

MINING LAW
FOR THE REPUBLIC OF EQUATORIAL GUINEA
(2006)

**MINING LAW
FOR THE REPUBLIC OF EQUATORIAL GUINEA**

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TRANSITIONAL PROVISION

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PRESENTATION OF REASONS

In its articles, the Fundamental Law of the Republic of Equatorial Guinea expresses that all the natural resources, mineral raw materials, hydrocarbon deposits, organic and inorganic substances, as well as the other renewable resources that are found in the national territory, whether on the continental shelf, exclusive economic zone, underwater zones, surface, subsurface and islands, are the property of the State and hereby declared to be of public domain and utility.

Whereas Decree Law No. 9/1981, dated June 12, on mineral raw material has become obsolete, if we take into account that new challenges have arisen in connection with the Exploitation of mineral substances in the Country, as well as new prospects and goals, by the Government, directed to revitalize the procurement of foreign capital investment in the Mining sector of the Republic of Equatorial Guinea.

Whereas regarding the non-renewable resources, it is the duty of the State to establish an appropriate legal framework that would protect and safeguard the common economic and social interests through rational and orderly exploitation of said resources, adapting and redirecting the regulatory provisions of the sector to the country's current needs and demands.

By such virtue and at the proposal of the Government, duly approved by the People's House of Representatives in its Regular Session from September 1 to October 4, 2006, and by exercising the powers and prerogatives conferred on me by the current legal provisions, I Approve and Promulgate the following:



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LAW OF MINES OF THE REPUBLIC OF EQUATORIAL GUINEA

PART I FUNDAMENTAL PROVISIONS

CHAPTER I GENERAL PROVISIONS

Article 1. Purpose and Scope of Application

The purpose of this Law of Mines (Law) is to establish the regulatory provisions that govern the activities relative to Mining Operations in general.

Article 2. Ownership

All existing deposits of mineral resources and raw materials in the national territory, territorial waters, land surface, continental shelf and islands of the Republic of Equatorial

Guinea are the property of the State, and are therefore are public property and for public utility. The State may exploit directly, through its self-managing entities, in partnership with other companies or national or foreign entities, or may authorize said exploitation to other individuals or legal entities through mining Contracts, Artisan Exploitation Licenses, Arid Extraction Authorizations or Quarry Material Exploitation Authorizations.



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Article 3. Scope of Responsibilities

The Ministry of Mines, Industry and Energy is responsible, under the terms established in this Law, for:

- - Formulating and coordinating the policies and programs of the Government in
- the mining sector;
- - Implementing the administrative procedures;
- - Resolving and deciding on the issues under its responsibility;
- - Enforce the provisions in this Law and its applicable Regulations.
- - Negotiating and Signing as many Contracts, Licenses or Authorizations that
- may be necessary.

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• Article 4. Applicability

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The present Law is applicable to all individuals or legal entities that perform Mining Operations and especially the exploration, prospecting and exploitation activities of minerals resources that constitute natural deposits or fields in the subsurface.

Article 5. Classification of Mineral Substances

For purposes of this Law, mineral substances are classified into five (5) groups:

- a) Mineral raw materials or Mines.
- b) Materials from Quarries and Arid Materials.



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- c) Radioactive and strategic minerals.
- d) Precious stones and
- e) Water resources.

- Group (a), referred to as Mineral Raw Materials or Mines, covers all deposits containing minerals with non-radioactive characteristics which, because of

their chemical and mineralogical composition and industrial utilization cannot be classified in the Groups (b), (c), (d) or (e). This group includes deposits of Phosphates, Nitrates, Alkaline Salts and other salts associated with said deposits.

Group (b) covers Quarry and Arid Materials; industrial rocks, construction materials, peat bogs and all those materials directly utilized in infrastructure works in which recovery requires only the following three operations: extraction, breaking up, and calibration.

Group (c) covers mineral reservoirs that are principally utilized in nuclear technology or industry, such as Uranium, Thorium, Radium, etc.

Group (d) covers rocks or minerals that are utilized in the jewelry industry, with the exception of noble metals.

Group (e) covers aquifers, underground waters, thermal waters, surface waters, etc.



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Article 6. Exceptions

Exceptions from the scope of application of this Law are mineral substances of groups (c) and (d) of the previous Article, which will be governed by their respective laws.

CHAPTER II

DEFINITIONS

Article 7. Definitions

For purposes of this Law, the following definitions apply:

Calendar Year or Year: It refers to a period of twelve (12) months, starting on the first (1) day of January to the thirty-first day (31) of December of the same year, both inclusive, according to the Gregorian calendar.

Contract Year: It refers to a period of twelve (12) consecutive months, according to the Gregorian calendar, counted from the day following the Effective Date of a Contract, until the anniversary of said date and on successively.

Contract Area or Area: It refers to the geographical area of the territory of Equatorial Guinea under a Contract, License or Authorization; the boundaries of said Area will be set by coordinates and illustrated by a map, in attachments, that will be incorporated in the Contracts, Licenses or Authorizations, and shall be a part of the latter.



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Mining Interest Areas: This term refers to Areas in which mining resources are identified.

Reserved Areas of the State: This term refers to those Areas defined by UTM coordinates that are strategic, and that the States declares to be of public utility, or that the State preserves for the purpose of protection of the land and marine ecosystem, and underground strata, as well as the historical/cultural legacy of the Nation or the environment, in general.

Arid Materials: This term refers to rocky substances of purely sedimentary origin that

outcrop at the surface, whose disposal is only limited to the mere extraction operation, such as clays, sands, sandstones, gravel, grit, boulders, basaltic rocks, charcoal material, etc.

Surface Area Fee: It refers to a periodic monetary fee assessed by a mining Contract in the exploration, prospecting, exploitation phase, an Artisan Exploitation License, an arid extraction Authorization or a Quarry Exploitation Authorization, as compensation for the occupation of the Area under a Contract, License or Authorization.

Quarry: It refers to the set of mining facilities consisting of galleries, trenches and edges, properly equipped and intended for the extraction and transportation of rocky material and ore in open pit.



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Contractor: It refers to the company with which the Ministry of Mines, Industry and Energy has signed a Mining Contract.

Contract: It means the final agreement signed between the Ministry of Mines, Industry

and Energy and a Company interested in carrying out certain Mining Operations.

UTM Coordinates: This term stands for Universal Transverse Mercator coordinates.

Sworn Statement: It means the legal instrument under which the holder of a Contract, license or Authorization for the exploitation of mining resources, in his capacity as person responsible to the State of the best development of said resources, certifies to the Ministry, the identity, kind or nature, quantity or volume, as well as the other specifications of each mineral produced and sold in a given time period, for purposes of determining Royalties, treatment of recovery of Mining Operation expenses, as well as calculation of taxes, according to the agreed terms.

Said Sworn Statement will appear on exhibits attached to Contracts, Licenses or Authorizations and will be submitted to the Ministry as many times as sales of minerals have taken place.

Commercial Discovery: It refers to a discovery of a mineral raw material deposit whose exploitation, in the Contractor's view, can be economically profitable.

Foreign Currency: It means any currency acceptable by the Parties, which is not the



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legal currency in the Republic of Equatorial Guinea and which is quotable on the international market.

Effective Date: It means the date when the Ministry of Mines, Industry and Energy and a Contractor enter into and sign a Contract or when a License or Authorization is granted to carry out the Mining Operations.

Expenses for Mining Operations: This term refers to direct administrative and general expenses incurred, and the obligations assumed by the Contractor in carrying out the Mining Operations.

Tax Law: It refers to the Law that regulates the applicable tax system in the Republic of Equatorial Guinea, as well as its successive amendments.

Environmental Law: It refers to Law number 7/2003 dated November 27, which regulates the Environment, as well as its successive amendments.

License: It refers to the authorization granted by the Ministry of Mines, Industry and Energy, conferred on an applicant to perform operations involving the extraction of Arid materials or industrial exploitation of minerals.

Construction Materials: This term refers to the rocks of sedimentary, metamorphic or

igneous origin that are used directly for construction. It means the Ministry of Mines, Industry and Energy or any Ministry, governmental department succeeding it which is responsible for the Mining Operations in the Republic of Equatorial Guinea.

Minerals: This term refers to elements, compounds or substances of non- biological natural origin, with their own atomic structure, chemical composition and certain physical properties and a crystal shape or amorphous, existing at the surface and in the subsurface of the territory of the Republic of Equatorial Guinea.

Mining Operations: This term refers to all Operations related to Exploration, prospecting, production, enrichment, storage, transportation, distribution, conservation, marketing, dismantling or other disposal of minerals and all the activities related to the Mining Sector.

Mining Exploration Operations: This refers to each and every one of the administrative, desktop and field activities, both at the surface and underground that are necessary for the search, location and identification of a mining field.

Mining Exploitation or Production Operations: This refers to each and every one of the extraction, processing, transportation and storage operations, within the national territory, of mineral rocks and/or combinations of the same to dispose of them for industrial or commercial purposes.

Mine Prospecting Operations: This refers to each and every one of the tasks that are carried out in order to evaluate, interpret, perform geologic, geophysical or geochemical studies, pit and trench excavations, chemical analyses and other field work, necessary for

setting the boundaries, determining and evaluating any discovered mining field.



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Excluded from all Mining Operations stated in the previous three paragraphs are the transportation of minerals outside the Republic of Equatorial Guinea, as well as any processing, handling and/or transformation of minerals already recovered in a processing plant.

Precious Stones: This term refers to those colorful rocks that are used in industrial or craft jewelry.

Mining Products: These are the rocks or minerals extracted from a field or the products derived from the processing, handling or transformation of the same.

Annual Budget: It means the estimate of expenses of all the items included in an annual work program, once it has been approved by the Ministry.

Annual Work Program: It means a detailed report of the Mining Operations that, at the Contractor's proposal, has deserved the approval of the Ministry to be performed in the Contract Area during a Calendar Year.

Royalty: It means the financial compensation that is paid to the State for the exploitation of mining resources or construction materials.

Regulations of Mining Operations: It means the applicable Regulations of this Law of Mines, as it was amended.



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Relinquishment: It means the process whereby the Contractor communicates to the Ministry of Mines, Industry and Energy, its decision to return a part of or the total Contract Area.

Ornamental Rocks: This term refers to the construction materials that are used for decorative purposes, such as: Marble, Granite, Rhyolite, Diorite, Labradorian, Serpentine, Gneiss, Phyllites, Travertine, Onyx, Jasper and any other related rocks.

Metric Ton: It means a quantity or unit of ore, equivalent to 1000 kg.

Mining Field: It means the accumulation of rocks or natural concentration of one or more minerals.

All the other definitions that are not contained in this Law and are used in the industry shall have the meaning that is attributed to them in the international mining industry.

PART II

MINING OPERATIONS

The Mining Operations shall be governed and performed as provided in their respective Contracts, Licenses or Authorizations, under the provisions of this Law, its applicable Regulations, as well as in accordance with the practices and standards generally accepted in the international mining industry.



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CHAPTER I

MINING CONTRACTS

Article 8. Classification of Mineral Substances

For purposes of this Law, the Mining Contracts are classified as follows:

- . a) Mineral Exploration Contracts.
- . b) Mineral Prospecting Contracts.
- . c) Mineral Exploitation or Production Contracts.
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SECTION I

Article 9. Mineral Exploration Contract

It is the legal instrument that is signed between the State and a Contractor to carry out the Mining Operations in a certain Area.

Article 10. Determination of the Area

The Area of the Mining Exploration Contract shall be contained in an enclosed polygon, and its surface area or areal extent shall neither be less than two hundred (200) hectares nor exceed fifty thousand (50,000) hectares for all minerals, with the exception of diamonds, for which the Contract Area may not exceed one hundred thousand

(100,000)



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hectares; all of them demarcated by UTM coordinates, with their sides in North-South and East- West directions, or demarcated by international borders.

Article 11. Granting Procedure

The State, through the Ministry of Mines, Industry and Energy, shall grant mining concessions through Mining Exploration Contracts, according to the model of Exhibit A, which is an integral part of this Law.

Article 12. Validity Period

The initial validity period of the Mining Exploration Contracts will be THREE (3) years, counted from the date of their signature and this term may be extended by an additional period of one (1) year, on the condition that the Contractor continues to have the financial resources, technical expertise and has fulfilled, to the Ministry's satisfaction, all the contractual obligations of the previous initial period.

Article 13. Selection of the Contractor

The Mining Exploration Contracts shall be signed subject to a tender and selection process conducted only with entities of proven experience, sufficient technical capability and sound financial standing that are duly organized in Equatorial Guinea or, if they are foreign entities, approved by the appropriate and authorized agencies to perform mining



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activities in the Country. The Contracts shall be signed by the Ministry of Mines, Industry and Energy, and the Contractor.

The selection of the companies referred to in the previous paragraph shall take place through a public tender process or by direct award, depending on the case, in which the following aspects shall be evaluated jointly:

- a) Greater investment, speed and effectiveness in the execution of the mining exploration program.
- b) Better technical and financial conditions.
- c) Reinvestment in the Country of the profits obtained by the company.

- d) More extensive use of the Equatorial Guinean personnel and technology transfer.
 - e) Higher profitability for the State.
 - f) Higher level of safety and protection of the personnel, property and equipment, as well as environmental protection and reclamation.
-
- d) More extensive use of the Equatorial Guinean personnel and technology transfer.
 - e) Higher profitability for the State.
 - f) Higher level of safety and protection of the personnel, property and equipment, as well as environmental protection and reclamation.



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SECTION II

Article 14. Mineral Prospecting Contract

It is the legal instrument that is signed between the State and a Contractor to carry out the Mine Prospecting Operations in a certain Area.

Article 15. Determination of the Area

The Area of the Mine Prospecting Contract shall be contained in an enclosed polygon in which the surface area or areal extent shall neither cover less than one hundred (100) hectares for all minerals nor exceed twenty-five thousand (25,000) hectares for all minerals, including diamonds; the area will be demarcated by UTM coordinates, with its sides in a North-South and East- West direction or else bounded by international borders.

Article 16. Granting Procedure

The State, through the Ministry of Mines, Industry and Energy, shall grant mining concessions through Mine Prospecting Contracts, according to the model of Exhibit B, which is an integral part of this Law.



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Article 17. Validity Period

The initial validity period of the Mine Prospecting Contracts will be TWO (2) years, counted from the date of their signature and this term may be extended by an additional period of one (1) year, on the condition that the Contractor continues to have the financial resources, technical expertise and has fulfilled, to the Ministry's satisfaction, all the contractual obligations of the previous period.

Article 18. Selection of the Contractor

Those companies that have satisfactorily fulfilled their contractual obligations in the exploration phase, and are interested in continuing the Mining Operations shall be entitled to enter automatically the prospecting phase of a certain Contract Area by signing the respective Contract.

In the event that the Contractor were to choose not to continue with the Mining Operations in the prospecting phase, the Ministry of Mines, Industry and Energy may, without giving any monetary consideration to the previous Contractor, submit to a public tender the proposals of companies that are interested in continuing the project; or the Ministry may otherwise use the direct award method, or assume directly the continuity of the operations.



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In such case, said Mine Prospecting Contracts shall be executed subject to a tender and selection process conducted solely with entities of proven experience, sufficient technical capability and sound financial standing that are duly organized in Equatorial Guinea or, if they are foreign entities, approved by the appropriate and authorized

agencies to perform mining activities in the Country. The Contracts shall be signed by the Ministry of Mines, Industry and Energy, and the Contractor.

The selection of the companies referred to in the previous paragraph shall take place through a public tender process or by direct award, depending on the case, in which the following aspects shall be evaluated jointly:

- a) Greater investment, speed and effectiveness in the execution of the mining exploration program.
- b) Better technical and financial conditions.
- c) Reinvestment in the Country of the profits obtained by the company. More extensive use of the Equatorial Guinean personnel and technology transfer.
- d) Higher profitability for the State.
- e) Higher level of safety and protection of the personnel, property and equipment, as well as environmental protection and reclamation.



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SECTION III

Article 19. Mining Exploitation or Production Contract

It is the legal instrument signed between the State and a Contractor to carry out the mining exploitation or production operations in a certain Area.

Article 20. Determination of the Area

The Area of the Mining Exploitation or Production Contract shall be determined by the configuration and extent of the field, as well as by the necessary areal extent for the production facilities.

Article 21. Granting Procedure

The State, through the Ministry of Mines, Industry and Energy, shall grant mining concessions through Mining Exploitation or Production Contracts, according to the model of Exhibit C, which is an integral part of this Law.



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Article 22. Validity Period

The validity period of the Mining Exploitation or Production Contracts shall not exceed twenty (20) years, counted from the date of their signature.

Article 23. Selection of the Contractor

Those companies that have satisfactorily fulfilled their contractual obligations in the prospecting phase, and are interested in continuing the mining operations shall be entitled to enter automatically the exploitation or production phase of a certain Contract Area by signing the respective Contract.

In the event that the Contractor were to choose not to continue with the mining operations in the exploitation or production phase, the Ministry of Mines, Industry and Energy may submit to a public tender the proposals of companies that are interested in continuing the project; or the Ministry may otherwise use the direct award method, or assume directly the continuity of the operations.

The Mining Exploitation or Production Contracts shall be executed subject to a tender and selection process conducted solely with entities of proven experience, sufficient technical capability and sound financial standing that are duly organized in Equatorial Guinea or, if they are foreign entities, approved by the appropriate and authorized agencies to perform mining activities in the Country. The Contracts shall be



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signed by the Ministry of Mines, Industry and Energy, and the Contractor.

To that end, the selection of the companies referred to in the previous paragraph shall

take place through a public tender process or by direct award, depending on the case, in which the following aspects shall be evaluated jointly:

- a) Greater investment, speed and effectiveness in the execution of the mining exploration program.
- b) Better technical and financial conditions.
- c) Reinvestment in the Country of the profits obtained by the company. More extensive use of the Equatorial Guinean personnel and technology transfer.
- d) Higher profitability for the State.
- e) Higher level of safety and protection of the personnel, property and equipment, as well as environmental protection and reclamation.

CHAPTER II

LICENSES AND AUTHORIZATIONS

SECTION I LICENSES

Article 24. Artisan Exploitation License

It is the license conferred by the Ministry of Mines, Industry and Energy on an individual or legal entity, authorizing the latter to exploit mining resources through strictly artisanal craftsmanship and procedures.



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Article 25. Determination of the Area, Granting Procedure and Validity Period

The Area covered by an Artisan Exploitation License with regard to its configuration, extent, grant conditions and validity period shall be determined by the Ministry of Mines, Industry and Energy, subject to prior submittal of the respective case file by the applicant.

SECTION II AUTHORIZATIONS

Article 26. Authorization for Extraction of Arid Materials

It is the authorization conferred by the Ministry of Mines, Industry and Energy on an individual or legal entity, allowing the latter to extract or utilize Arid Materials at an industrial, semi-industrial or craftsmanship level.

Article 27. Granting Procedure and Validity

The Area or Quarry covered by an Authorization for extraction of Arid Materials with regard to location, grant conditions and validity period, shall be determined by the Ministry of Mines, Industry and Energy, subject to the submittal of the respective case file by the applicant.



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SECTION III

Article 28. Authorization for Exploitation of Quarry Material

It is the authorization conferred by the Ministry of Mines, Industry and Energy on an individual or legal entity, allowing the latter to exploit or develop Quarry Materials.

Article 29. Granting Procedure and Validity Period

The Quarry covered by an Authorization for Exploitation of Quarry Material with regard to its location, grant conditions and validity period shall be determined by the Ministry of Mines, Industry and Energy, subject to prior submittal of the corresponding case file by the applicant.

PART III SOLE CHAPTER

RESERVED AREAS OF THE STATE

Article 30. Declaration of Reserved Areas of the State

The State may reserve, through a Decree, Areas of any extent, accurately demarcated within the national territory, territorial water and the continental platform, where the development of mineral resources is of interest to the economic and social



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development of the Country.

Excluded from the territorial ambit of the zones declared as Reserved Areas of the

State are those areas on which Contracts had been previously executed which are still in force. However, those areas on which there are Licenses or Authorizations for extraction of Arid Materials or for craft- development of minerals may be declared as Reserved Areas of the State.

In spite of the existence of executed Contracts, those areas where minerals are discovered as described in paragraphs (c) and (d) of Article V of this Contract may also be declared Reserved Areas of the State.

Article 31. Reasons for Declaration

Areas where mineral resources of strategic importance for the State have been discovered shall be declared Reserved Areas of the State.

Article 32. The State's Right of Use

The State is entitled to use the Reserved Areas for exploration, prospecting and exploitation of the mineral resources in the areas, to the benefit of present and future generations of the Equatorial Guinean people, in such manner and conditions that it deems most appropriate, on its own account, in partnership with other national or foreign entities, or through direct award to third parties.



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Article 33. Objectives

The Reserved Areas of the State shall be declared for purposes of:

- a) Expediting the location and technical evaluation of mineral deposits existing in those areas, and once the economic potential of said deposits is known, proceed to their development.
- b) The State making sure that the development of the fields is performed by an individual or legal entity with the technical and financial capacity that allows for rational, efficient, orderly and sustained exploitation of the identified mineral resources.

PART IV

SOLE CHAPTER

SOLE SECTION

Article 34. Powers of the Ministry of Mines, Industry and Energy

In addition to the powers and duties recognized for the Ministry of Mines, Industry and Energy in the previous paragraphs, the Ministry is also responsible for:



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- - The Administrative processing of the submitted applications (case files);
- - The technical and economic inspections (audits) of the Mining Operations, within the Country and abroad.
- - The settlement of conflicts and appeals through administrative proceedings.
- - The determination of expiration, suspension, cancellation and extinguishment of the Mining Operations.
- - Making determinations on violations and sanctions.
- - Other powers and/or duties that pertain to the Ministry in terms of the nature of the sector.

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- **Article 35. Administrative Procedure**

- Any application for exploitation or utilization of mineral raw materials, at the industrial, commercial or artisan level, as well as the exploitation of quarries and extraction of Arid Materials shall be exclusively channeled through the Ministry of Mines, Industry and Energy.



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Article 36. Technical and Economic Inspections

The Ministry of Mines, Industry and Energy is responsible for conducting inspections of the Areas covered by an application, the permanent inspections in the Areas where Mining Operations are performed and in the Areas and Quarries that are subject to an extraction of Arid Materials.

The Ministry is also responsible for ordering the execution of economic inspections and/or audits related to the Mining Operations.

Other inspections that the other entities of the Public Administration are required to conduct in the framework of their respective responsibilities are reserved for such entities, but, in any event, they must be channelled through the Ministry of Mines, Industry and Energy.

Article 37. Settlement of Conflicts and Appeals

Any differences that may arise between holders of mining Contracts, Licenses or Authorizations shall be settled amicably between the conflicting parties and, in case of disagreement, the Ministry of Mines, Industry and Energy shall act as mediator, taking all the necessary measures to resolve said differences.

The resolutions adopted by the Ministry of Mines, Industry and Energy shall be binding



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upon the parties and, if any of the parties continues to disagree, the dispute shall be resolved in accordance with either the administrative law or common law of the Republic of Equatorial Guinea, depending on the case.

Article 38. Determination of Termination

The Ministry shall declare the termination of a Contract, License or Authorization for the following reasons:

- a) In the case of an Exploration Contract, for failing to start activities within ninety (90) days following the Contract signature date;

b) In the case of a Prospecting Contract, for failing to start prospecting activities within one hundred and twenty (120) days following the Contract signature date; In the case of an Exploitation or Production Contract, for failing to start activities covered by the Contract, within one hundred and eighty (180) days from the Contract signature date;

c) In the case of Licenses or Authorizations, for failing to start activities within sixty (60) days from the Contract signature date;

Article 39. Suspension or Cancellation

Subject to verification through technical inspections, the Ministry shall order the suspension or cancellation of the Contract, License or Authorization, without any



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monetary consideration, and it will consequently order its holder, through a justified resolution, to suspend or cancel the Mining Operations in the following situations:

- - a) When there is an imminent danger or risk to human life, the facilities and property, in general, covered by the Contract, License or Authorization;

- b) When the work safety provisions are not complied with, in conformity with the applicable laws or regulations.
- c) When regulatory environmental rules or laws are violated.
- d) When the Surface Fee is not paid, in conformity with this Law and its Regulations.
- e) When the respective Royalties are not paid, in conformity with this Law and its Regulations.
- f) For serious breach of the contractual obligations.
- g) For refusing to submit promptly the reports set forth in the Contracts. When there is a manifest disproportion between proven mineral reserves and the exploitation volume, and this disproportion cannot be duly justified.
- h) For the holder's manifest reluctance to allow inspection, surveillance or monitoring by the Ministry's staff, or for misrepresenting or concealing data requested by the Ministry.
- i) In the case of an Exploration Contract, for discontinuing said exploration activities for a period of ninety (90) consecutive days or one hundred and twenty (120) alternating days, without justification.



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- j) In the case of a Prospecting Contract, for discontinuing prospecting activities for a period of one hundred and twenty (120) consecutive days or one hundred and fifty (150) alternating days, without justification.
- k) In the case of an Exploitation or Production Contract, for discontinuing the activities for a period of one hundred and eighty (180) consecutive days, without justification.
- l) The Contractor enters into bankruptcy, is liquidated or proves to be insolvent.
- m) The Contractor or holder of a License or Authorization is concurrently engaged in other activities that are illegal or not authorized by the Ministry, or that are in violation of practices generally accepted in the international mining industry.
- n) For committing fraud in the revenues that belong to the State, concealment or manipulation of data or lowering of prices.

Article 40. Infractions and Sanctions

Any violation of compliance with provisions of this Law, as well as breach of the contractual obligations shall be considered as an infraction, which will result in the corresponding sanctions in conformity with the current Laws and Regulations in each section, without prejudice to potential civil or penal liabilities that may be applicable in the particular case.

The illegal exploitation and extraction of mining and/or arid resources, as well as environmental pollution, in general, shall be prosecuted and penalized in a special way.



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Exceptions to the contents of Articles **38** and **39** above are when such circumstances are caused by *Force Majeure* events not attributable to the holder of a Mining Contract, License or Authorization.

PART V

ENVIRONMENT

Article 41. Environnemental Protection and Réclamation

The holders of the Contracts, Licenses or Authorizations shall perform the Mining Operations provided in this Law and the respective contracts in accordance with good practices of the international mining industry, putting strong emphasis on environmental protection and reclamation. To that end, they must submit, at the commencement of the operations, a detailed plan for the protection and reclamation of the environment, which must be approved, if appropriate, by the Ministry of Mines, Industry and Energy in coordination with the Ministry in charge.

PART VI

TAX AND FINANCIAL SYSTEM

Article 42. Tax Law

The holders of the Mining Contracts, Licenses or Authorizations will be subject to the Tax Law of the Republic of Equatorial Guinea, as amended, and will also be required



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to make the payment of Surface Area Fees and Royalties in conformity with this Law.

Notwithstanding the above, the holders of Mining Exploitation or Production Contracts are exempt from the payment of Income Tax for the first three (3) years of production to facilitate the recovery of mining operation costs.

CHAPTER I PAYMENTS

Article 43. Payments

The payments that are made for the fees to lease the surface area or for Royalties

shall neither be deductible for purposes of taxes nor recoverable as Mining Operation Expenses.

Article 44. Terms and Method of Payment

- a) The payments will be made payable to the *Tesorería General del Estado* (General Treasury of the State) within thirty (30) calendar days following the transaction or operation resulting in the payment obligation or from the payment demand date.
- b) The agents or authorities in charge of each sector or subject matter may establish any other time periods for said payments, when so advised by circumstances.
- c) The State reserves the right to receive the payments for the various items for Mining Operations, either in cash or in kind, whether in national currency or any other foreign currency, and in national or foreign banks of its choice.



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Article 45. Default

Delays in the fulfilment of payment obligations by the holder of a Mining Contract, License or Authorization shall accrue an interest equal to late- payment interest rate

determined by the Tax Law, having as a reference point the moment of the obligation is fulfilled or the moment of demand made by the authorities in charge.

CHAPTER II

SURFACE AREA FEE

Article 46. Surface Area Fees

The holders of Mining Contracts, Licenses or Authorizations shall pay the General Treasury of the State the following Fees:

a) Surface Area Fee for Exploration Contract

The amount of one (1.00) U.S. dollar per hectare for all minerals shall be paid in advance and once a Year during the exploration period.

b) Surface Area Fee for Prospecting Contract

This fee shall be paid in advance and only once annually at the rate of two U.S. Dollars and fifty cents (US \$2.50) per hectare per year.

c) Surface Area Fee for Exploitation or Production Contract

This fee shall be paid in advance and only once during the exploitation or



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production period, at the rate of five (5.00) U.S. Dollars per hectare per year.

d) Surface Area Fee for Artisan Exploitation License for Minerals

The Ministry of Mines, Industry and Energy shall determine the fees to be paid by the holders of Licenses or Authorizations for artisan exploitation of minerals, taking into account the type of mineral, exploitation site and surface area.

e) Surface Area Fee for Arid Extraction Authorization

The Ministry shall determine the fees to be paid by the holders of Licenses or Authorizations for Extraction of Arid Materials, taking into account the type of material, exploitation site and surface area.



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CHAPTER III

ROYALTIES

Article 47. Royalties

- 1) The Contractor shall pay annually Royalties to the State, starting on the first year of production, on the Gross Market Value of the extracted mineral, made available or marketed, according to the type of mineral, as stipulated by the respective Mining Contracts.
- 2) The holders of Licenses or Authorizations for the artisan exploitation of minerals shall pay a fixed Royalty of ten (10) percent.
- 3) For the construction materials, the provisions in the Law of Rates shall be applied.

Article 48. Determination of Royalties

Royalties shall be determined adopting as a reference the Gross Market Value of the quantity and price of the mining product made available or marketed, based on the quoted value of the product in international stock markets or exchanges.



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Article 49. Term and Method of Payment

Royalties shall be paid to the State within thirty (30) days following the sale transaction. In any case, the holder of the Mining Contracts must attach in its annual report a plain photocopy of the records that show the payment of the Royalties. Failure to make payment shall accrue an interest equal to the late-payment interest established in the current tax system of the Republic of Equatorial Guinea at the time that the default is incurred.

PART VII

COMPLEMENTARY PROVISIONS

FIRST CHAPTER
CONCERNING THE CONTRACTOR

Article 50. Supply to the National Market

The Contractor shall be required to sell minerals to the State in such quantities as requested by the latter, to meet the needs of such minerals in the Country, and the Contractor may consequently only have available for itself of the surpluses for marketing or exports.



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Article 51. Indemnity to Third Parties

The Contractor shall indemnify any individual or legal entity, including the owners

of land tracts that suffer damages or losses as a direct or indirect result of the execution of Mining Operations performed by the contractor itself, by its subcontractors or by any other individual or legal entity that provided services on behalf of or for said contractor, and it shall indemnify and release the State from such third party claims.

Article 52. Importing and Exporting Goods and Equipment

During the effective period of the Mining Contracts, Licenses or Authorizations, their holders and their subcontractors may introduce in the country, under the temporary importation (IT) or temporary entry (AT) system and free from payment of tariff fees and other importation charges, the goods, equipment and materials required for their Mining Operations; these items can be re-exported free of charge or fee.

In any case, they shall give preference to national labourers, and goods, services and equipment that can be obtained on the national market, under acceptable conditions of availability, quality and price.



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Article 53. Ownership of the Equipment

With the exception of the goods, equipment and materials mentioned in the previous article, all fixed facilities, buildings, machinery, as well as any other goods, in general, owned by the Contractor, which had been used for the Mining Exploitation Operations, shall be transferred, in ownership, to the State, at the end of the respective Contracts, in good operating conditions, free of charge, and without any tax assessments or limitations of any kind.

The same treatment shall apply to the goods, equipment, materials, fixed facilities, buildings, machinery and any other goods, in general, owned by the Contractor, whose costs had been totally amortized.

In any case, if the Contractor were to choose to continue using said goods and equipment, the latter must previously come to an agreement with the Ministry on the conditions for said usage.

The destruction, sale or other disposition of the aforementioned equipment, goods, materials and other assets, in general, is banned, unless there is prior written authorization from the Ministry to do so.



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Article 54. Social Works

The Contractor, during the validity period of its Mining Exploitation Contract, Artisan Exploitation License of mining resources or Authorization for Extraction of Arid Materials, must perform social works in the Township District, Neighborhood Community or Municipality in the jurisdiction where the Contractor conducts its operations and activities, in conformity with the Ministry of the Interior and Local Corporations.

SECOND CHAPTER

CONCERNING THE STATE

Article 55. Creation of a National Mining Company

This law empowers the Government to create a National Mining Company, which will have the form of a joint-stock company, whose Corporate Capital will be totally subscribed by the State. Said company may participate as a stockholder in the Mining

Exploitation Contracts. Said participation shall be determined in the respective Agreements between the Contractor and the State.

The National Mining Company will operate under the guardianship of the Ministry of Mines, Industry and Energy on which it will depend at a hierarchical, functional and organic level.



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CHAPTER III

COMMON PROVISIONS

Article 56. Termination or Extinguishment

The Mining Contracts, Licenses and Authorizations are extinguished:

- a) By expiration of the term of the Contracts, Licenses or Authorizations, without the need for a declaration.
- b) By depletion of the field.

c) By the holder's Express Relinquishment or Abandonment that the holder must submit with legalized signature and which will take effect on the date of its presentation to the Ministry of Mines, Industry and Energy.

d) When the insolvency or bankruptcy situation is not remedied for a period of six (6) months counted from the date of its declaration.

e) By the Parties' mutual agreement or will.

f) By the provisions established in the respective Contracts.

g) Due to unavoidable *Force Majeure* events that last for more than twelve (12) months. Neither the termination, suspension, waiver, abandonment nor the extinguishment of the Mining Contracts, Mining Licenses or Authorizations, as the case may be, shall release the respective holders from their outstanding contractual obligations, relative to the payments and/or environmental protection and reclamation.



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Article 57. Risk

The State shall neither assume, directly or indirectly, any risk for the investments or operations performed, nor be responsible for any unproductive result for the execution of said operations. Said circumstance shall be stated on the record in the corresponding Contracts.

Article 58.

All the other provisions relative to the Mining Operations that have not been regulated in this Law, shall be governed by the other rules of law of the Republic of Equatorial Guinea, the Regulations of Mining Operations, as well as by the respective Mining Contracts, Licenses or Authorizations, or otherwise, by the Rules and Regulations generally accepted in the international mining industry.

TRANSITIONAL PROVISION

The Government is empowered to issue as many provisions as necessary for the proper application of this Law.



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REPEALING PROVISION

All provisions of equal or lower rank that oppose this Law, and especially Decree Law No. 9, dated July 12, 1981, on mineral raw materials, its attachments, as well as its Applicable Regulations, are hereby repealed.

FINAL PROVISION

This Law becomes effective on the date of its publication through the national information media or in the Official Bulletin of the State.

Given in the City of Malabo, on the third day of the month of November of the year 2006.

SEAL – REPUBLIC OF EQUATORIAL GUINEA

THE PRESIDENT

FOR A BETTER GUINEA

Signature

OBIANG NGUEMA MBASOGO

PRESIDENT OF THE REPUBLIC

SEAL – REPUBLIC OF EQUATORIAL GUINEA

THE PRIME MINISTER

FOR A BETTER GUINEA

Signature

RICARDO MANGUE OBAMA MFUBE

PRIME MINISTER – HEAD OF GOVERNMENT

His Excellency the Minister of Mines, Industry and Energy