums and export receipts.

Article 269: Repatriation of export receipts

The holder who exports the merchant products of the mines is: a) authorized to keep and manage in his main account and his foreign debt service accounts the receipts from his export sales up to 60%. The terms of supplying the accounts intended for the service of the foreign debt, as well as the terms of payment of the service of the holder's foreign debt, are established in the loan agreements concluded by the borrower with its foreign lenders. ; b) required to repatriate 40% of export earnings to its main national account held in the Democratic Republic of the Congo within fifteen days from the date of collection in the Main Account provided for in article 267 of this Code.

Article 270: Payment of the exchange control fee The

holder is required to pay the Central Bank of Congo the exchange control fee of 2/1000 on the following operations: a) any payment vis-à-vis the payments made by approved banks to the holder's bank accounts in the Democratic Republic of Congo, both in receipts and expenditures, with the exception of repatriation of receipts from the main account; b) any debit or credit transaction carried out on its main account with the exception of transfers in favor of foreign debt service accounts, payments made from these foreign debt service accounts are also exempt from the exchange control.

The holder will instruct the intervening banks to calculate this fee and transfer the amount to the account indicated by the Central Bank.

Article 271: Control of local and external main account transactions

The holder must submit a monthly report on the movement of funds paid into the main account in foreign currency abroad, as well as the references of the export files on the receipts paid into this account. This report, accompanied by a copy of the bank statement of said account, is submitted to the Directorate of Mines and the Central Bank of Congo, for control of

compliance with the provisions of this chapter.

However, the Central Bank retains the right to dispatch its delegates to verify the regularity of the transactions recorded on the main account after having previously informed the account holder in writing.

Article 272: More favorable exchange provisions and the exchange rate regime applicable to the holder of a quarry right

If legislation or common law exchange regulations adopted or promulgated on the National Territory after the date of entry into force of this Code, provides for more favorable provisions than those contained in this Code, new provisions are immediately applicable, automatically, as soon as they enter into force.
these

The holder of quarry rights is subject to common law with respect to all of its foreign exchange transactions.

**Chapter III:
STATE GUARANTEES**

Article 273: Guaranteed freedoms

Subject to compliance with the laws and Republic Mining Regulations Democratic Republic of the Congo, the State guarantees holders of mining and quarry rights:

a) compliance with legislation and agreements or conventions signed with partners; (b) the right to freely dispose of their property and to organize their businesses as they see fit; c) freedom of hiring subject to priority employment of Congolese personnel with equal qualification of diplomas and experience for the realization of mining operations and subject to the conditions of dismissal in accordance with the laws and regulations in force; d) free access to raw materials within the limits of mining and/or quarry rights; e) the free movement within the National Territory of their personnel and their products, provided that they comply with the legislation on the residence and movement of foreigners; f) the freedom to import goods, services as well as funds necessary for the activities, subject to giving priority to Congolese companies for any contract related to the mining project, under equivalent conditions in terms of quantity, quality, price and terms of delivery and payment; g) the freedom to dispose of the products on the internal markets, to export and to dispose of them on the external market, subject to compliance with the provisions of this Code; h) peaceful enjoyment of the Perimeters covered by their mining and/or quarry rights.

i) the facilities for obtaining for their foreign personnel all the documents required to access the exploration or exploitation sites without prejudice to compliance with the standards

laws and regulations governing the foreigners police.

**Article 274: Prohibition of redemption
automatic currency**

The State and the Central Bank of Congo are prohibited from automatically buying back the currency held in the currency accounts of residents and non-residents.

**Article 275: Compensation for
expropriation**

Mining or quarry installations may only be expropriated by the State in exceptional circumstances set by law, subject to fair compensation paid to the holder concerned at least six months before the execution of the expropriation decision.

Within 48 hours following the date of notification of the expropriation decision, the State communicates to the expropriated holder the amount of the proposed compensation and the precise or estimated date on which the actual or material expropriation will take place.

Unless it requires additional time, the expropriated holder must react within ten days of receipt of the State's proposal.

The indemnity is paid in accordance with the first paragraph above in the event of acceptance.

In the event of disagreement, the response of the expropriated holder must include the latter's proposal as to the actual amount of the compensation.

When the State rejects the proposal of the expropriated holder, the latter may request that it be ruled by the court

jurisdiction or by arbitration procedure provided for in Articles 315 to 320.

The exercise of judicial or arbitral recourse is also possible when there has been no notification of the measure

b) the granting of the mining exploitation right granted subsequently by virtue of a valid Exploration License existing on the date of the entry into force of the legislative amendment.

of expropriation, of the indemnity amount in the event of late notification or finally, when the expropriation indemnity has not yet been paid while the execution of the expropriation decision is approaching six months.

Article 276: Guarantee of stability

The State guarantees that the provisions of this Code can only be modified if, and only if, this Code is itself the subject of a legislative modification adopted by Parliament.

The rights attached to or deriving from an exploration permit or mining exploitation right granted and valid on the date of the promulgation of such a legislative amendment as well as the rights attached to or deriving from the mining exploitation right granted subsequently by virtue of such an exploration permit including, among others, the tax, customs and exchange regimes of this Code, remain acquired and intangible for a period of ten years from the date of: a) the entry into force of the modification legislation for valid mining rights existing on that date;

**TITRE XI :
RELATIONSHIPS
RIGHTS HOLDERS
MINING AND/OR QUARRYING
BETWEEN THEMSELVES AND WITH THE
LAND OCCUPANTS**

***First chapter :*
RELATIONS BETWEEN
HOLDERS**

**Article 277: Works between two
neighboring mines**

In the event that it is recognized as necessary to carry out works of common interest for two neighboring mines, the holders concerned cannot oppose it. The interested parties, heard by the Department of Mines, are required to participate each in proportion to their interest.

When the work of a mine causes damage to a neighboring mine, the author of the work must compensate for it.

When, on the contrary, these works bring a reduction in the expenses of a

neighboring mine, they give rise to compensation.

A protective block of sufficient width may be prescribed by the Department of Mines between two neighboring mines without the maintenance of this protective block being able to give rise to compensation.

Article 278: Easements of passage

The holder of an Exploitation License for Small-scale Mining Exploitation License is entitled to compensation of Perimeter for the exploitation of tailings in order to access his Perimeter of operation.

Insofar as they are not contrary to the provisions of this Code, the provisions of Articles 170 to 179 of Law No. 73-020 of July 20, 1973 on the general property regime, land and real estate regime and securities regime apply. in case of mining easements.

The holder of Tailings Exploitation License is entitled to compensation when the passage on the Perimeter of the holder of an Exploitation License Small-scale Mining Exploitation License causes enormous damage which is analyzed in an additional charge to his activity mining.

The Mining Regulations set the terms and conditions for the establishment of the easements referred to in this article.

RELATIONSHIPS HOLDERS WITH THE LAND OCCUPANTS

Article 279: Restrictions on land use

Except with the consent of the competent authorities, no one may occupy land: a) reserved for the cemetery; (b) containing archaeological remains or a national monument; c) located on or within ninety meters of a dam or a building belonging to the State; d) close to Defense installations

National;
e) forming part of an airport; f) reserved for the railway project; g) reserved for the nursery for forest or plantation of forests; h) located less than ninety meters from the limits of a village, a city, a commune or a town; (i) constituting a street, a road, a

highway;
(j) included in a national park.

Except with the consent of the owner or legal occupant, no one may occupy land located less than: a) one hundred and eighty meters from occupied, unoccupied or temporarily unoccupied houses or buildings; b) forty-five meters of weeded and plowed land for farm crops; (c) ninety meters from a farm with a cattle ranch, a reservoir, a dam or a private water reserve.

Protection Perimeters of any size within which research and exploitation

Chapter II:

mining may be subject to certain conditions or prohibited, without the holder of the mining title being able to claim any compensation, may be established by the Governor of the Province, on the basis of the report of the competent service of the Administration of Mines, for the protection of buildings and agglomerations, sources, communities, works of art and works of public utility as in all other points where they would be necessary for the general interest.

An indemnity representing the amount of the expenses relating to the works or structures demolished or abandoned is however due by the public entity concerned, in the event that the holder has to demolish or abandon works or structures regularly established or started by him with a view to the exploitation of the said Perimeters prior to their fixing.

Article 280: Liability due to the occupation of the land

The holder or the lessee is, as of right, required to repair the damage caused by the works, even authorized ones, which he carries out within the framework of his mining activities .

In the event of a transfer of a mining exploitation right or an authorization for Permanent Quarry exploitation, the liability for damage resulting from work prior to the transfer falls jointly on the former and the new holder.

In the event of a transfer, the former holder is required to inform the new one in writing. He also informs him, insofar as he knows them, of the significant dangers or inconveniences resulting from

exploitation. In the absence of this information, the beneficiary of the transfer has the choice to pursue the resolution of the transfer or to be reimbursed part of the price. He may also request, at the expense of the former holder, the elimination of dangers or the removal of inconveniences which may cause harm to third parties.

The holder may be required to provide security, to pay all compensation if his work is likely to cause specific damage, and if there is reason to fear that his resources are not sufficient to meet his possible liability.

The courts are judges of the necessity of this guarantee and fix the nature and the amount.

All damage caused to the property of third parties is settled at its actual replacement value, increased by half, unless it is restored to its condition prior to the occurrence of the damage.

Article 281: Compensation of land occupants

Any occupation of land depriving the beneficiaries of the enjoyment of the soil, any modification rendering the land unsuitable for cultivation entails, for the holder or the lessee of mining and/or quarry rights, at the request of the beneficiaries of the land and, at their convenience, the obligation to pay fair compensation corresponding either to the rent or to the value of the land when it was occupied, increased by half.

By soil referred to in the paragraph above, it is necessary to understand the soil on which individuals have always exercised or actually exercise any activity whatsoever.

The amicable settlement of the dispute is carried out by all non-judicial means of law, in particular transacted 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 legal organization and jurisdiction in force in 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 in the fields does not interfere with the mining operations. The owner of the land will therefore no longer be able to continue constructing buildings there.

Finally, the simple passage on the ground does not give right to any compensation if no damage results. The passage must take place in the best conditions for the preservation of the environment.

Article 282: Prohibited areas

At the request of the holder of a right of exploitation or of a permanent quarrying authorization and after investigation, the Minister may define around the sites of the works of the holder,

a zone of prohibition in whole or in part to the activities and/or the circulation of third parties.

Damage caused in this area by mining or quarrying works to third parties who violate this prohibition does not give rise to any compensation.

The Mining Regulations establish the procedures for establishing these zones and determine their duration.

Article 283: Authorized activities

Without prejudice to the State's right of ownership over its subsoil, and subject to the possible rights of third parties over the soil concerned, the holder of a mining exploitation right or a permanent quarry exploitation authorization a, in addition to the rights attached to his title, with the authorization of the Governor of the province concerned, after consulting the competent department of the Mining Administration: a) Within his delimited Perimeter the right to: - occupy the necessary land its activity and related industries, including the construction of industrial, residential and other social facilities; use groundwater, water from navigable, non-floatable watercourses established within the framework of a waterfall concession, a hydroelectric plant intended to meet the energy needs of the mine;

- dig channels and
pipelines; -
establish means of
communication and transport
any kind.

b) Outside its delimited Perimeter, the right to
establish means of communication and
transport of any kind.

The occupancy rights provided for in
this article constitute easements

laws of public interest. It cannot be affected directly
or indirectly by the granting of subsequent mining
and/or quarry rights.

Article 284: Execution of works

**of public utility or the
exploitation of related quarries**

The authorization to occupy the
land does not preclude the execution of
public utility works or the opening of temporary
quarries to provide the materials necessary for this
work. The holder or lessee is entitled to
compensation for damage suffered.

**Article 285: Disposal of mineral
substances not specified in
mining titles**

The holder of a mining or quarry exploitation
right has the right to dispose, for the needs of his
exploitation and related industries, of mineral
substances other than those he exploits and whose
work necessarily entails slaughter.

The occupant of the land may request
that he be allowed to dispose of these
substances, if they are not used by the
operator, against the payment of fair
compensation if necessary, except if
they come from the treatment of extracted
mineral substances.

**TITRE XII :
BREACHES OF
OBLIGATIONS
ADMINISTRATIVE AND
SANCTIONS**

***First chapter :*
BREACHES OF
OBLIGATIONS
ADMINISTRATIVE**

**Article 286: Non-payment of surface rights and
failure to start work within the
legal period** considered

The as
administrative obligations of payment of
annual surface area fees per quadrangle
and failure to start work within the legal
deadline provided for in Articles 196 to 199.

**Article 287: Statement of non-payment of surface
rights per square and examination
of files**

The Mining Cadastre notes the cases of non-payment of surface rights per square at the end of the first quarter of each year. It notifies the holder concerned and displays in a room determined by the Mining Regulations within fifteen working days after the end of the quarter, the list of holders who have not paid the surface rights relating to their mining rights and/or careers. This list is also published in the press in the capital and chief town of each province concerned.

The holder whose name appears on the list may present any document or means aimed at his defense within forty-five days following the date of display of the list, which is also specified in the publication. Only proof of payment or impediment due to force majeure are recognized as means of defence.

The instruction of the defense files is carried out by the Mining Cadastre within a maximum period of thirty days from the end of the defense period. The Mining Cadastre informs the holders concerned of its cadastral opinion and transmits it with the defense files as well as a draft decision of forfeiture of the holder to the Minister in accordance with the provisions of articles 40 and 41 of this Code.

Article 288: Of the acknowledgment

**of non-commencement of
work and examination of
files**

Failure to start work on time is noted by the Department of Mines, which sends the minutes of

its finding in the Mining Registry for notification to the interested party within ten working days after the end of the period during which the work should have started.

Within a maximum period of one working day following receipt of the report, the Mining Cadastre posts the report of the Department of Mines in a room indicated by the Mining Regulations. A copy of this report is given to the holder.

Each holder is responsible for informing himself of the findings of the technical department concerning his project. The holder whose non-start of work has been noted may present any document relating to his defense within forty-five days following the date of posting of the report. Only proof of impediment due to force majeure is recognized as valid.

The Directorate of Mines examines the defense file within thirty days from the end of the period set in the previous paragraph and sends its technical opinion to the Mining Registry, which informs the holder concerned.

The Mining Cadastre transmits the technical opinion of the Directorate of Mines with the related file as well as the draft decision to the Minister for competence.

Chapter II: SANCTIONS

**Article 289: Causes and decision
forfeiture of the holder**

Without prejudice to the provisions of Articles 299 to 311 of this Code, the breaches listed in Article 286 constitute the causes of forfeiture of a

holder of Exploration Permit, Exploitation Permit, Tailings Permit, Small Mine Exploitation Permit as well as the Authorization for Permanent Quarry Exploitation.

The Mining Cadastre immediately notifies the holder of the decision to forfeit and displays it in a room indicated by the Mining Regulations.

The notification of the decision of forfeiture gives right to the appeals provided for in articles 317 to 320 of this Code.

These appeals must be exercised within thirty days following the posting of the decision in the office of the Mining Cadastre of jurisdiction.

In the absence of appeal within the time limit fixed above, the decision of forfeiture is recorded in an appropriate register and published in the Official Journal.

In the event of an appeal against a decision to forfeit, the mining or quarry right concerned remains valid throughout the duration of the procedure. However, mention is made of the decision and the appeal procedure initiated in the register of permits and authorizations granted.

**Article 290: Cancellation of rights
mines and/or the
Quarry Exploitation
Authorization
permanent**

The mining rights and the Authorization for Permanent Quarry Exploitation are canceled by the Minister when the holder has not appealed against the decision to forfeit and when the

appeals are time-barred or if the appeal is dismissed.

The cancellation decision is made on the day the appeal is rejected or on the last useful day on which the appeal should have been initiated.

The cancellation decision is notified to the Mining Registry, which registers it in the register of canceled titles.

The Perimeter which is the subject of a canceled mining or quarry right reverts to the public domain of the State.

Article 291: Prohibition Holders of

mining rights and Authorization for Permanent Quarry Exploitation stripped of their rights and whose titles are canceled may only obtain new mining rights or Authorization for Permanent Quarry Exploitation after a period of five years from the date of registration of the cancellation in the register kept by the Mining Cadastre.

In addition, the cancellation of the mining rights of the Authorization Exploitation does not affect of releasing the holder from his environmental and fiscal obligations.

Article 292: Suspension Any

serious fault defined in the Mining Regulations committed by the holder is sanctioned by the immediate suspension of the works decided by the Minister, after a prior formal notice.

The duration of the suspension is fixed by regulation according to the

seriousness of the fault committed and its impact on the environment, public health and safety.

To remedy this serious misconduct, the Mines Administration may, ex officio or at the request of the local authorities concerned, impose on the holder the work it deems necessary for the protection of public health, the environment, workers or nearby mines. In the event of default by the holder, the Mines Authority may have the said works carried out by third parties at the holder's expense.

Article 293: Irregular holding of documents

In the event of irregular keeping, duly noted, of the mandatory documents prescribed by this Code, the holder is liable to the mining operator concerned if this failure does not constitute an offence.

In the event of a repeat offence, its activities may, after formal notice, be suspended by the Minister for a period of three months.

At the end of the suspension period, the Mines Administration carries out an audit. If the observed irregularity is put to an end, the suspension is lifted. Otherwise, it is renewed for a new period of three months.

If the formal notice is not followed by effect at the end of the second period of suspension, the holder is liable to a penalty payment, the amount of which in Congolese francs is equivalent to 500 USD.

per day until regularization, each day started being due in full.

Article 294: Confiscation of the provision for rehabilitation of the

site When at the end of the exploration and/or exploitation work, the holder of a mining or quarry right does not voluntarily fulfill the obligations subscribed to in the PGEP or in the RAP, the competent court pronounces, at the request of the Mining Administration and for the benefit of the latter, the confiscation of the corresponding provision constituted by the holder for the rehabilitation of the site.

If the value of the guarantee or the provision thus confiscated is not sufficient to cover the costs necessary for the restoration of the site concerned, the Mines Administration may entrust a third party with the execution of the work corresponding to the value of the difference. The costs incurred for carrying out this additional work are charged to the defaulting operator.

At the request of the Mines Administration, the defaulting operator may be subject to a ban on leaving the National Territory pronounced by the competent court until the end of the site rehabilitation works.

Article 295: Failure to communication of reports

The failure of the holder of a mining or quarry title to communicate the mandatory periodic reports within the regulatory time limit, is subject to a formal notice of thirty days maximum to do so.

At the end of this period, unless it is in a case of force majeure, the defaulting holder is liable to a penalty payment the amount of which in Congolese francs is equivalent to 1,000 USD per day of delay since the last day of the regulatory period until the reports are sent, each day started being due in full.

Article 296: Delay in the payment of the mining royalty

The delay in the payment of the mining royalty, the non-payment as well as the reduction of the amount due constitute breaches sanctioned by this Code as follows: - in the event of delay in the payment of the royalty, the sum due is increased by a penalty whose rate is set at 7% per month of delay; - in the event of duly recorded refusal of payment, the amount due is multiplied by thirty; - in the event of a reduction in the amount due, this amount multiplied after adjustment by three to fifteen times.

is

In all cases, recourse is made to the seizure procedure in accordance with the tax legislation in force.

Article 297: Force majeure

Constitutes a case of force majeure, any unforeseeable, irresistible, insurmountable event beyond the control of the holder preventing it, despite its best efforts, from performing all or part of its obligations or causing a significant delay in the execution of these. In particular, the following events are considered to be cases of force majeure: wildcat strikes,

riots, insurrection, civil unrest, industrial disputes, acts of princes, sabotage, acts of God, fires, acts of war or cases attributable to war.

The excuse of force majeure may be accepted only for breaches of obligations which could not be performed due to the occurrence of this event.

An act, action or omission attributable to the holder does not constitute a case of force majeure.

The terms of application of this article are set by the Mining Regulations.

Article 298: Time limit for notification of case of force majeure

If the holder finds himself unable to fully or partially fulfill his obligations due to a case of force majeure, he notifies the Mining Registry immediately or at the latest within fifteen days of the occurrence of the this event, specifies the reasons constituting the force majeure, the date of commencement of the non-execution and the means proposed to remedy it.

Upon the occurrence of a case of force majeure, the performance of the obligations affected is suspended for the duration thereof and for an additional period sufficient to allow the holder to act with all due diligence, to return to the same conditions before the occurrence of the said event. The duration resulting from force majeure is added to the period for performance of its obligations.

TITRE XIII : OFFENSES AND PENALITES

Article 299: Mining activities

Is

punished with a fine the amount of which in Congolese francs is the equivalent of 10,000 USD to 250,000 USD, anyone who engages, with authorization, in research or exploitation of mines or quarries in violation of the provisions of this Code.

The mineral substances extracted illegally are seized and their confiscation is ordered by the competent court for the benefit of the State or the holder of the exploitation title of the mines or quarries concerned.

Article 300: Theft and concealment of mineral substances

Anyone who is guilty of theft or concealment of mineral substances shall be punished, without prejudice to the special provisions regarding precious substances and those provided for by the Penal Code, with a fine of which the amount in Congolese francs is the equivalent of 5,000 USD to 20,000 USD.

Article 301: Misappropriation of mineral substances

Anyone who has misappropriated mineral substances is punished with five to ten years of penal servitude and a fine the amount of which in Congolese francs is the equivalent of 5,000 USD to 20,000 USD.

Anyone who facilitates the diversion of mineral substances is

punished with penal servitude from two to five years and a fine the amount of which in Congolese francs is the equivalent of 5,000 USD to 10,000 USD.

Article 302: Illegal purchase and sale of mineral substances

Is punished with a fine whose amount in Congolese francs is the equivalent of 10,000 USD to 30,000 USD, anyone who has bought or sold mineral substances in violation of the legal and regulatory provisions in force.

The mineral substances that are the subject of said transactions are seized and their confiscation is ordered by the competent court for the benefit of the State.

Article 303: Illegal possession of mineral substances

Anyone who illegally possesses mineral substances shall be punished with penal servitude for a maximum of two months and a fine the amount of which in Congolese francs is the equivalent of 2,000 USD to 20,000 USD or one of these penalties only.

Article 304: Illicit transport of mineral substances

Anyone who, without authorization, has transported or caused to be transported mineral substances, is punished by penal servitude for two months and a fine the amount of which in Congolese francs is the equivalent of 2,000 to 20,000 USD or only one of these penalties.

Article 305: Fraud Any

fraudulent export or attempted export of mineral substances in contravention of the customs and excise regime provided for by this Code is subject to the penalties and fines provided for by the relevant customs and excise legislation.

Article 306: Violations of health and safety rules Is liable to

penal servitude of one month to one year and a fine the amount of which in Congolese francs is the equivalent of 5,000 USD to 10,000 USD or only one of these penalties, anyone who contravenes the provisions of the mining regulations health and safety.

Article 307: Corruption of agents of the public services of the State Are liable to the

penalties of penal servitude provided for in articles 147 to 149 of the Penal Code book II and a fine whose amount in Congolese francs is equivalent to 1000 USD, the persons referred to in the said articles who, being authorized to carry out mining operations in execution of this Code, would have been guilty of the offenses provided for and punished by the aforementioned articles.

Article 308: Destruction, degradation and damage Is punished

by penal servitude of five to six years and a fine the amount of which in Congolese francs is the equivalent of 5,000 USD to 10,000 USD or one of these penalties only,

anyone who has fraudulently or maliciously:

a) made a false indication on a sign post or marker; b) placed, moved or defaced a signal post or monument; c) makes a false statement or makes use of documents which he knows to be false or erroneous with a view either to obtaining or obtaining a mining right or a quarry authorization, or to preventing others from obtaining or exploiting mining rights or quarry permits.

Article 309: Insults or violence against the agents of the Administration of Mines Is

punished by penal servitude for a maximum of six months or by a fine the amount of which in Congolese francs is the equivalent of 1,000 USD to 5,000 USD or of one of these penalties only, anyone who has outraged by deeds, words, gestures, threats or struck a State agent, in the exercise or on the occasion of the exercise of his functions and this, without prejudice other provisions provided for by common law.

Article 310: Obstacles to the activity of the Mining Administration

Anyone who obstructs the work ordered or authorized by the mining services as provided for by this Code and the Mining Regulations is punished with penal servitude six months and a fine the amount of which in Congolese francs is the equivalent of 2,000 USD to 10,000 USD or one of these penalties only.

Article 311: Offenses against Orders of the Minister and of the Provincial Governor

All fines to provisions of the Ministerial Orders and of the Governor of the Province in the artisanal or industrial mining sector under measures of application of this Code are punished by seven days to one month of penal servitude and a fine whose amount in Congolese francs does not not exceed the equivalent of 5,000 USD or only one of these penalties.

No. 82-020 of March 31, 1982 on the Code of Judicial Organization and Jurisdiction and by Ordinance-Law No. 82-017 of March 31, 1982 relating to the procedure before the Supreme Court of Justice, as amended and supplemented to date.

TITLE XIV: REMEDIES

***First chapter :* DISPOSITIONS GENERAL**

Article 312: Remedies

It is recognized that the holder and the State have the right to exercise the administrative, judicial and/or arbitration procedures provided for in this Code.

***Chapter II:* ADMINISTRATIVE APPEAL**

Article 313: Application of the rules of common law

Subject to the provisions of Articles 46 and 315 of this Code, appeals directed against administrative ~~the administrative~~ authorities in application or in violation of the provisions of this Code or those of the Mining Regulations are governed by the common law in the matter, in particular by the provisions of articles 146 to 149 and 158 of the Ordinance-Law

Article 314: Abbreviation of time limits

By way of derogation from the provisions of articles 79, 88 and 89 paragraph 1 of the ordinance-law n°82-017 of March 31, 1982 mentioned above, the prior complaint of the applicant, justiciable before the Administrative Section of the Supreme Court of Justice, at the The authority that can revoke or modify the act must be introduced within thirty days following the date of publication or of the notification made to him personally of the act undertaken. The request for cancellation is introduced within twenty days from the day on which the total or partial rejection of the complaint was

The deadline for filing the statement in response and that of the administrative file is fifteen working days from the notification of the request. The same time limit applies in the opinion of the Attorney General of the Republic. The extension of the deadlines imposed on the parties for the transmission of the request and the brief in response may possibly be decided by reasoned order of the President of the Administrative Section of

the Supreme Court of Justice, cannot exceed twelve working days.

The abbreviation of the deadlines provided for in the preceding paragraphs of this article only concerns the refusal to grant mining and/or quarry rights and the approval or realization of mortgages.

In any case, the judgment of the Supreme Court of Justice is rendered within thirty working days from the date of the taking under advisement of the case.

Chapter III: **LEGAL APPEAL**

Article 315: Matters concerned by legal recourse

Without prejudice to the provisions of Article 46 of this Code, the following are subject to legal recourse in particular: the withdrawal and refusal to renew artisanal miner and trader cards; refusal to transfer title in the event of transfer or leasing by the person in charge of the Mining Cadastre or his local representative; - encroachments between holders of mining rights; - disputes between the holders or with the occupants of the ground; - the confiscation for the benefit of the Mining Administration of the guarantee or provision for the rehabilitation of the site; expropriation litigation; the appeal against the decisions of penalty taken by the Administration

compensation

of Mines in the event of irregular keeping of documents;
- the ban on leaving the National Territory; - the imposition of a fine in the event of failure to communicate the reports; - the increase in penalties for late payment of the mining royalty and litigation for cases of force majeure as well as civil action relating to the offenses provided for by this Code.

Article 316: Applicable rules

The courts and tribunals seized of a dispute or an appeal against a judicial decision relating to the matters provided for in the preceding article apply the common law procedure provided for by the Congolese Codes of Civil Procedure, Criminal Procedure, Procedure before the Supreme Court of Justice as well as possibly all the texts and general principles of law applicable in judicial matters.

Chapter IV: **ARBITRAL RECOURSE**

Article 317: Arbitration Subject

to the provisions relating to administrative and judicial appeals, breaches, penalties and sanctions provided for in this Code, disputes that may arise from the interpretation or application of the provisions of this Code may be settled by arbitration as provided for in Articles 318 to 320 of this Code.

Article 318: Internal arbitration

Disputes resulting from the interpretation or application of the provisions of this Code shall be subject to arbitration according to the procedure provided for in the provisions of Articles 159 to 174 of the Congolese Code of Civil Procedure. .

Article 319: International arbitration

Notwithstanding the provisions of article 318 of this Code, disputes that may arise on the occasion of the interpretation or application of the provisions of this Code, may be settled, at the request of the most diligent party, arbitration in accordance with the Convention on the Settlement of Disputes between States and Nationals of other States, on the condition that the holder is a National of another Contracting State under said convention.

When the mining or quarry title is issued, the holder gives his consent to such with the said agreement and expresses it in his own name and in that of his affiliated companies. He also accepts that such an affiliated company is considered as a National of another State.

contractor.

Holders who are not Nationals of another Contracting State may submit disputes arising from the interpretation or application of the provisions of this Code to any arbitration tribunal of their choice, but must notify the State the names, contact details and rules of the arbitral tribunal on the day of issue of the mining title in the Mining Cadastre.

Article 320: Arbitration rules and decisions

In accordance with the previous article, arbitration is conducted in French at the place agreed by the State and the holder.

For the purposes of arbitration, the arbitral body refers to the provisions of this Code, the laws of the Democratic Republic of Congo and its own rules of procedure.

The decisions rendered by the arbitrator are enforceable and their execution may be requested before any competent court in the National Territory in the form provided for by the Congolese Code of Civil Procedure or in the country to which the holder belongs.

In the event of application of the provisions of the preceding paragraph, the State waives the right to claim any immunity from jurisdiction or execution.

Chapter V: OF THE REPRESENTATION OF THE STATE AND THE SERVICE OF DOCUMENTS

Article 321: Representation of the State

In all administrative, arbitration and judicial where the State is implicated, its representation is ensured, in demand or in defence, by the Head of the Administration of Mines or his local representative both in the country and abroad .

Article 322: Service of procedural documents

All appeals, judgments, judgments and other procedural acts are

served on the State at the Office of the Minister or at the Office of its local representation.

Any notification made at any other place in the National Territory or abroad is null and void.

TITLE XV: MISCELLANEOUS PROVISIONS

Article 323: Consultation of registers and maps of mining fallout in the Mining Cadastre by the public

The registers relating to mining and quarry rights as well as the maps of mining repercussions can be consulted free of charge by the public at the Mining Cadastre.

Nevertheless, the collection of data is subject to the payment of the fees set by the Mining Regulations.

Article 324: Confidentiality

The technical, geological and mining information provided by the holder is confidential for a period of ten years. After this period, they are accessible to the public.

However, this information may be used and published globally for documentary purposes before the expiry of this period without disclosing the information of an individual nature.

They cease to be confidential when the mining or quarry right expires or when its Holder renounces it or is deprived of these rights.

Article 325: Adjustment of amounts

The amounts expressed in foreign currency in this law are expressed in value of this currency on the date of entry into force of this Code.

These amounts are adjusted annually by decision of the head of the Mining Cadastre on the advice of the Central Bank of Congo in order to maintain their value constant.

**Article 326: Matters not regulated in
this Code** Related matters not expressly provided for, defined or regulated by the provisions of this Code come under the Mining Regulations.

TITLE XVI: DISPOSITIONS TRANSITIONAL

Chapter One: MINING AND QUARRY RIGHTS IN FORCE

**Article 327: List of state mining and
quarry titles** A list drawn up and published by the Minister within forty-five days after the date of promulgation of this Code specifies the mining and quarry titles of state bodies that are subject to the new provisions of this Code.

These titles keep their period of validity until the expiry date initially planned. their renewal,

where applicable, is done in accordance with the provisions of this Code.

Chapter II: **RELATED REQUESTS TO MINING RIGHTS AND/OR PENDING CAREERS**

**Article 328: Grant applications in
pending on the date of**

promulgation of this Code

Applicants who have applications

for the granting of mining and/or quarry rights pending on the date of promulgation of this Code must reformulate them in accordance with the provisions of this Code within three months from the entry into force of the Mining Regulations. After this period, these applicants lose their right to priority.

**Article 329: Requests for
renewal and transformation
pending on the date of
promulgation of this Code** Holders
of mining and/or quarry rights who
have renewal and transformation
applications pending on the date of

promulgation of this Code must reformulate them in accordance with the provisions of this Code within three months of the entry into force of the Mining Regulations. If they are not reformulated within this period, these requests are automatically considered null and void.

**Article 330: Requests for
renewal and conversion
of rights**

mining and/or quarry titles

expired on the promulgation of

this Code Without prejudice to the

provisions of the following paragraph, the holders of mining or quarry titles who have applications for renewal and transformation on the date of the promulgation of this Code and whose mining rights expire after this date, benefit from the automatic extension of their mining or quarry rights until the decision of the competent authority.

These holders of mining or quarry titles have a period of three months after the entry into force of the Mining Regulations to conform their requests for renewal, transformation or transfer to the provisions of the new mining regulations. The absence of reformulation of their requests within this period automatically entails the nullity of their rights.

Chapter III: **PARTNERSHIPS WITH THE STATE**

Article 331: The ability to maintain partnerships

concluded with the State Any
person of Congolese or foreign

nationality holding a mining or quarry right who has found himself in partnership with the State in the mining sector has the option of Opt within three months of the promulgation of this Code, either to maintain or to waive this partnership. After this period, the partnership is supposed to be maintained.

The declaration of renunciation of the partnership is made to the Minister.

The provisions of this article do not apply to joint ventures concluded regularly between the State and private promoters constituting commercial companies governed by the legislation on commercial companies in force in the National Territory on the date of the promulgation of this Code.

Article 332: Renewals of mining or quarry rights Pursuant to

the first paragraph of Article 331 and without prejudice to the provisions of the following paragraphs, the Exploitation Permits, the Exploration Permits or the Authorizations of the holders whose project or mining or quarry operations have is the subject of partnerships with the State and which have expired on the day of the promulgation of this Code or which have not been renewed for reasons of force majeure or by the fact of management attributable to the State are renewed.

However, the holders of such permits are required to request the renewal of their validity in accordance with the provisions of this Code following the entry into force of the Mining Regulations.

After the period indicated in the previous paragraph, these titles are null and void.

Article 333: Establishment of new titles

Pursuant to the first paragraph of article 331, persons of Congolese or foreign nationality who operate

Perimeters that are not the subject of a right or a mining title within the framework of a partnership with the State, are required to cease all exploitation within thirty days following the promulgation of this Code. After this period, the activities will be considered illegal and punished in accordance with article 299 of this code.

Nevertheless, they have a priority right in the application for mining rights on the Perimeters subject to their exploitation without prejudice to the mining and/or quarry rights of third parties.

The exercise of this right of priority is only valid on a single Perimeter within three months from the entry into force of the Mining Regulations.

Chapter IV: IMPLEMENTATION NEW PROVISIONS

Article 334: Mining Regulations

The methods of application of the provisions of this Code are fixed by the Mining Regulation which will be adopted by Decree within six months after the promulgation of this Code.

Article 335: Suspension of the admissibility of requests

In order to allow the implementation of the new Mining Cadastre and to accomplish the cleaning up of the existing titles, no application for mining rights, nor for Authorization for Permanent Quarry Exploitation will be admissible from the promulgation of this Code until upon its entry into force. Only requests for renunciation and transfer of existing titles will be admissible.

However, with the exception of requests

authorization for permanent quarrying, applications to open quarries as well as those concerning authorizations for artisanal mining or marketing of mining products continue to be admissible and will be processed in accordance with the provisions of Ordinance- Law No. 81-

013 of April 2, 1981 on general legislation on mines and hydrocarbons until the entry into force of this Code.

Article 336: Validation of mining and quarry rights in force

Subject to the provisions of the following paragraph, mining and quarry rights issued under previous legal provisions and currently valid are valid until their date of originally scheduled deadline.

In order to allow the installation as well as the operation of the Mining Cadastre provided for by this Code and the management of mining and quarry rights, their holders must have them validated in accordance with the procedure provided for in Article 337 below.

Article 337: Validation procedure for mining and quarry rights in force

Within forty five days from the promulgation of this Code, the Minister establishes and publishes, by means of an Order, the complete list of mining and quarry rights. valid careers as well as those expired or canceled since at least 1995. The list is published in the Official Journal, in specialized newspapers, in local daily newspapers and

broadcast on the Internet. It can be displayed in the premises of the administration. The list contains the following information: identity of the holder, the assigned duration, the province and territory concerned by the right, the geographical coordinates of the Perimeter, the date of institution of the right and, possibly, the date of its termination.

Within ninety days from the publication of the list in the Official Journal: a) any person who claims to be the holder of a valid mining or quarry right which does not appear on the list is required to claim his right by providing the proof of its validity and regularity at the address indicated on the list; b) any mining or quarry right holder who appears on the list is required to confirm his intention to maintain his right and to make any corrections to the information concerning him by providing the corresponding proof or justification.

The competent authority reserves the right to accept or deny the corrections if the proof is not sufficient.

After this period, persons who have not reacted in accordance with the above provisions are deemed to have waived their right of office.

At the end of the above period, the Minister publishes the list of confirmed rights in force, that of waived rights and that of rights that are the subject of a claim or dispute. The latter are referred to the commission for the validation of mining rights and

careers. As long as the dispute is not resolved, the Perimeter concerned cannot be the subject of a new application for a mining or quarry right.

**Article 338: Commission for the validation
of mining and quarry
rights**

A Commission is created to study and rule on the fate of the mining and quarry rights that are the subject of complaints or disputes in accordance with paragraph 4 of article 337 above.

This Commission is also responsible for ruling on any dispute arising during the transition period of the entry into force of this Code.

The Mining and Quarry Rights Validation Commission is made up of 15 members on the basis of: a) 2 for the Presidency of the Republic; b) 5 for the Ministry of Mines; c) 1 for the Ministry of the Environment; d) 2 for the Ministry of Justice; e) 1 for the Ministry of the Interior; f) 1 for the Ministry of Planning; g) 3 independent personalities.

The Commission is assisted by national and international experts.

The members of the Commission are appointed by Decree of the Head of State on the proposal of the Ministers to whom they report and on that of the Chief of Staff of the Head of State as regards the representatives of the Presidency and independent personalities.

The organization and functioning of the Commission as well as the statutes of its members are fixed by Decree of the President of the Republic.

**Article 339: Transformation of existing mining
or quarry rights**

All holders of mining or quarry rights validated in accordance with the provisions of article 338 of this Code must, within three months of the entry into force of the Mining Regulations, transform their rights in accordance with the provisions of this Code. The same applies to rights holders who are the subject of a complaint or litigation within three months of the resolution of their case.

**Article 340: Mining rights
arising from mining agreements**

Without prejudice to the provisions

of Article 336 above, the Holders of mining rights arising from mining agreements duly signed and approved by Decree of the President of the Republic, in accordance with Ordinance-Law n°81-

013 of 2 April 1981 relating to legislation on mines and hydrocarbons and in force on the date of the promulgation of this Code, are governed by the terms of their respective agreements.

Their holders may nevertheless opt for the application of the provisions of this Code in their entirety instead of their agreements within nine months of its entry into force.

They must, in any case, comply, within three months of the entry into force of the Mining Regulations, with the provisions of this Code governing the forms, orientation and location of the mining Perimeters.

**Article 341: Approval of
Mining and quarrying agents**

Exceptionally, before the entry into force of the Mining Regulations, the Minister may approve, as Mining and Quarrying Agent, any person who demonstrates knowledge of mining legislation and who has negotiated at least two mining agreements or who has actively participated in drafting of this Code, notwithstanding the conditions set out in said Regulations.

**Article 342: Mining and quarry rights subject
to force majeure**

The mining rights and/or careers valid at the entry into force of this Code, the exercise and enjoyment of which by their holders are prevented by a case of force majeure defined in the first paragraph of Article 297 of this Code remain valid for the duration of the event constituting the force majeure.

The period of validity of each of these mining and quarry rights is automatically extended for a period equal to that of all the cases of force majeure which prevent the respective holder from enjoying the rights in question.

However, holders of mining and quarry rights whose duration is thus extended are required to comply with the provisions of this Code within six months following the disappearance or cessation of the event constituting force majeure.

**TITLE XVII:
DISPOSITIONS
ABROGATORIES AND FINALS**

Article 343: Repealing provisions

The following are repealed on the date, as the case may be, of the promulgation or entry into force of this law: modified and supplemented to date, with the exception of the provisions applicable to hydrocarbons, and except with regard to the mining agreements duly signed and approved at the promulgation of this Code; b) Article 4 of Law No. 77-027 of November 17, 1977 on general measures for the reinforcement of radicalized property with regard to mines and quarries; c) Law No. 74-019 of September 15, 1974 creating a mining brigade; d) Ordinance-Law No. 72-005 of January 14, 1972 to strengthen the protection of certain substances against theft; e) Ordinance No. 84-082 of March 30, 1984 regulating the activities of counters for the purchase of precious mineral substances; f) Decree No. 0012 of 22 January 1997 instituting a new tariff of duties and taxes on imports with regard to mines and quarries; g) Decree No. 121 of 11 September 1998 establishing a service

of a social nature called the Precious Mineral Substances Purchasing Service "SAMP" implementing measures; h) Law No. 78-017 of July 11, 1978, with regard to loans intended to finance the mining activities of private companies within the framework of the enjoyment of their mining rights.

i) all legal and regulatory provisions contrary to the provisions of this Code.

Article 344: Entry into force of this Mining Code With the exception of articles 299, 327 to 338 and 341 to 344 which enter into force on the promulgation of this Code, the other provisions of this law enter into force in six months after its promulgation.

Done in Lubumbashi, July 11, 2002.

Joseph KABILA