

MINERAL LAW

Being natural resources which are an important asset of the nation and which are generally nonrenewable, Minerals must be rationally, economically and efficiently managed, protected, exploited and used for the purpose of satisfying the requirements of national industrialization and modernization, socially and economically sustainable development in the short and long term and maintaining the national defence and security;

In order to reinforce the effectiveness of State management, effectively protect and use all mineral resources of the country; encourage the development of the Mineral Mining and Processing industry; protect the environment and ecology and ensure labor safety in mineral activities;

On the basis of Articles 17, 29 and 84 of the 1992 Constitution of the Socialist Republic of Vietnam; This Law provides for the management, protection and basic geological surveys of mineral resources and mineral activities.

CHAPTER I

GENERAL PROVISIONS

Article 1. (Ownership of Mineral Resources) Mineral resources located within the land, islands, internal waters, sea territory, exclusive economic zones and continental shelf of the Socialist Republic of Vietnam are owned by the entire people and are uniformly managed by the State.

Article 2. (Objects and Scope of Application) This Law shall govern the management, protection and Basic Geological Surveys of Mineral Resources and mineral activities including Prospecting, Exploring, Mining and Processing of Minerals in solid and gaseous forms, Mineral Water and Natural Thermal Water, except oil and gas and other types of natural water which shall be subject to separate legal regulations.

Article 3. (Definition) In this Law, the following words and expressions shall have their meanings ascribed to them hereunder:

1. “ Mineral” means natural substances and useful Minerals existing in solid, liquid or gaseous forms under the ground or on land which may be mined at present or in the future. Waste Minerals lying within the tailings of a mine which may be exploited later are also treated as Minerals.
2. “ Mineral” Water means natural water under the ground or on land, as the case may be, containing certain compounds with high biological characteristics in accordance with Vietnamese standards, or foreign standards which may be applied in accordance with any permission granted by the State of Vietnam.
3. “ Natural Thermal Water” means natural water under the ground or on land, as the case may be, with a constant temperature in accordance with Vietnamese standards, or foreign standards which may be applied in accordance with any permission granted by the State of Vietnam.
4. “Basic Geological Survey” means the activities of researching and studying the structure, physical composition, the history of evolution and development of the earth's crust and the related bio-mineral conditions and rules.
5. “Basic Geological Surveys” of Mineral Resources means the overall evaluation, on the basis of Basic Geological Surveys, of mineral resource potential as the scientific basis for directing Mineral Prospecting and exploration activities.
6. “Mineral Prospecting” means studying geological documentation relating to mineral resources and conducting field surveys in order to delineate the prospective areas for Mineral Exploration;
7. “Mineral Exploration” means activities conducted for the purpose of searching for, discovering and evaluating the reserve and quality of Minerals and the technical conditions for Mining including technological specimen collection and testing and preparation of Mineral Mining feasibility studies,
8. “Mineral Mining” means activities of capital construction of mines, excavation, production and other activities directly related to obtaining Minerals;
9. “Mineral Processing” means the activities of classification, beneficiation of Minerals or other activities conducted in order to increase the value of Minerals exploited.

Article 4. (Management, Protection and Use of Mineral Resources) The State shall develop policies for rationally, economically and efficiently managing, protecting and using mineral resources and, at the same time, protecting the environment and other related resources, ensuring national defence and security, occupational safety and labour hygiene in mineral activities.

The State shall carry out uniform management of all mineral resources and mineral activities throughout the country and be responsible for organizing the implementation of legislation relating to mineral resources.

The People's Councils and People's Committees at all levels shall within their duties and powers, apply measures for the purpose of management and protection of mineral resources, supervision and monitoring of the compliance with legislation relating to mineral resources in their respective localities.

The Fatherland Front of Vietnam and its member organizations shall, within their duties and powers, be responsible for educating and encouraging people to fulfil their obligations in respect of mineral resources protection and for supervising the compliance with legislation relating to mineral resources.

State bodies, economic entities, socio-political organizations, social organizations, units of the People's armed forces and all citizens shall be responsible for complying with legislation relating to mineral resources and shall have the right and obligation to identify and denounce any breach of legislation relating to mineral resources.

Article 5. (Encouragement of Investment in Mineral Activities, Development of Mineral Mining and Processing Industry)

1. The State encourages investment in the development of the Mineral Mining and Processing industry; grants preferential treatment to mineral activities in distant, remote or mountainous mineral activities in distant, remote or mountainous areas, areas with poor infrastructure and with respect to Minerals required for domestic use; grants priority to projects applying modern technology in Mining and Processing activities and producing products of high socio-economic value and efficiency.

2. The State shall create favourable conditions for State owned enterprises to take the leading role in Mining and Processing important Minerals.

3. The State shall protect the ownership right over capital, assets and other legitimate rights and interests of organizations and individuals in the course of mineral activities in accordance with this Law and other laws and regulations.

4. The Government shall from time to time issue a list of Minerals banned from export or import, and shall restrict the export of Minerals as raw materials.

Article 6. (Organizations and Individuals Permitted to Conduct Mineral Activities) Organizations and individuals satisfying all the conditions stipulated in this Law and other laws and regulations shall be permitted to conduct mineral activities.

The Government shall provide for financial and technological conditions and other conditions for organizations and individuals to be permitted to conduct mineral activities.

Article 7. (Interests of the People in a Locality where Minerals are Mined or Processed) The interests of the people in a locality where Minerals are mined or processed shall be protected by the following principal policies:

1. On the basis of the income earned from Mineral Mining and Processing activities, the State shall appropriate an amount from the budget for the purpose of socio-economic development in the locality where Minerals are mined or processed and assist the local people of the locality where Minerals are mined or processed who have to relocate their residence or production facilities in stabilising their lives and production activities.

2. Organizations and individuals permitted to mine or process Minerals shall be responsible for combining the requirements of Mineral Mining or Processing activities with the infrastructure construction, protection and rehabilitation of the local environment, ecology and land in accordance with the approved feasibility studies; and give priority to local people in recruitment of labour for mineral activities and related services.

Article 8. (Prohibition of Breaches of Legislation Relating to Mineral Resources) Disclosure of State secrets in relation to mineral resources and unlawful mineral activities shall be strictly prohibited.

CHAPTER II

PROTECTION OF MINERAL RESOURCES BASIC GEOLOGICAL SURVEYS OF MINERAL RESOURCES

Article 9. (Protection of Unexploited Mineral Resources)

1. The Government shall adopt policies and measures aimed at protecting unexploited mineral resources.

The State Managing Body of Minerals shall be responsible for delineating the areas with unexploited mineral resources and cooperating with the relevant ministry, branch and the local authorities in the protection of unexploited mineral resources.

The People's Councils and People's Committees at all levels shall, within their duties and powers, carry out necessary measures for the purpose of protecting unexploited mineral resources in their respective localities.

State bodies, economic entities, political social organizations, social organizations, units of the People's armed forces and all citizens shall have the right and obligation to protect unexploited mineral resources and keep confidential State secrets in relation to unexploited mineral resources.

2. The construction planning and design of intensive residential areas, industrial and irrigation works and other fixed works in areas with mineral resources shall be subject to the consent of the State Managing Body of Minerals. National defence and security works shall be subject to separate regulations of the Government.

3. Organizations or individuals permitted to conduct mineral activities shall be responsible for protection of unexploited Minerals occurring within the area covered by such mineral activities.

Article 10. (Protection of Mineral Resources in the Rourse of Mineral Exploration, Mining and Processing Activities)

1. Organizations and individuals permitted to explore for Minerals must carry out overall evaluation and report to the State Managing Body of Minerals all kinds of Minerals discovered in the area covered by the Exploration licence and cause no loss to mineral resources.

2. Organizations and individuals permitted to mine or process Minerals must recover, to the maximum extent possible, all types of Minerals which have been assessed as having economic efficacy and apply measures to preserve Minerals which have been mined but not yet used.

3. During the course of Mineral Mining or Processing activities, organizations and individuals permitted to conduct mineral activities must immediately report to the State Managing Body of Minerals of any discovery of new Minerals for its consideration and decision.

Article 11. (Basic Geological Surveys of Mineral Resources)

The State shall invest in and organize the effective implementation of Basic Geological Surveys of Mineral Resources on the basis of Basic Geological Surveys and shall use scientific and technological achievements in order to formulate national strategies and policies with respect to mineral resources and development of Mineral Mining and Processing industry.

The State shall encourage foreign organizations and individuals to cooperate with Vietnam in the field of Basic Geological Surveys of Mineral Resources.

The Government shall provide for the management of Basic Geological Surveys of Mineral Resources.

Article 12. (Specimens, Data and Information on Mineral Resources)

1. All specimens, data and information on mineral resources shall be stored, managed and used in accordance with the provisions of the law.
2. The State shall have the exclusive right to purchase specimens which are of special scientific significance or which are valuable and rare; and any act of concealing, destroying, devaluing or illegal trading of such specimens is strictly prohibited. The Government shall stipulate the list and criteria of specimens which the State shall have the exclusive right to purchase.
3. After a time limit stipulated by the Government from the expiry of the duration of a mineral licence, the authorized State body may provide other organizations or individuals with the information on mineral resources related to such licence.

CHAPTER III

AREAS FOR MINERAL ACTIVITIES, PROTECTION OF THE ENVIRONMENT IN MINERAL ACTIVITIES

Article 13. (Areas for Mineral Activities)

1. Areas for mineral activities shall include:

- a. Restricted areas where mineral activities may only be carried out subject to restrictive conditions as stipulated by the Government;
- b. Bidding areas where mineral activities may only be carried out on the basis of bidding results;
- c. Normal areas where the mineral activities shall not be subject to the provisions stipulated in clause (a) and (b) of this Article.

2. The Government shall determine and announce the restricted areas and bidding areas

***Article 14.* (Areas where Mineral Activities are Prohibited or Temporarily Prohibited)**

1. Mineral activities may not be carried out in areas where they are prohibited or temporarily prohibited for reasons of national defence, security, protection of historical or cultural sites, scenery or other public interests.

The Government shall determine and announce the areas where mineral activities are prohibited or temporarily prohibited.

2. In the event that an area is announced as an area where mineral activities are prohibited or temporarily prohibited while mineral activities are being legally conducted therein, the Government shall accord fair and equitable treatment in respect of the damage caused by such prohibition or temporary prohibition to organizations and individuals permitted to conduct mineral activities.

***Article 15.* (Areas with Toxic Minerals)** The State Managing Body of Minerals shall be responsible for delineating areas with toxic Minerals and so inform local authorities, authorized medical and labour authorities for application of measures to protect the health of the people and limit any adverse impact on the local environment and ecology.

***Article 16.* (Protection of the Environment in Mineral Activities)**

1. Organizations and individuals permitted to conduct mineral activities must use technology, equipment and materials and comply with other provisions of the Law on the Protection of the Environment in order to minimize any adverse impacts on environmental elements; rehabilitate the environment, ecology and the land after the termination of each phase of or the whole mineral activity.

2. Organizations and individuals permitted to conduct mineral activities must bear all expenses related to the protection and rehabilitation of the environment, ecology and land. Expenses related to the protection and rehabilitation of the environment,

ecology and land must be determined in the environmental impact assessment report, Mineral Mining or Processing feasibility study or Mineral Exploration proposal. Organizations and individuals permitted to mine Minerals must deposit a fund at a Vietnamese bank or a foreign bank licensed to operate in Vietnam as security for the rehabilitation of the environment, ecology and land.

Article 17. (The use of Land Mineral Activities)

1. Organizations and individuals permitted to mine or process Minerals shall be entitled to enter into land lease contracts for the purpose of conducting mineral activities in accordance with the provisions of the legislation on land and this Law.

Upon the termination of validity of a Mineral Mining or Processing licence, the land lease contract shall also terminate; upon the relinquishment of part of the Mining area, the land lease contract shall be amended accordingly.

In the event of any change of the organization or individual permitted to mine or Process Minerals, a new land lease contract must be executed.

2. Organizations and individuals permitted to prospect or explore for Minerals shall not be required to lease land for such Mineral Prospecting or exploration activities if such Mineral Prospecting or exploration activities do not affect the use of land by legal land users provided that compensation must be paid for any damage caused by the Prospecting or exploration activities. In the event that the Prospecting or Exploring activity requires frequent use of land, the organization or individual permitted to conduct such Prospecting or Exploring activity must lease such area of land in accordance with the regulations provided by the Government.

Organizations and individuals permitted to conduct underground Mineral Mining activities shall not be required to lease land where the land surface is not used. Compensation must be paid for any damage caused.

3. Organizations and individuals permitted to conduct mineral activities shall be liable to pay compensation for any damage caused by the use of land for their mineral activities.

Article 18. (The Use of Water in Mineral Activities)

1. Organizations and individuals permitted to conduct mineral activities shall be entitled to use natural water sources for conducting their mineral activities in accordance with the provisions of the legislation in relation to water and this Law.
2. The source of water, volume of water and method of using water for mineral activities must be determined in the Exploration proposal, Mineral Mining or Processing feasibility study report and the mine design. After being used, water must be treated by organizations and individuals permitted to conduct mineral activities in accordance with the hygienic standards before being discharged; compensation shall be payable for any damage caused.

Article 19. (The Use of Infrastructure in Mineral Activities)

1. Organizations and individuals permitted to conduct mineral activities shall be entitled to use transportation and communication systems, electricity and water networks and other infrastructure required for mineral activities in accordance with the law.
2. Organizations and individuals permitted to conduct mineral activities shall be responsible for investing in the renovation, upgrading, restoration or new construction of such infrastructure as may be relevant to the approved Exploration proposal or Mineral Mining or Processing feasibility study.

Article 20. (Insurance in Mineral Activities) Organizations and individuals permitted to conduct mineral activities must purchase insurance for facilities and works supporting such mineral activities, environmental insurance, social insurance, labour insurance, and other types of insurance in accordance with the law.

CHAPTER IV

PROSPECTING FOR MINERALS

Article 21. (Mineral prospecting permit)

1. A Mineral prospecting permit shall be issued for areas where no organizations or individuals are conducting legal Mineral Exploration or Mining activities in accordance with clauses I and 2 of article 5 and articles 13 and 14 of this Law.

2. The duration of a Mineral prospecting permit shall not exceed 12 months and shall be extended in accordance with the regulations of the Government provided that the total extended period shall not exceed 12 months.

3. Mineral prospecting permits shall not be transferable to other organizations or individuals.

Article 22. (Rights of organizations and individuals permitted to prospect for minerals) Organizations and individuals permitted to protect for Minerals shall have the following rights:

1. Use State data and information on mineral resources in relation to the prospecting purposes and the area covered by the prospecting permit in accordance with the law;

2. Carry out prospecting activities in accordance with the terms of the permit;

3. Remove specimens from the prospecting area and/or take them abroad for analysing and testing, provided that the amount and types of the specimens so removed shall be in conformity with the character and requirements of the prospecting activities in accordance with the regulations provided by the Government;

4. Apply for renewal or surrender of the mineral prospecting permit,

5. Lodge a complaint or initiate legal action against the decision to withdraw the prospecting permit or other decisions of State authorities in accordance with the law;

6. Be entitled to other relevant rights in accordance with this Law.

Article 23. (Obligations of organizations and individuals permitted to prospect for minerals) Organizations and individuals permitted to prospect for Minerals shall have the following obligations:

1. Pay fees for the issuance of the permit and for the use of State data and information on mineral resources in accordance with the law;
2. Protect the environment, ensure occupational safety and labour hygiene in the course of prospecting activities;
3. Pay compensation for all damage caused by prospecting activities;
4. Submit to the State Managing Body of Minerals a report on the results of prospecting activities prior to the expiry of the prospecting permit.
5. Comply with regulations in relation to administrative management, social order and security;
6. Fulfill other related obligations in accordance with the provisions stipulated in this Law.

Article 24. (Withdrawal of a mineral prospecting permit) A Mineral Prospecting permit shall be withdrawn upon the occurrence of any of the following cases:

1. The organization or individual permitted to prospect for Minerals breaches one of the provisions stipulated in Article 23 of this Law and fails to remedy such breach within a period of time stipulated by the Government from the date of written notice from the State Managing Body of Minerals;
2. The area covered by the prospecting permit is announced as an area where mineral activities are prohibited or temporarily prohibited in accordance with clause 2 of article 14 of this Law;
3. The individual permitted to prospect for Minerals dies or the organization permitted to prospect for Minerals is dissolved or bankrupt.

CHAPTER V

EXPLORATION FOR MINERALS

Article 25. (Mineral exploration licence)

1. A Mineral exploration licence shall be issued for areas where no organizations or individuals are conducting legal Mineral Exploration or Mining activities in accordance with clauses 1 and 2 of article 5 and articles 13 and 14 of this Law.
2. The area covered by a Mineral exploration licence shall be stipulated by the Government;
3. The duration of a Mineral exploration licence shall not exceed twenty four months and may be extended in accordance with the regulations of the Government provided that the total extension period shall not exceed twenty four months. Where necessary, Mineral exploration licences may be re-issued to organizations which, or individuals who, have conducted Exploration in the relevant area but whose licence has expired.
4. The Government shall provide for the issuance of Mineral exploration licences to foreign organizations and individuals investing in Vietnam.

Article 26. (Rights of organizations and individuals permitted to explore for minerals) Organizations and individuals permitted to explore for Minerals shall have the following rights:

1. Use State data and information on mineral resources in relation to the exploration purposes and the area covered by the exploration licence;
2. Carry out exploration activities in accordance with the terms of the licence;
3. Remove specimens from the exploration area and/or take them abroad for analysing and testing, provided that the amount and types of the specimens so removed shall be in conformity with the characters and requirements of exploration activities in accordance with the regulations provided by the Government;
4. Have the special right to apply for a Mineral Mining licence in respect of the area covered by the exploration licence in accordance with clause I of Article 31 of this Law;

5. Apply for renewal or surrender of the Mineral exploration licence or relinquish the exploration area part by part in accordance with the regulations provided by the Government;
6. Transfer to another organization or individual the right to explore for Minerals in accordance with the regulations provided by the Government;
7. In respect of an individual permitted to explore for Minerals, bequeath the right to explore for Minerals in accordance with the law;
8. Lodge a complaint or initiate legal action against a decision to withdraw a Mineral exploration licence or other decisions of State bodies in accordance with the law.
9. Be entitled to other related rights in accordance with the provisions of this Law.

Article 27. (Obligations of organizations and individuals permitted to explore for minerals) Organizations and individuals permitted to explore for Minerals shall have the following obligations:

1. Pay licence fees, fees for the exclusive right to Exploration, fees for the use of State data and information on mineral resources and fulfill other financial obligations as stipulated by the law;
2. Pay the deposit in accordance with the law;
3. Carry out the approved Mineral Exploration proposal;
4. Protect the mineral resources and the environment, ensure occupational safety and labour hygiene in the course of exploration activities;
5. Pay compensation for damage caused by exploration activities;
6. Inform the provincial People's Committee of the locality where the exploration licence is to take place of the Exploration plan before the implementation thereof;
7. Collect and file data and information on mineral resources and report the Exploration results to the State Managing Body of

Minerals; report other activities to authorized State bodies in accordance with the law;

8. Submit a final report on the exploration results to the State Managing Body of Minerals prior to the expiry of the exploration licence;

9. Carry out such activities as stipulated In clause 2.(b) of Article 30 of this Law upon the termination of validity of the exploration licence;

10. Comply with regulations in relation to administrative management, social order and security;

11. Fulfill other related obligations in accordance with the provisions stipulated in this Law.

Article 28. (Exploration proposal) An exploration proposal shall identify time schedules, volume of work, technology, measures to ensure occupational safety and labour hygiene, environmental protection and estimated exploration costs. The exploration proposal shall be evaluated by the State Managing Body of Minerals for the purpose of considering the issuance of exploration licences.

The estimated exploration costs shall not be less than the minimum level stipulated by the Government. In cases where the actual costs are lower than the minimum level, the organization or individual permitted to explore for Minerals must contribute the difference to the State budget.

In the event that a change is required to be made to the time schedules and estimated costs, organization or individual permitted to explore for Minerals must promptly notify the State Managing Body of Minerals of such requirement for consideration and determinations.

Article 29. (Withdrawal of mineral exploration licences) A Mineral exploration licence shall be withdrawn upon the occurrence of any of the following circumstances:

1. The organization or individual permitted to explore for Minerals fails, without sound reasons, to carry out exploration activities within 6 months from the date upon which the licence takes effect;

2. The organization or individual permitted to explore for Minerals breaches one of the provisions stipulated in Article 27 of this Law and fails to remedy such breach within a period of time as stipulated by the Government from the date of written notice from the State Managing Body of Minerals;

3. The area covered by the Mineral exploration licence is announced as an area where mineral activities are prohibited or temporarily prohibited in accordance with clause 2 of article 14 of this Law,

4. The individual permitted to explore for Minerals dies without an heir to inherit the right to explore or the organization permitted to explore for Minerals is dissolved or bankrupt without a successor organization or individual to take over its rights and obligations.

Article 30. (Termination of validity of a mineral exploration licence)

1. The validity of a Mineral exploration licence shall be terminated in cases where the licence:

- a. is withdrawn;
- b. expires;
- c. is surrendered.

2. Upon the termination of the validity of a Mineral exploration licence:

- a. All the rights related to the exploration licence shall also terminate;
- b. Within a period of time as stipulated by the Government, the organization or individual permitted to explore for Minerals must remove all the assets belonging to it or any related parties from the exploration area; level the exploration area to restore it to a safe state, protect mineral resources, rehabilitate the environment, ecology and the land; and deliver specimens, data and information obtained on mineral resources to the State Managing Body of Minerals.

3. The provisions in clause 2.(b) of this Article shall not apply to areas where the organization or individual permitted to explore for Minerals has filed an application for the renewal of the exploration licence or an application for a Mining licence in accordance with the regulations and which application is being considered.

CHAPTER VI
MINING AND PROCESSING OF MINERALS

Part I

Mining of Minerals

Article 31. (Mineral mining licence)

1. A Mineral Mining licence shall be issued to an organization or individual permitted to explore for Minerals in respect of an explored area, provided that such organization or individual has fulfilled all the obligations stipulated in the exploration licence and complies with all the applicable laws and regulations;

Where the organization or individual permitted to explore for Minerals fails to submit an application for a Mineral Mining licence in respect of the explored area within six months from the expiry of the Mineral exploration licence, a new exploration licence or a Mineral Mining licence for the area may be issued to another organization or individual.

2. A mining licence may be issued in respect of an explored area to an organization or an individual satisfying the conditions stipulated in this Law in accordance with clauses 1 and 2 of article 5 and articles 13 and 14 of this Law provided that no Mineral Exploration or Mining activities are being legally conducted by any organizations or individuals in such area;

3. The duration of a Mineral Mining licence shall be based upon the Mineral Mining feasibility study of each particular project but shall not exceed thirty years and may be extended in accordance with the regulations provided by the Government; the total extension period shall not exceed twenty years;

4. In the case where a foreign organization or individual or a joint venture with a foreign party applies for a Mineral Mining licence, the Mineral Mining licence shall be issued at the same time as or subsequent to the issuance of an investment licence in accordance with the Law on Foreign Investment in Vietnam;

Article 32. (Rights of organizations or individuals permitted to mine minerals) Organizations or individuals permitted to mine Minerals shall have the following rights:

1. Use State data and information on mineral resources in relation to the mining purposes and the area covered by the mining licence in accordance with the law;
2. Carry out Mineral Mining or Processing activities in accordance with the terms of the licence; explore within the area covered by the mining licence;
3. Store, transport and market inside Vietnam or export the Minerals exploited in accordance with the law;
4. Apply for renewal or surrender of the mining licence or relinquish the mining area part in accordance with the regulations provided by the Government;
5. Transfer to other organizations or individuals the mining right in accordance with the regulations provided by the Government;
6. In respect of an individual permitted to mine Minerals, bequeath the mining right in accordance with the law,
7. Mine Minerals associated with the main Minerals provided that all obligations in relation to the mining of such associated Minerals are fulfilled - in accordance with the regulations provided by the Government;
8. Lodge a complaint or initiate legal action against a decision to withdraw a Mineral Mining licence or other decisions of State bodies in accordance with the law;
9. Be entitled to other related rights in accordance with this Law.

Article 33. (Obligations of organizations and individuals permitted to mine minerals) Organizations and individuals permitted to mine Minerals shall have the following obligations.

1. Pay licence fees, pay fees of the use of State information and data on mineral resources, pay royalties and fulfill other financial obligations in accordance with the law;

2. Ensure the progress of capital construction of the mine and production activities in accordance with the approved Mineral Mining feasibility study and mine designs;
3. Exploit mineral resources to the maximum economical extent possible, protect mineral resources ensure occupational safety and labour hygiene; apply measures to protect the environment in accordance with the approved environmental impact assessment report;
4. Collect and file data and information on mineral resources, report the results of Mineral Mining activities to the State Managing Body of Minerals and report other activities to competent State bodies in accordance with the law;
5. Register the date of commencement of capital construction of the mine and the date of commencement of production activities with the State Managing Body of Minerals; notify the People's Committee of the province where the mine is located of the Mineral Mining plan prior to the implementation thereof,
6. Fulfill obligations for guaranteeing the interests of the local people where the Minerals are mined in accordance with clause 2 of article 7 of this Law;
7. Pay compensation for damage caused by mining activities;
8. Create favourable conditions for scientific research authorized by the State within the mining area; for the construction of transportation works, water pipelines, power transmission lines and communication lines across the mine as authorized by the competent State authority provided that the legitimate rights and interests of the organizations and individuals permitted to mine Minerals shall be honoured;
9. Furnish, before the expiry of the Mining licence, a final report on the results of the Mineral Mining activities to the State Managing Body of Minerals; close the mine, rehabilitate the environment, ecology and land upon the expiry of the Mineral Mining licence in accordance with clauses 2(b)(c) and (d) of Article 40 of this Law;
10. Comply with regulations in relation to administrative management, social order and security;
11. Fulfill other related obligations in accordance with the provisions stipulated in this Law.

Article 34. (Royalty)

1. The amount of royalty shall be calculated on the basis of the actual commercial Mining output and its selling price.
2. Rates of royalty and their range as well as payment and collection of royalty shall be provided for in legislation in relation to taxation.

Article 35. (Occupational safety and labour hygiene in mineral mining activities)

1. Organizations and individuals permitted to mine Minerals and all other people working in mines must comply with the provisions of the law in relation to occupational safety and labour hygiene.
2. Labour rules in a mine shall be prepared and issued in accordance with the provisions of the law on labour. Regulations relating to occupational safety and labour hygiene must be in accordance with standards, criteria, and processes related to occupational safety and labour hygiene issued by the competent State bodies.
3. In threat of an adverse event relating to occupational safety, the Mine Manager shall immediately apply necessary measures to eliminate the possible causes of such event;

Upon the occurrence of any adverse event relating to occupational safety, the Mine Manager must apply emergency measures in order to eliminate the causes of such event; render first aid and evacuate people from the dangerous area; promptly report the event to the competent State authority; protect the assets and keep intact the site in accordance with the law.

4. Local authorities, state bodies, economic entities, socio-political organizations, social organizations, units of the People's armed forces and all citizens shall be responsible for assisting in rendering first aid and remedying the consequences of an adverse event relating to occupational safety occurring in a Mining area.
5. Organizations and individuals permitted to mine Minerals must comply with the regulations on regular and ad hoc reporting on occupational safety and labour hygiene in Mineral Mining activities in accordance with the law.

Article 36. (Mine manager)

1. The mine manager appointed by the organization or individual permitted to mine Minerals shall directly manage Mineral Mining activities and shall be responsible for the tasks delegated to him in accordance with the law.

The mine manager shall have professional qualifications and Mining management capability.

2. Organizations and individuals permitted to mine Minerals shall notify in writing the State Managing Body of Minerals of the professional qualifications and management capability of the mine manager.

The State Managing Body of Minerals may not accept and request the organization or individual permitted to mine Minerals to change a mine manager who is considered to be incapable of carrying out his duties.

3. No Mineral Mining activities may be conducted without a mine manager.

Article 37. (Mineral mining feasibility study, mine design)

1. A Mineral Mining feasibility study and mine design must be evaluated and approved in accordance with the regulations provided by the Government.

2. Mine design must be in conformity with the Mineral Mining feasibility study and the environmental impact assessment report. The organization or individual permitted to mine Minerals must submit the mine design to the State Managing Body of Minerals prior to commencement of the construction work.

3. In case of any change from the feasibility study report or mine design during the Mining process, the organization or individual permitted to mine Minerals must promptly so notify to State Managing Body of Minerals for consideration and decision.

Article 38. (Mine status maps) The mine status maps shall be kept at the mine site. Organizations and individuals permitted to mine Minerals must submit the mine status map together with a report on the Mineral Mining activities to the State Managing Body of Minerals on a regular basis as stipulated by the Government or upon request.

Organizations and individuals permitted to mine Minerals shall be responsible for the accuracy and completeness of the mine status maps.

Article 39. (Withdrawal of a mineral mining licence) A Mineral Mining licence shall be withdrawn upon the occurrence of any of the following circumstances:

1. The organization or individual permitted to mine Minerals fails, without sound reasons, to commence capital construction of the mine within 12 months from the date upon which licence takes effect;
2. The organization or Individual permitted to mine Minerals fails, without sound reasons, to commence production activities within 12 months from the proposed date of commencement of the production activities as defined in the approved Mineral Mining feasibility study report;
3. The organization or individual permitted to mine Minerals breaches any provision in Article 33 of this Law and fails to remedy such breach within a period of time stipulated by the Government from the date of written notice from the State Managing Body of Minerals;
4. The area covered by the Mineral Mining licence is determined as an area where mineral activities are prohibited or temporarily prohibited in accordance with clause 2 of article 14 of this Law;
5. The individual permitted to mine Minerals dies without an heir to inherit the mining right or the organization permitted to mine Minerals is dissolved or bankrupt without a successor organization or individual to take over its rights and obligations.
6. The validity of the investment licence of the foreign organization or individual terminates.

Article 40. (Invalidation of a mining license)

A mining license shall be invalidated in the following cases:

- a/ It is withdrawn;
- b/ It expires;
- c/ It is returned.

2. Upon the invalidation of the mining license;

a/ All rights relating to the mining license shall also terminate;

b/ All projects and equipment for mine safety and environmental protection located in the area covered by the license shall belong to the State, removal or destruction thereof is prohibited;

c/ Apart from the assets stated in Point b of this Clause, within the time limit stipulated by the Government the organizations or individuals holding mining licenses must move all the assets of their own and of related parties out of the area specified in the mining license; After this deadline, all the remainder of assets shall come under State ownership;

d/ Within the time limit stipulated in Point c of this Clause, the organizations or individuals holding mining licenses shall have to fulfill all obligations relating to the closure of the mine, restoration of the environment and the land in accordance with provisions of this Law and other stipulations of law.

Article 41. (Mining of common construction materials) The mining of minerals to be used as common construction materials shall also be carried out in accordance with the provisions on mineral mining of this Law.

The Government shall provide for the list of minerals classified as common construction materials and the cases where the license for mining is not required.

Article 42. (Mining of mineral water, natural thermal water)

1. Apart from their observance of other provisions of this Law, the organization or individual licensed to mine mineral water, natural thermal water shall have to apply measures to protect water sources from pollutions; periodically monitor the situation, check the quality of the water sources and take prompt measures to deal with any adverse changes; and refrain from mining beyond the volume permitted.

2. The mining of mineral water or natural thermal water for the purpose of medical treatment, health care and refreshment shall be approved by a competent medical body.

Article 43. (Mining of precious, rare, special and hazardous minerals) The mining of precious, rare, special and hazardous minerals shall be carried out in accordance with the provisions of this Law and other laws.

The Government shall provide for the list of precious, rare, special and hazardous minerals.

Section 2

Mineral processing

Article 44. (Processing license) An organization or individual involved in mineral processing shall have to apply for a processing license, except cases where processing activities are associated with the licensed mining activities.

The issuance and withdrawal of the processing license shall be provided for by the Government.

Article 45. (Rights of the organizations or individuals licensed to process minerals) The organizations or individuals licensed to process minerals shall have the following rights:

1. To purchase the minerals which are extracted legally; import equipment, technology, materials in direct service of the processing activities; carry out processing activities in accordance with the terms and conditions of the license;
2. To store, transport, market inside the country and export the processed minerals in accordance with the provisions of law;
3. To apply for extension or return of the license, transfer of the mineral processing right to other organizations or individuals in accordance with the provisions of the Government.
4. To legate the mineral processing right in accordance with law in case the license holders are individuals;
5. To make a complaint, file a lawsuit against a license withdrawal decision or other decision by the competent State body as prescribed by law;
6. To enjoy other related rights in accordance with the provisions of this Law.

Article 46. (Obligations of the organizations or individuals licensed to process minerals) The organizations or individuals licensed to process minerals shall have the following obligations:

1. To pay license fees, taxes and other financial obligations in accordance with law;
2. To retrieve to the maximum the useful components of minerals;
3. To apply technology and implement measures to minimize the adverse impacts on the environment, living environment in accordance with the provisions of law on environmental protections;
4. To ensure labor safety, labor hygiene;
5. To compensate for any damage caused by the processing activities;
6. To submit a report on the processing activities to the State Mineral Administrations; to send a report on other activities to the competent State body as provided for by law;
7. To observe all regulations on administrative management, social order and security;
8. To fulfill all other related obligations in accordance with the provisions of this Law.

Article 47. (Processing of precious, rare, special and hazardous minerals) The processing of precious, rare, special and hazardous minerals shall be carried out in accordance with the provisions this Law and other regulations of laws.

Article 48. (Encouragement to develop local mineral processing industry)

1. The State shall adopt preferential policies to encourage the investment in:
 - a/ Projects to process minerals into pure materials and products; on-site processing projects;

b/ Projects in which the mineral mining and processing are part of a production chain and materials made from minerals are used to produce items for home consumption and export.

c/ Projects for manufacturing mineral processing equipment suited to the practical conditions of Vietnam and the requirements of advanced processing technology.

2. The Government shall periodically readjust the export and import of minerals; restrict the import of materials which could be manufactured from domestic minerals so as to encourage the development of local mineral processing industry.

Section 3.

Full extraction

Article 49 (Full extraction) Full extraction means a form of extracting minerals under circumstances in which investment in industrial extraction is inefficient in areas where minerals lie scattered and the mining areas are located in mines subject to close-down decisions; or non-industrial mining of minerals for common construction materials.

The State Mineral Administration shall mark off the areas for full extraction.

Article 50. (The full extraction) The full extraction license shall be granted only to Vietnamese organizations or individuals; priority shall be given to the organizations or individuals that reside permanently in the locality where minerals are discovered; the license shall not be issued for full extraction in areas where legal exploration or mining activities are being conducted and areas permanently or temporarily banned from mineral activities as provided for in Clause 1, Article 14 of this Law.

The duration of a full extraction license shall not exceed three years and can be extended in accordance with Government provisions, but the total extension shall not exceed two years.

Article 51. (Rights of the organizations or individuals holding full extraction licenses) The organizations or individuals licensed for full extraction shall have the following rights:

1. To carry out extraction in accordance with the terms and conditions specified in the license and specific conditions for full extraction as stipulated by the Government;
2. To store, transport, process and market the extracted minerals in accordance with law;
3. To apply for extension or return of the full extraction license;
4. To make a complaint or file a lawsuit against a license withdrawal decision other decision by State bodies as provided for by law.

Article 52. (Obligations of organizations or individuals holding full extraction licenses) The organizations or individuals licensed for full extraction shall have the following obligations;

1. To pay license fees, mineral resource taxes and other financial obligations as provided for by law;
2. To compensate for any damage caused by the mining activities;
3. To restrict damage and losses caused to mineral and other resources; protect the environment, ecology and infrastructural works;
4. To apply measures to ensure labor safety and hygiene in mining activities;
5. To adhere to regulations on administrative management and social order and security;
6. To record and keep all the results of the mining, processing and marketing activities;
7. To create favorable conditions for scientific researches with State authorization within the mining areas.

Article 53. (Withdrawal of full extraction license)

A full extraction license shall be revoked in the following cases;

- a/ The organization or individual licensed for full extraction fails to fulfill the obligations specified in Article 52 of this Law;

b/ New mineral resources are discovered while the mining areas are no longer suitable to the full extraction form and conditions;

c/ The full-extraction areas are declared benned or temporarily banned from mineral activities as provided for in Clause 2, Article 14 of this Law;

2. When a full extraction license is revoked or expires, the organization or individual concerned shall have to move all their properties out of the mining area, rehabilitate the environment, ecology and land.

1. In case a full extraction license is revoked in accordance with the provisions in Points b and c, Clause 1 of this Article, the organization or individual holding full extraction license is entitled to reasonable compensation for the losses as provided for by the Government.

CHAPTER VII

STATE MANAGEMENT OF MINERALS

Article 54. (Tenets of State management of minerals) The State management of minerals includes;

1. Formulating strategies, plans and policies related to the protection and rational, economical and efficient use of mineral resources and development of the mineral mining and processing industry;

2. Promulgating legal documents regarding mineral resources and organizing their implementation;

3. Issuing, extending or withdrawing mineral licenses; authorizing the transfer, inheritance of the right to mineral activities and the return of mineral licenses; registering basic geological surveys of mineral resources and mineral activities;

4. Appraising, approving, evaluating projects, reports, and mine designs with regard to mineral activities;

5. Checking, inspecting basic geological survey activities with regard to mineral resources, mineral activities;

6. Adopting policies in respect of the people in localities where minerals are extracted, processed, and where hazardous minerals are found;

7. Applying measures to protect mineral resources;

8. Keeping and protecting documents and State secrets on mineral resources;

9. Training scientific workers and managerial cadres for mineral activities, disseminating, popularizing and guiding the implementation of the Law on minerals;

10. Promoting international cooperation in the field of basic geological survey of mineral resources and mineral activities;

11. Settling disputes, complaints or denunciations arising from the mineral activities and dealing with breaches of the Law on minerals within the respective jurisdiction.

Article 55. (Competence of State management of minerals) The Government shall, within its duties and powers, perform the unified State management of minerals throughout country.

The Ministry of Industry shall assume the function of State management of minerals. The Ministry of Industry, the concerned Ministries, ministerial-level Agencies, Agencies attached to the Government and People's Committees at all levels shall, within their duties and powers, have to coordinate their efforts in exerting State management over minerals.

The Mineral Reserves Evaluation Council shall assist the Government to appraise, consider and approve the mineral reserves. The organizational structure and operation of the Council shall be stipulated by the Government.

The People's Committees at all levels shall perform the function of State management of minerals in their respective locality in accordance with the provisions of this Law and the assignment of authority by the Government.

The organizational structure, duties and powers of the mineral management agencies of the Ministry of Industry and People's Committees at various levels shall be stipulated by the Government.

Article 56. (Authority, procedures for issuing, extending and withdrawing mineral licenses)

1. The assignment of authority to issue, extend and withdraw a mineral license must ensure the uniform and centralized management of the

Government over minerals, on the basis of the character of each type of mineral as well as the duties and powers of the State agencies at central and local levels.

2. The authority to issue, extend, and withdraw mineral licenses and procedures for issuing, extending, withdrawing and returning mineral licenses, transferring and inheriting the right to mineral activity, registration of mineral activities shall be stipulated by the Government.

Article 57. (Settling disputes arising from mineral activities) All disputes in mineral activities shall be settled as follows;

1. The agency vested with the authority to issue a mineral license shall be authorized to settle disputes over the right to mineral activities arising from the use of such mineral license; in case of disagreement with the decision of the dispute settling agency, a complaint or a lawsuit can be filed to the competent State body in accordance with law;

2. Other disputes arising from mineral activities shall be dealt with in accordance with the assigned authority and the procedures stipulated by law.

CHAPTER VIII

THE SPECIALIZED MINERAL INSPECTORATE

Article 58. (The specialized mineral inspectorate) The State Mineral Administration shall perform the function of specialized mineral inspection. The organizational structure and operations of the specialized mineral inspectorate shall be stipulated by the Government.

Article 59. (Duties of the specialized mineral inspectorate) The specialized mineral inspectorate shall have the following duties:

1. To check, inspect the observance of the regulations on:

a/ Contents of the mineral licenses;

b/ Keeping State secrets relating to mineral resources;

c/ The protection and rational use of mineral resources;

d/ The rights and obligations of the organizations or individuals entitled to mineral activities;

2. To coordinate with the State labor inspectorate and the specialized environmental protection inspectorate in executing the tasks of checking, inspecting labor safety, labor hygiene and environmental protection in mineral activities;

1. To coordinate with the inspectorate of the ministries, services and localities in mineral inspection.

Article 60. (Authorities of the specialized mineral inspectorate) In the course of inspection, an Inspection Team and the Inspectors shall be entitled to:

1. Demand the concerned organizations or individuals to furnish documents or answer necessary questions;

2. Investigate, collect evidence and documents relating to the contents and objects of the inspection and carry out on-site technical examination measures;

3. Decide to suspend the unlicensed mineral activities; temporarily suspend, in emergency cases, activities that threaten to cause a serious accident to human beings or severe losses to mineral resources or damage to the environment; and at the same time promptly report to the competent State body for decision, or petition the competent State body to suspend such activities;

4. Handle, within their competence, or petition the competent agency to deal with any breach of the mineral law.

The Inspection Team and Inspectors shall be responsible before law for their decisions.

Article 61. (Liabilities of the organizations and individuals towards activities of the specialized mineral inspectorate)

1. All organizations and individuals shall have the responsibility to create conditions for the Inspection Team and Inspectors to discharge their tasks;

2. Organizations or individuals subject to inspection shall have to obey any decision made by the Inspection Team or Inspectors.

Article 62. (Right to make complaint, denunciations and to file lawsuits)

1. An organization or individual subject to inspection shall be entitled to make a complaint or file a lawsuit against any decision made or measures taken by the Inspection Team or Inspectors.

2. All organizations and individuals shall be entitled to denounce to competent State agencies any acts of breach of the mineral law committed by any organizations or individuals.

The agency receiving such complaints, denunciations or lawsuits, shall have to look into them and settle the case in time in accordance with law.

CHAPTER IX

REWARDS AND HANDLING OF BREACHES

Article 63. (Rewards) All organizations or individuals with meritorious deeds in studying, discovering and protecting the mineral resources shall be rewarded in accordance with provisions of law.

Article 64. (Handling of violations)

1. A person who discloses State secrets on mineral resources, carries out mineral activities without licences, obstructs the protection of mineral resources, hinders legal mineral activities of other organizations or individuals, hinders mineral examination inspection, or breaches other provisions of this Law, shall, depending on the seriousness of the violation, be subject to administrative sanctions, discipline or examination for penal liability; in case of losses, shall be subject to compensation in accordance with provisions of law.

2. A person who takes advantage of his position or power to violate regulations on issuance of mineral license or other provision of this Law shall, depending on the seriousness or the breach, be subject to administrative sanction, discipline or examination for penal

liability; in case of losses, shall be subject to compensation in accordance with provisions of law.

CHAPTER X

IMPLEMENTATION PROVISIONS

Article 65. (Implementation provisions)

1. The rights and obligations of the organizations or individuals granted mineral licenses prior to the effective date of this Law, and such licenses are still valid and not subject to prohibition as provided for by this Law, shall be applied in accordance with the terms and conditions of such mineral licenses, except cases where the organizations or individuals comply voluntarily with the provisions of this Law.
2. This Law shall also apply to mineral activities carried out in Vietnam by foreign organizations and individuals, except otherwise stipulated by the international treaty which Vietnam has signed or acceded to.
3. All previous provisions which are contrary to this Law shall be annulled.
4. The Government shall make detailed provisions for the implementation of this Law.

Article 66. (Enforcement)

This Law takes effect on September 1st, 1996.

This Law was passed by the IXth National Assembly of the Socialist Republic of Vietnam, 9th Session, on March 20, 1996.

THE CHAIRMAN OF THE NATIONAL ASSEMBLY

NONG DUC MANH

Hanoi, 1 November 1996
DECREE OF THE GOVERNMENT
Providing detailed Regulations for the Implementation of the Mineral Law
Pursuant to the Law on Organization of the Government dated 30 September 1992;

Pursuant to the Mineral Law dated 20 March 1996;

Upon the proposal of the Minister of Industry,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. This Decree provides detailed regulations for the implementation of the Mineral Law approved by the National Assembly of the Socialist Republic of Vietnam on 20 March 1996.

Article 2. The provisions of this Decree shall apply to the management, protection and basic geographical surveys of mineral resources and all mineral activities (mineral prospecting, exploration, exploitation, processing) conducted by Vietnamese and foreign organizations or individuals in Vietnam.

CHAPTER II

AUTHORITY OF STATE MANAGEMENT OF MINERALS

Article 3.

1. The Ministry of Industry shall exercise the State management functions on minerals throughout the country and shall have the following rights and duties:

a. Prepare and submit to the Government for issuance of, issue within its authority, legal documents in relation to management, protection and basic geological survey of mineral resources and mineral activities;

b. Organize and formulate planning, development plans for basic geological survey of mineral resources throughout the country.

Co-ordinate with relevant ministries and sectors at the central level, People's Committees of provinces or cities under central authority to formulate and submit to the Government for decision strategies, plans and policies of mineral resources and development plans for the mineral exploitation and processing industry;

c. Conduct the appraisal, assessment of schemes, mineral prospecting and feasibility study reports in relation to minerals exploitation, mineral processing and mine designs in accordance with provisions as stipulated in this Decree;

d. Issue, extend, withdraw and approve the return of mineral licenses and permit assignment of the right to conduct mineral activities in accordance with provisions as stipulated in this Decree;

e. Propagandize, disseminate, guide and inspect branches, localities, organizations and individuals in respect of implementation of the laws on minerals; conduct mineral specialized inspections in accordance with provisions as stipulated in Articles 58, 59 and 60 of the Mineral Law; supervise and inspect the basic geological survey activities of mineral resources;

f. Deal with disputes, claims or denunciation in relation to mineral activities within its authority as stipulated in Articles 57 and 62 of the Mineral Law;

g. Manage international co-operation activities relating to basic geological surveys of mineral resources and mineral activities;

h. Register, supervise, assess and put together results of basic geological surveys of mineral resources and the situation of mineral activities nationwide and submit periodical reports to the Government;

i. Coordinate with People's Committee of provinces and cities under central authority and relevant Ministries and branches to protect the unexploited mineral resources.

2. The Government shall provide specific regulations for the organizational system, duties and power of the State management authorities in charge of geology and minerals under the Ministry of Industry.

Article 4.

1. Ministries, ministerial-level organizations and Government organizations (hereinafter collectively referred to as Ministries) shall co-ordinate with Ministry of Industry to carry out the management, protection of mineral resources and activities in accordance with their respective functions, duties and authority.
2. Ministries in charge of State management over business, production and utilization of minerals shall be responsible to:
 - a. Make the initiatives to co-ordinate with the Ministry of Industry, relevant Ministries and branches at the central level and People's Committee of provinces and cities under central authority to formulate and submit to the Government for decision strategies, development planning and plans of the exploitation, processing, utilization of mineral resources, including the mineral import and export relating to the respective administrative functions of the Ministries;
 - b. Co-ordinate with Ministry of Industry to formulate and submit to the Government for issuance or issue with its authority of regulations providing guidance on exploitation, protection and utilization of mineral resources relating to their respective administrative functions of the Ministries;
 - c. Direct and monitor the implementation of strategies, policies, plans and laws on mineral resources of organizations under the direct management of the Ministries;
 - d. Co-ordinate with the Ministry of Industry in the implementation of other duties in relation to the State management over basic geological surveys of mineral resources and activities relating to their respective administrative functions of the Ministries.

Article 5. The Ministry of Planning and Investment, the Ministry of Science, Technology and Environment and Ministry of Industry shall, within their respective relevant functions, co-ordinate and uniformly control the international cooperation in respect of mineral activities. The Ministry of Industry shall take the leading role in co-ordination with the

Ministries, branches at central level and People's Committees of provinces, cities under central authority which are focal organizations to carry out the State management of mineral activities conducted by the foreign organizations, individuals in Vietnam.

Article 6. The Mineral Reserve Evaluation Council based in the Ministry of Science, Technology and Environment shall assist the Government in the evaluation, approval of reserves in mineral exploration reports (excluding minerals used for common construction materials) in order to carry out feasibility study on exploitation. The Government shall provide specific regulations for the organization and operation of the Mineral Reserve Evaluation Council.

Article 7.

1. People's Committees of provinces or cities under central authority (hereinafter referred to as the Provincial People's Committee), in accordance with their respective functions, duties and powers, shall:

a. Promulgate within their respective authority the regulations providing guidance on the implementation of the provisions of the Government and the Ministry of Industry in relation to management, protection of mineral resources and management of mineral activities in their localities;

b. Co-ordinate with the Ministry of Industry, Ministry of Planning and Investment, Ministry of Construction, Ministry of National Defense, Ministry of Interior, Ministry of Culture and Information, Ministry of Agriculture and Rural Development to define the areas where mineral activities are prohibited, formulate development plans for the exploitation and mineral processing industry in their respective localities;

c. Conduct and direct the implementation of protection measures of unexploited mineral resources in respective localities, in combination with the protection of environment and other natural resources, assurance of social security and order, lives and health of the people and properties of the State and citizens;

d. Carry out the evaluation and approval of feasibility study reports in relation to mineral exploitation, processing and mine designs in accordance with provisions as stipulated herein;

e. Issue, extend or withdraw licenses for exploitation of minerals used for common construction materials and licenses for full exploitation within its authority as stipulated in this Decree; contribute opinions on the issuance of other licenses concerning local mineral activities; within their respective responsibility and power, deal with conditions relating to the land lease, infrastructure use and other related conditions for organizations and individuals permitted to carry out mineral activities, basic geographical surveys of mineral resources in localities;

f. Propagandize, educate, supervise and examine the implementation of the mineral laws of local organizations and individuals;

g. Settle or participate in the settlement of all disputes arising from mineral activities and deal with breaches of the mineral law in the locality in accordance with its delegated power as stipulated in Article 57 of the Mineral Law and other legal regulations.

2. The Department of Industry, shall assist the Provincial People's Committee to carry out the State management functions on minerals in accordance with the provisions of the Mineral Law and this Decree. The Minister of Industry shall provide duties and power of the State management on minerals of the Department of Industry.

Article 8. The People's Committees of districts, cities under the authority of provinces, towns, and communes (hereinafter referred to as wards and communes), subject to their functions, duties and authorities, shall have:

1. Take measures for protection of local unexploited mineral resources, in combination with protection of environment, other natural resources, social security and order, lives and health of the people and properties of the State and citizens;

2. Within their respective scope of responsibility and power, deal with conditions relating to land lease, use of infrastructure and other relevant conditions for organizations and individuals permitted to carry out mineral activities, basic geological surveys of mineral resources in their localities in accordance with provisions of the laws and guidelines of the Provincial People's Committee;

3. Propagandize, educate and supervise the observance of the laws on mineral resources; participate in settling disputes arising from mineral activities and deal with breaches of the laws on mineral resources arising in their locality within their delegated power.

Article 9. Authority to issue, extend, withdraw and approve of the return of licenses for mineral activities, and to allow assignment of the right to carry out mineral activities shall be as follows:

1. The Ministry of Industry shall grant the following licenses:

- Mineral prospecting licenses;
- Mineral exploration licenses;
- Exploitation licenses, mineral processing licenses of all kinds, except for exploitation licenses and mineral processing licenses under authority of the provincial People's Committees as stipulated in clause 2 of this Article;
- Exploitation licenses, mineral processing licenses for common construction materials issued for the boundary areas of two or more provinces or in case of issuance for foreign organizations and individuals or joint ventures with foreign parties.

2. The Provincial People's Committee shall grant the following licenses to the areas subject to the local administrative responsibility:

- Full mineral exploitation licenses of all kinds for the areas delineated by the Ministry of Industry as stipulated in Article 66 herein;
- Mineral exploitation licenses, mineral processing licenses for the utilization of common construction materials and peat coal for local organizations and individuals, except for mineral exploitation licenses and processing licenses subject to the issuance authority of the Ministry of Industry as stipulated in clause 1 of this Article.

3. If the competent authorities grant any kinds of licenses for mineral activities, they shall be entitled to extend, withdraw, approve of the return of such kinds of licenses and allow the

transfer of rights to carry out mineral activities subject to such kinds of licenses.

Chapter III

BASIC GEOLOGICAL SURVEYS OF MINERAL RESOURCES

Article 10. The basic geological surveys of mineral resources shall contain of the following activities:

1. Prospecting and discovering the potential of mineral resources concurrently with the preparation of regional geological maps and carrying out geological studies.
2. Evaluating the potential of mineral resources subject to kinds or categories of minerals and prospective geological structures.

Article 11. The basic geological surveys of mineral resources shall be implemented in accordance with the State planning and plans.

The Ministry of Industry shall submit to the Government the planning and plans of basic geological surveys of mineral resources. The Ministry of Planning and Investment shall evaluate and submit the same to the Government for approval.

The Ministry of Finance and the Ministry of Industry shall formulate Regulations on the issuance, management, accounting of the State Budget for basic geological surveys of mineral resources and submit the same to the Government for issuance.

Article 12. Organizations in charge of basic geological surveys of mineral resources shall have the following rights and obligations:

1. To register duties and plans of geological survey activities in accordance with the regulations provided by the Ministry of Industry.
2. To carry out basic geological surveys of mineral resources in accordance with approved projects and assigned plans.

3. To comply with procedures, regulations, technical and economic norms in geological surveys promulgated by the Ministry of Industry.
4. To insure the authenticity and adequacy in collection and combination of documents and information of geology and minerals; to keep the State confidential information relating to minerals in accordance with provisions of the laws.
5. To protect the environment, mineral resources and other natural resources while carrying out basic geological surveys.
6. To report results on basic geological surveys of mineral resources and the State geological archives and to submit mineral and geological samples to the geological museum in accordance with regulations provided by the Ministry of Industry.
7. To be rewarded by the State when achievements are obtained in studies and new findings in relation to geology and mineral resources.
8. To be permitted to send specimens abroad for analysis and testing in accordance with the Government regulations.

Article 13. All reports on results of basic geological surveys of mineral resources shall be evaluated, registered and filed at the State geological archives in accordance with regulations of the Ministry of Industry.

The State geological archive body shall be responsible for keeping the State mineral resources confidential, facilitating all organizations or individuals permitted to use the results of basic geological surveys of mineral resources, information and data concerning minerals in accordance with regulations of the Ministry of Industry.

Article 14. The Ministry of Industry shall provide detailed regulations on project contents of the basic geological surveys of mineral resources; the State registration of duties and plans for basic geological surveys of mineral resources, the State geological archives and geological museum, guidelines for the implementation of legal documents, norms, unit costs for basic geological surveys of mineral resources.

CHAPTER IV

ORGANIZATIONS AND INDIVIDUALS ENGAGED IN MINERAL ACTIVITIES

Article 15. Organizations and individuals permitted to engage in mineral activities in accordance with the Mineral Law shall include:

1. Vietnamese organizations satisfying the conditions in accordance with regulations of the Law on State Owned Enterprises, Private Enterprise, Share-holding Companies, Limited Liability Company, Cooperatives and other economic organizations, whose establishment objectives contain the mineral activities, shall be established, authorized to be established, registered or recognized by the competent State authority;
2. Foreign organizations and individuals or joint-venture enterprises with foreign parties operating in Vietnam in accordance with the Law on Foreign Investment in Vietnam.

Article 16. Organizations and individuals stated in Article 15 of this Decree applying for the issuance of licenses for mineral activities must have sufficient invested capital (including borrowings) to implement the project. The legal capital of organizations and individuals permitted to exploit minerals shall not be less than thirty percent (30%) of the total estimated invested capital of the project applying for the mineral exploitation license.

Article 17. Organizations and individuals involved in mineral exploration must have technical equipment and specialized expertise in accordance with the regulations of the Ministry of Industry.

Article 18. Organizations or individuals licensed to exploit minerals may carry out exploitation activities prescribed in the license only when having a mine executive manager with qualifications and management capability who is appointed and recognized in accordance with Article 36 of the Mineral Law, in case of exploiting mineral water, natural thermal water or full exploitation, the Ministry of Industry shall provide for appropriate regulations.

The Minister of Industry shall make provisions on the qualifications, standards and capability of the mine executive manager.

CHAPTER V

AREAS, SIZES AND DURATION OF MINERAL ACTIVITIES

Article 19. Areas prohibited to carry out mineral activities shall be the areas which must be protected or exclusively reserved for important purposes of the State or society in accordance with provisions of the laws.

1. Areas in which mineral activities are prohibited shall include:

- Areas with historical and cultural relics which are classified and registered;
- Areas of national forests and protective forests; geological preserve areas;
- Areas exclusively used for purposes of national defense and security;
- Areas of dike protection, embankment, river banks, bridges, highways and railways;
- Areas reserved for religious activities;
- Urban areas or areas with important infrastructure structures.

2. The Ministries of National Defense, Interior, Culture-Information, Agriculture and Rural Development shall, within their respective functions, duties and delegated powers, be responsible for co-ordination with the People's Committee of provinces and cities to define boundaries of areas where mining activities are prohibited within the administrative scope of each province. The Chairman of the Provincial People's Committee shall submit to the Government for decision and notify the Ministry of Industry in writing of such prohibited areas.

3. For areas where mineral activities are temporarily prohibited due to any reasons as stipulated by the law, the competent State bodies in charge of such areas shall notify the Ministry of Industry and the Provincial People's Committee in writing.

4. The underground mineral exploitation in the prohibited areas without using the earth surface shall also be approved in writing by the competent State bodies in charge of such areas.

Article 20. Areas in which mineral activities are restricted shall be the areas restricted by the State plans in one of the following forms:

- Reserving for one or more certain State organizations to exclusively carry out mineral activities;
- Restricting the exploited output;
- Restricting the export of exploited products.

The Government shall provide specific regulations in writing for the areas in which mineral activities are restricted.

Article 21. Areas subject to bidding for mineral activities shall include the following:

- Areas containing minerals for which the exploration and exploitation are subject to bidding as stipulated by the Government;
- Areas or mineral deposits which have been explored by the State budget but now are subject to bidding or to choose bidders for conducting the mining activities.

Article 22.

1. The prospecting area granted a permit for mineral exploration demarcated subject to square coordinates shall not exceed two thousand square kilometers (2000 km²), not restricting the prospected minerals in the area. In special case of requiring the area of more than 2000 km² the Ministry of Industry must submit to the Government for consideration and decision prior to the issuance of such licenses.

2. Mineral prospecting permits may be granted to a number of organizations and individuals in the same area. Organizations and individuals applying for exploration or exploitation first and in accordance with the provisions of laws shall be considered first.

Article 23.

1. The duration of a mineral prospecting permit shall not be more than twelve (12) months.

2. A prospecting permit for an area of over hundred square kilometers (100 km²) may be extended once for a period of no more than twelve (12) months provided that it is the time applying for such extension:

- No organizations or individuals submitted the application for prospecting in such area.
- Organizations and individuals permitted to carry out the exploration has completed all their obligations in accordance with regulations stipulated in the previous license;
- The mineral prospecting permit remains valid for no less than thirty days;
- Organizations and individuals permitted to prospect minerals must submit reports on mineral surveys to the Ministry of Industry clearly stated the reasons for such extension, further prospecting plans together with an application for the permit extension.

3. Mineral prospecting permits for areas of less than one hundred square kilometers (100 km²) shall not be extended.

Article 24.

1. The explored area granted a license for prospecting precious metals or minerals shall not exceed fifty square kilometers (50 km²). For special cases requiring more than 50 km², the Ministry of Industry must submit to the Prime Minister for consideration and decision prior to the issuance of such license.

2. The explored area granted a license for prospecting coal and metal minerals (excluding precious metals), non-metallic minerals (excluding common construction materials) in land, with or without water surface, shall not exceed one hundred square kilometers (100 km²). In case of requiring the area of more than 100 km², the Ministry of Industry must submit to the Government for consideration and decision prior to the issuance of such license.

3. The explored area granted a license for prospecting minerals in the continental shelf shall not exceed two hundred square kilometers (200 km²). In case of requiring the area of more than 200 km² the Ministry of Industry must submit to the Government for consideration and decision prior to the issuance of such license.
4. The explored area granted a licence for prospecting minerals used for common construction materials in land, with or without water surface shall not exceed two square kilometers (2 km²).
5. The explored area granted a license for prospecting mineral water or natural thermal water shall not exceed one square kilometer (1 km²).
6. An organization or an individual satisfying all requirements in accordance with regulations provided in Articles 15 and 16 of this Decree may be granted some exploration licenses, provided that the number of such licenses shall not exceed five (5) licenses and the total exploring areas defined in such licenses shall not exceed 5 times as stipulated in clauses 1, 2, 3, 4 and 5 of this Article.

Article 25. The duration of a mineral exploration license, including the time for preparation of reports on exploration results, feasibility studies on exploitation shall be at least six (6) months and no more than twenty four (24) months and shall be extended subject to the following conditions:

1. At the time of application for extension, organizations or individuals permitted to explore minerals have completed all obligations in accordance with regulations provided in the previous license; the exploration license remains valid no less than thirty (30) days;
2. For each extension, at least, thirty percent (30%) of the explored area subject to the previous license must be relinquished;
3. The application for extension submitted to the Ministry of Industry must be accompanied by a report on exploration results and actual costs, explanation of reasons for such extension, programs, plans and costs for further exploration;
4. The exploration license as stipulated in clauses 1 and 2 of Article 19 herein shall be extended not more than twice, but the total duration of extension shall not exceed twenty four (24) months; Where the exploration license is extended, the total duration of

exploration has covered forty eight (48) months, the organizations or individuals permitted to carry out the exploration have fully implemented or exceeded the work volume and the costs subject to the project but they are still unable to prepare the feasibility study or require some more time to study the feasibility of exploitation, then the exploration license shall be re-granted, provided that such organizations or individuals hereof have appropriate applications.

5. The exploration license as stipulated in clauses 4 and 5 of Article 24 in this Decree shall only be extended once and the duration of extension shall not exceed twelve (12) months.

Article 26. The exploitation area of a mineral license shall be determined on the basis of a feasibility study report relating to the mineral exploitation which has been appraised and approved in accordance with provisions as stipulated in Article 44 herein.

Article 27. The duration of a mineral license shall be determined on the basis of a feasibility study report relating to the mineral exploitation which has been appraised and approved in accordance with provisions as stipulated in Article 44 herein, but not exceeding thirty (30) years, shall be extended in accordance with the following conditions:

1. At the time of application for extension, the organizations or individuals permitted to exploit minerals have fulfilled all obligations in accordance with the regulations provided in the Mineral Law and other provisions of laws.
2. The exploitation license still remains in effect no less than three (3) months
3. The application for extension submitted to the competent body granting licenses must be accompanied by a general report on exploitation results up to the time for extension, areas and reserves of unexploited minerals, programs and plans for further exploitation.
4. The mineral exploitation license shall be extended for many times on the basis of the further exploitation plan, which is approved by the competent body granting licenses, provided that the total duration for extension shall not exceed twenty (20) years.

CHAPTER VI

A NUMBER OF PROVISIONS ON FINANCE AND PROPERTY RIGHTS

Article 28. License fees shall be the fees for issuance or extension of licenses of mineral activities.

The Ministry of Finance shall prescribe rates, procedures for collection, payment, management and use of license fees.

Article 29.

1. Fees for exclusive rights in exploration shall be calculated on the basis of the explored area and the effective duration of the mineral exploration license as follows:

The first year: 200,000 Dong/km²-year

or 20 US\$/km²-year;

The second year: 300,000 Dong/km²-year

or 30 US\$/km² - year;

The third year: 400,000 Dong/km²-year

or 40 US\$/km² - year;

From the fourth year upwards:

500,000 Dong/km²-year

or 50 US\$/km² - year;

2. Fees for exclusive rights shall not be applicable to mineral exploration licenses of which the effective duration, including the extension time, is less than twelve (12) months and not be applicable to exploration activities in the exploitation area of the organizations and individuals who are permitted to exploit.

The Ministry of Finance shall prescribe procedures for collection, payment, management and use fees for exclusive rights.

Article 30. The deposit for mineral exploration licenses shall be paid for one time upon issuance of licenses with the effective duration of over six (6) months; it is not applicable to mineral exploration licenses with the effective duration of less than six (6) months and exploration activities directly funded by the State.

The deposit shall be equivalent to twenty five percent (25%) of the estimated exploration costs for the initial exploration year as specified in the exploration scheme or plan approved by the authority granting the license.

Six (6) months from the effective date of the license, if the exploration work fails to be carried out and the license is invalid, the deposit shall be paid into the State budget.

Six (6) months from the effective date of the license, if the exploration work is carried out as planned, the organizations and individuals permitted to exploit shall be entitled to receive the deposit.

Organizations and individuals permitted to exploit minerals shall have the right to use the form of security deposit issued by a Vietnamese Bank or a Foreign Bank which is permitted to operate in Vietnam in lieu of deposits.

The Ministry of Finance shall prescribe procedures for collection, payment, registration, management of deposits or security deposits for the mineral exploration licenses.

Article 31. The minimum exploration costs calculated in Vietnamese Dong/km² - year or US\$/km² - year shall be the minimum costs for the implementation of technical work for mineral exploration per an exploration area of one square kilometer (1 km²) per annum (12 months from the effective date of the license). The estimated budget for an exploration scheme shall not be less than the minimum exploration cost.

The Ministry of Industry shall prescribe the minimum exploration cost for each specific exploration scheme upon the issuance or extension of the mineral exploration license.

Article 32. For mineral exploration licenses for precious metal and precious stones, regardless of areas and other mineral exploration licenses covering an exploration area of more than one hundred square kilometers (100 km²), and the effective duration is two (2) years (24 months from the effective date of the license), where the actual exploration costs for the

project implementation in a two (2) year period is lower than the minimum estimated costs as prescribed by the Ministry of Industry, then such difference shall be paid into the State budget upon the expiration or extension of the mineral exploration license.

Article 33. Organizations and individuals permitted to exploit minerals must carry out the exploration work and corresponding costs subject to the exploration scheme and plan approved by the Ministry of Industry.

Where the actual exploration costs in the previous year exceeds the estimated costs and planned exploration costs for that year, the excessive amount shall be included in the actual costs in the successive year.

Article 34.

1. Organizations and individuals using the State data and information of results of mineral prospecting and exploration must pay the fees to the State subject to a lump sum or installment according to the exploited output.
2. Organizations and individuals which have paid the fees for using the State information of results of mineral prospecting and exploration on a lump-sum basis, shall have the full rights to use and transfer such information to other organizations and individuals.
3. Organizations and individuals which are paid for the fees using the State information of results of mineral prospecting and exploration on an installment basis, shall have the right to use such information for their exploration activities but not to transfer, sell or disclose such information to other organizations and individuals.

The Ministry of Finance and the Ministry of Industry shall provide methods to determine the value, modes and procedures for the fee payment for using data and information of results of State mineral prospecting and exploration.

Article 35.

1. Organizations and individuals permitted to carry out mineral activities shall have the right to use or transfer information of results of mineral prospecting and exploration where they have fully financed the prospecting and exploration work.

2. Organizations and individuals permitted to carry out mineral activities partly or wholly using State funds for the mineral prospecting and exploration, shall not have the right to provide or transfer the information of results of mineral prospecting and exploration to other organizations and individuals, provided that such information is provided to competent state authorities or organizations responsible for management, use of such information in accordance with the laws.

3. Six (6) months after the expiration of the mineral exploration license, the organization or individual permitted to exploit minerals fails to apply for an exploitation license or six (6) months after the expiration of the exploitation license, organization or individual permitted to exploit fails to apply for extension of the license, the competent state body shall provide the mineral information relating to such licenses to other organizations and individuals.

Article 36. When being allowed to transfer or bequeath the mineral exploration or exploitation right, the organization and individual permitted to explore or exploit minerals shall have the right to transfer or bequeath any assets under his legal ownership, including data, information, geological and mineral specimens, works and equipment which have been erected, constructed or equipped associated with the field.

When the exploitation right is allowed to transfer, the Land Lease Contract shall be re-signed, the procedures for transfer of land use right shall be exempted.

The transfer of State owned properties which are allocated to the organization or individual permitted to explore or exploit minerals shall comply with provisions of the laws.

Article 37. Where the mineral exploration or exploitation license ceases to be valid, the title to assets relating to mineral exploration or exploitation activities shall be in accordance with the provisions in Item b, Clause 2 of Article 30 and Items b and c, Clause 2 of Article 40 of the Mineral Law.

The Ministry of Finance and the Ministry of Industry shall provide methods to determine the value of the transferred assets and the transfer procedures of the organization and individual permitted to explore and exploit minerals to the State where the licenses ceased to be valid in

accordance with the regulations of the Mineral Law and other provisions of the laws.

Article 38. The organization and individual permitted to exploit minerals must carry out security deposit at a Vietnamese bank or a foreign bank permitted to operate in Vietnam for an amount to guarantee the restoration of the environment and the land after the termination of partial operations on each particular area and mine closure.

The level of such security deposit for the environment and land restoration shall be determined on the basis of the process, progress of exploitation and restoration, and the estimated restoration expenses specified in feasibility studies, mine designs and reports on environmental impact assessment which have been appraised and approved by the competent State bodies.

The Ministry of Finance, the Ministry of Industry and the Ministry of Science, Technology and Environment shall provide methods to determine the level of security deposit and provide guidelines on procedures for registration, management and use of security deposit for the environment and land restoration in mineral exploitation activities.

Article 39. The Ministry of Finance shall prepare and submit to the Government for issuance of regulations on allocation and use of the State revenues from mineral activities to carry out the policy of protection of the local people's interests where the minerals are exploited and processed in accordance with the provisions set out in Article 7 of the Mineral Law and to preserve unexploited mineral resources.

Article 40. For mineral mines having strategic roles in socio-economic development plans of the country that have difficulties in raising funds from other sources, the State owned enterprises shall be allowed to borrow concessional credits from the State capital sources to invest in mineral exploration and exploitation; In special cases, the Prime Minister shall make a decision to provide the State funds for the direct investment for the exploration work. The State funds for the investment in mineral exploration must gradually be recovered when the mines are put into operation, if they run into difficulties, they shall be considered for exemption or reduction of capital recovery upon the proposal of the Ministry of Industry and the Ministry of Planning and Investment and the Ministry of Finance.

CHAPTER VII

APPRAISAL AND APPROVAL OF SCHEMES AND REPORTS ON MINERAL ACTIVITIES

Article 41. Organizations and individuals permitted to carry out mineral activities shall have the right to implement or to hire geology and mineral exploitation consultancy organizations and experts with legal status to formulate or appraise schemes, projects, mine designs and mine closure in mineral activities.

Article 42.

1. The Ministry of Industry shall organize the appraisal of mineral prospecting and exploration schemes prior to deciding to issue prospecting or exploration licenses.
2. Contents of schemes to be appraised shall include:
 - Location, boundary and area;
 - Geological features and prospecting and exploration targets (minerals, quantity and levels of research);
 - Technique and technology;
 - Impacts on the ecological environment, natural resources, works and other properties;
 - Duration and operation schedule;
 - Estimated costs.
3. The Minister of Industry shall, based on the appraisal results, approve prospecting and exploration schemes which partly or wholly use the State funds.
4. For projects which do not use the State funds, the approved contents shall be stated in the prospecting or exploration license.

Article 43.

1. All reports on results of the mineral exploration which partly or wholly use the State funds shall be appraised and approved prior to being submitted to the State geological archives or used for feasibility studies of mineral exploitation.

2. Reports on results of mineral exploration which do not use the State funds used for feasibility studies of mineral exploitation shall also be appraised and approved by competent State authorities as set forth in Clause 4 and 5 of this Article.

3. Requirements and contents of the reports on mineral exploration shall include:

- Reliability of quality and quantity of minerals, including associated minerals; detection found in exploration operations resulting in unexploited mineral resources;
- Level and quality of the determination of hydro-geology, geo-engineering features and techniques and technology in relation to the technology used for exploration, processing and reasonable usage of mineral resources;
- Exploration results and investment efficiency (if using the State funds) in comparison with the targets of appraised, accepted and approved projects.

4. The Ministry of Industry shall appraise and approve reports on mineral exploration for common construction materials to be used for exploitation feasibility studies.

5. The Evaluation Council of mineral contents shall appraise and approve the contents of exploration reports used for feasibility studies of mineral exploitation, excluding minerals used for common construction materials.

Article 44.

1. The appraisal and approval of reports on mineral exploitation feasibility studies under domestic investment projects shall comply with regulations of the Charter on Investment Management and Construction issued by the Government.

2. The appraisal of reports on mineral exploitation feasibility studies under foreign direct investment projects shall comply with the Regulations on Formation, Appraisal and Implementation of Foreign Direct Investment Projects issued by the Government.

Article 45.

1. The organizations and individuals conducting the appraisal of mine designs shall have no interests related to the interest of the organizations and individuals preparing the design and shall be responsible before the laws for their appraisal results.

2. The mine designs under mineral exploitation investment projects financed by the State funds must be appraised and approved in accordance with the following regulations:

a. Mine designs of Group A projects shall be approved by the Minister of Industry;

b. Mine designs of the remaining projects shall be approved by the Head of the competent authority to make investment decisions.

3. The mine designs of foreign direct investment projects shall be appraised by the Minister of Industry.

1. The mine designs of investment projects of non-state economic sectors shall be appraised by the professional organizations of the competent authority granting mineral exploitation licenses.

2. The Ministry of Industry shall provide detailed guidelines on design contents and procedures for appraisal and approval of mine designs.

Article 46. The Ministry of Industry shall provide for regimes and contents of periodical reports on mineral activities.

Article 47. Any mine closure projects shall be appraised and approved in terms of contents, requirements of safety assurance, environmental and land restoration and other requirements in accordance with provisions as stipulated in Items b and d, Clause 2, Article 40 of the Mineral Law.

The Ministry of Industry shall provide detailed regulations on mine closure.

CHAPTER VIII

PRINCIPLES AND PROCEDURES FOR ISSUANCE OF MINERAL LICENSES, TRANSFER, BEQUEATH OF MINERAL EXPLORATION, EXPLOITATION OR PROCESSING RIGHTS

Article 48. Principal basis for considering the issuance of mineral licenses shall include:

1. The State strategies of socio-economic development in general, especially the development strategy for industries relating to the minerals such as energy, metallurgy, construction materials, mineral fertilizers, chemicals, transport, production and trade of mineral materials;
2. Policies of the Communist Party and the Government relating to mineral resources, strategies and development planning of the mining industry in each province, region or area and in the whole country in accordance with the socio-economic development strategies and the industrial development strategies in each period;
3. The socio-economic efficiency of a certain mineral activity associated with requirements on national defense and security, protection of ecological environment, protection and reasonable usage of natural resources in general, protection of historical and cultural relics and other public utilities in accordance with the relevant laws;
4. Conditions relating to finance and legal status of the applicant (the investor) in accordance with provisions of the laws and other specific conditions as stipulated herein.

Article 49. In addition to principal bases as set forth in Article 48 of this Decree, the issuance of mineral exploration licenses shall be approved in writing by the Provincial People's Committee in terms of areas and boundary of the exploration area, excluding the areas where mineral activities are prohibited.

In special cases, mineral exploration or exploitation activities may be conducted in the areas where mineral activities are prohibited or temporarily prohibited in accordance with provisions as stipulated in Article 19 herein, the issuance of exploration licenses for such areas must be agreed in writing by competent State authorities in charge of subjects to be protected in such areas in terms of boundary of the exploration area

and working conditions relating to the protection requirements of such subjects.

Article 50. The issuance of exploitation licenses or mineral processing licenses shall be based on the written appraisal and approval decision for reports on feasibility studies made by the competent authority in accordance with provisions set out in Article 44.

Article 51. Prior to the issuance of any mineral exploitation licenses, the organization receiving applications and mineral exploitation documents must consult with the competent State bodies in charge of land lease, management of natural resources and other properties relating to exploitation activities; where before the issuance of exploration licenses, such bodies or the Provincial People's Committee have not agreed in writing.

The applicant (investor) shall be responsible for studies of the land to be used, crops and associated assets thereon, consulting with the land users in the exploration area and notify the same to the organization receiving mineral exploitation applications.

The organization receiving mining exploitation applications may, if necessary, publish the exploitation application in mass media no later than 25 days prior to the issuance of exploitation licenses for public opinions (if any).

The consulted bodies shall, within their competence, reply the organization receiving applications or the applicant no later than 25 days upon receipt of written requests.

Article 52.

1. When receiving appropriate applications and documents in relation to investment licenses for mineral exploitation or processing licenses financed by foreign direct invested capital, the Ministry of Planning and Investment shall, in coordination with the Ministry of Industry, consider, consult with the relevant bodies and submit to the Government for a decision or a decide at its discretion within their competence after obtaining agreement in writing from the Ministry of Industry.

2. Foreign organizations or individuals or joint venture organizations with a foreign party which are granted exploration licenses shall enjoy several preferential treatments of the

investment license such as duty exemption for import of exploration equipment, office equipment, test and analysis equipment (if necessary) to Vietnam with the aim to carry out the exploration subject to the approved project. After consulting with the relevant bodies, the Ministry of Planning and Investment shall provide specific regulations on preferential rights of foreign organizations and individuals or joint venture organizations with a foreign party investing mineral exploration.

3. The exploration or mineral processing license shall be granted to foreign organizations and individuals or joint ventures with foreign parties at the same time with the investment license or after the issuance of the investment license in accordance with the Law on Foreign Investment in Vietnam.

4. An investment license granted to a foreign organization and individual or a joint venture with a foreign party to implement a mineral exploitation project may include exploration, exploitation and processing activities.

Article 53. The time to appraise applications for licenses for mineral activities, including the time for consulting with relevant bodies, shall be of sixty (60) days at maximum upon receipt of full legal documents from domestic organizations and individuals and of ninety (90) days at maximum upon receipt of full legal documents from foreign organizations and individuals or joint venture organizations with foreign parties.

No later than ten (10) days after the above mentioned duration, the competent State body must complete the issuance of licenses or reply the applicants for licenses in writing.

Article 54. Following the issuance of mineral licenses in accordance with provisions of this Decree the competent State bodies at the central and local level shall quickly settle all conditions in relation to land lease, use of infrastructure facilities and other related conditions of the organizations and individuals permitted to carry out mineral activities.

Article 55. Organizations and individuals permitted to carry out mineral activities shall have the right to return part of the area or the mineral license with the following conditions:

1. Organizations and Individuals permitted to carry out mineral activities have fulfilled their obligations in accordance with the laws up to the time

of returning the license; restored the environment, land and guaranteed the safety on the area to be relinquished;

2. No later than three (3) months of from the date of returning the mineral exploration license, organizations and individuals permitted to exploit must fulfill fully their obligations in accordance with provisions as stipulated in Item b, Clause 2, Article 30 of the Mineral Law;

3. No later than six (6) months of from the date of returning the mineral exploration license, organizations and individuals permitted to exploit must fulfill their obligations in accordance with provisions as stipulated in Items b and c, Clause 2, Article 40 of the Mineral Law;

Being permitted in writing to return such licenses by the competent licensing authority.

Article 56. The transfer of mineral exploration and exploitation rights shall be in accordance with the following regulations:

1. Organizations and individuals permitted to explore or exploit shall only be permitted to transfer the exploration or exploitation rights to other organizations and individuals to continuously carry out their rights and obligations as stipulated in the license and in accordance with the laws;

2. Assets, documents and value as well as the financial obligations to be transferred of organizations and individuals permitted to explore or exploit which haven't been completed and are transferred together with the transfer of the exploration or exploitation rights must be fully and truly listed and valued and clearly determined in the transfer contract between the parties;

3. Together with the contract and the application for transfer of exploration or exploitation rights, organizations and individuals permitted to explore or exploit must prepare reports on exploration and exploitation reports at the time of such transfer;

4. The transferees of the mineral exploration and exploitation rights shall satisfy all legal conditions in accordance with provisions as stipulated in Article 15 herein;

5. Where the transferees are foreign organizations and individuals or joint venture organizations with foreign parties, the investment license issued by the Ministry of Planning and Investment in

accordance with the Law on Foreign Investment in Vietnam shall be required;

6. The transfer of exploration and exploitation rights of organizations and individuals permitted to explore or exploit must be permitted by the competent body granting such license and the tax shall be paid by such organizations and individuals in accordance with the laws;

Article 57. The mineral exploration or exploitation right of individuals permitted to explore or exploit shall be inherited in cases where the legal heir to the assets owned by such individuals satisfy the conditions as provided for in Articles 15 and 16 of this Decree. If the legal heir to the assets owned by the individuals permitted to explore or exploit minerals fails to satisfy the conditions to continue carry out activities in accordance with regulations stipulated in the license, the following provisions shall apply:

1. The legal heir to the assets owned by individuals permitted to explore or exploit may transfer the mineral exploration and exploitation right in accordance with the regulations provided in the license if the real conditions are in accordance with provisions as stipulated in Article 56 herein.

2. Where the mineral exploration or exploitation license is withdrawn, the legal heir to the assets owned by individuals permitted to explore minerals shall have the rights and obligations in accordance with provisions as stipulated in Item b, Clause 2, Article 30 of the Mineral Law; the legal heir to the assets owned by individuals permitted to exploit minerals shall have the rights and obligations in accordance with provisions as stipulated in Items b, c and d, Clause 2, Article 40 of the Mineral Law.

Article 58. The mineral exploration license shall be withdrawn in accordance with the provisions set out in Article 24 of the Mineral Law. Where the organizations or individuals permitted to explore minerals breach one of provisions as stipulated in Article 23 of the Mineral Law, the time for rectification shall not exceed thirty (30) days upon receipt of written notice made by the State management body in charge of minerals under the Ministry of Industry.

Article 59. The mineral prospecting license shall be withdrawn in accordance with the provisions set out in Article 29 of the Mineral Law.

Where the organizations or individuals permitted to explore minerals breach one of the provisions as stipulated in Article 27 of the Mineral Law, the time for rectification shall not exceed sixty (60) days upon receipt of written notice made by the State management body in charge of minerals under the Ministry of Industry.

Article 60. The mineral exploitation license shall be withdrawn subject to provisions as stipulated in Article 39 of the Mineral Law. Where the organizations or individuals permitted to exploit minerals breach one of the provisions set forth in Article 33 of the Mineral Law, the time for rectification of such breaches shall not exceed ninety (90) days upon receipt of written notice made by the State management body in charge of minerals under the Ministry of Industry or the Department of Industry within their respective authority.

Article 61.

1. The mineral processing license shall be granted to organizations and individuals which are not permitted to exploit minerals with the following conditions:

a. The organizations and individuals asking for mineral processing satisfy all conditions in accordance with provisions as stipulated in Articles 15 and 16 herein;

b. The feasibility study reports on mineral processing enclosed with the application and technology which has been evaluated, approved and accepted in accordance with the provisions stipulated in Article 44 herein;

c. The report on environmental impact assessment has been approved by the competent State authority.

2. The duration of a mineral processing license shall be based on the feasibility study report for each project and in accordance with the investment license or the investment decision.

1. The mineral processing license shall be withdrawn when the organizations and individuals permitted to process minerals breach one of the regulations in relation to obligations as stipulated in Article 45 of the Mineral Law.

2. The transfer for the inheritance of the mineral processing right shall comply with the relevant regulations as set out in Articles 56 and 57 of this Decree.

Article 62. The mineral exploitation to be used as common construction materials shall not be required for the license of mineral exploitation, in the following cases:

1. Exploiting minerals to be used as common construction materials within the framework of the State projects of infrastructure construction such as construction of dams, hydro-electric and irrigation canals, roadways, tunnel digging, dredging in lakes, rivers and docks, underground works of the national defense and other State works of the same nature provided that mineral activities are not conducted inside the project area, the products are not sold, the investment project and the construction plan have been appraised and approved by the State competent body in accordance with the laws;

2. The full exploitation, transportation and utilization of waste soil and rocks in the field operation whose principle products are not minerals to be used as common construction materials.

3. The exploitation of minerals to be used as common construction materials shall not be for business purposes within the area allocated by the State to the organizations and individuals for utilization.

Article 63. The exploitation of various types of soil to provide filling materials in the project and urban construction shall be permitted if the following requirements are met:

- Geological survey documents relating to the exploiting area prove that no other minerals with higher value are existed, and certified in writing by the Ministry of Industry;
- The land for exploitation is not agricultural land and protection forests;
- The exploitation activities do not adversely affect the eco-environment and the landscape of the area or do not destroy public works, infrastructure facilities and historical or cultural relics.

- Approval is granted by the Provincial People's Committee.

Article 64. The Ministry of Industry shall provide detailed guidelines on procedures for issuance, extension and surrender of mineral licenses, allow the transfer and inheritance of the right to explore, exploit and process minerals, and register mineral activities to uniformly implement in the whole country.

CHAPTER IX

FULL EXPLOITATION

Article 65. The full exploitation is a form of mineral activities subject to the following conditions:

1. No compulsory is imposed on the exploration of the whole area permitted to carry out mineral activities prior to commencement of exploitation;
2. The aggregate output, including waste soil and minerals, of a full exploitation license granted to an individual (not an enterprise) shall not exceed five thousand (5,000) tons per year and granted to an organization, shall not exceed one hundred thousand (100,000) tons per year;
3. Tools and methods of full exploitation shall be mainly manual, and low-tech equipment may be used in certain processes; In case of using explosive materials, specialized persons who have been trained, examined or granted certificates shall be required in accordance with the laws; the use of toxic chemicals shall be prohibited;
4. Where the organization being an enterprise shall be responsible before the law for the full exploitation by an individual (not an enterprise) through the form of contracts or full exploitation cards, the annual aggregate output of each contract of full exploitation card shall be applied in accordance with the regulations set out in the full exploitation license granted to the individual (not an enterprise);
5. Each individual shall only be granted one full exploitation license.

Article 66. The areas to be granted full exploitation license shall include:

1. The disperse mineral areas, where the industrial scale exploitation investment is economically ineffective;
2. The areas bearing minerals to be used as common construction materials, where socio-economic conditions as well as consumption demands are not favorable for investment in the industrial scale exploitation;
3. The mine exploitation areas which are decided to be closed and the conditions for exploitation do not create economic effectiveness for the industrial scale exploitation.

Article 67. The Ministry of Industry shall delineate the areas satisfying the conditions prescribed in Article 66, where the local requirement is made, it shall transfer to the Provincial People's Committee to manage and grant full exploitation licenses to organizations, individuals in respect of all kinds of minerals excluding minerals and areas subject to other regulations of the Government; it shall not grant full exploitation licenses for the areas which have not been demarcated by the Ministry of Industry and transfer to the Provincial People's Committee.

Article 68. The fully exploited area of by a full exploitation license granted to an organization shall not exceed twenty (20) hectares and shall not exceed one (1) hectare for an individual (not an enterprise).

Article 69. The duration of a full exploitation license shall not exceed thirty six (36) months and shall be extended many times, but the total duration for extension shall not exceed twenty four (24) months with the following conditions, at the time of extension:

1. Organizations and individuals permitted to fully exploit have completed all their obligations in accordance with provisions as stipulated in Article 52 of the Mineral Law;
2. The area of application for extension of the license is subject to the full exploitation form in accordance with the regulations of the Mineral Law and with Articles 65 and 66 of this Decree;
3. The full exploitation license remains valid no less than thirty (30) days.

Article 70. The full exploitation license shall be withdrawn in accordance with the provisions as stipulated in Article 53 of the Mineral Law. Where new findings relating to minerals are made, the area permitted to fully exploit is unsuitable to the full exploitation form, the license shall be withdrawn and subsequent consequences shall be settled according to the following regulations:

1. Organizations and individuals permitted to fully exploit must remove all of their properties out of exploitation area, rehabilitate the environment and land and their losses shall be compensated by organizations and individuals permitted to conduct mineral activities over the area where its full exploitation license is withdrawn; where there are no organizations or individuals permitted to conduct mineral activities in such area or the full exploitation license is withdrawn in accordance with provisions as stipulated in clause 2 of Article 14 of the Mineral Law, the losses of organizations or individuals permitted to fully exploit shall be reasonably settled by the Provincial People's Committee;

2. Where organizations or individuals permitted to fully exploit satisfy conditions for establishment of an enterprise conducting mineral activities in accordance with the provisions set out in Articles 15 and 16 of this Decree, they shall be granted a new mineral license for the area where the full exploitation license is withdrawn.

Article 71. Organizations or individuals permitted to fully exploit may request the State bodies, scientific, technological research institutes and State mineral enterprises to provide guidance and technical and technological assistance. The above-mentioned organizations shall be responsible to meet reasonable requirements made by the organizations or individuals permitted to fully exploit.

Article 72. The Provincial People's Committee shall, based on the regulations of the Mineral Law and this Decree, provide detailed regulations on organization and management and grant full exploitation licenses in conformity with the local conditions and after having agreed with the Ministry of Industry.

CHAPTER X

MINERAL SPECIALIZED INSPECTORS

Article 73. The State management body in charge of minerals under the Ministry of Industry and the Department of Industry shall carry out the function of specialized inspectors on minerals (hereinafter referred to as Minerals Inspectors).

Duties and power of the Minerals Inspectors shall be in accordance with provisions stipulated in Articles 59 and 60 of the Mineral Law and Decree of the Government providing regulations on administrative penalties of mineral management, regulations on organization and operation of minerals inspectors.

Article 74. The Mineral Inspectors shall comply with the legal regulations on labor safety and hygiene and environment protection, to actively coordinate with the State Labor Inspectorate and specialized Inspectorate in respect of environment protection to examine and inspect the labor safety and hygiene, environment protection in mineral activities, especially in mineral exploitation activities; to coordinate with the State Inspectorate of all branches and levels to settle all disputes, claims made by organizations or individuals in minerals activities.

Article 75. The Ministry of Industry shall issue regulations on the organization and operation of minerals inspectors after reaching an agreement with the Governmental Department of Personnel Organization, the State Inspectorate, the Ministry of Labour, Invalids and Social Affairs, the Ministry of Health, the Ministry of Science, Technology and Environment.

CHAPTER XI

PROVISIONS OF IMPLEMENTATION

Article 76. This Decree shall replace the Decree No. 95/HDBT dated 25 March 1992 of the Council of Ministers on the implementation of the Ordinance on Mineral Resources.

All previous provisions on management and protection of basic geological surveys of mineral resources and mineral activities which are contrary to this Decree shall be hereby repealed.

Article 77. Ministers, Heads of ministerial-level organizations, Heads of Government organizations, Chairmen of the People's Committees of provinces and cities under central authority shall be responsible for the implementation of this Decree.

The Minister of Industry, Heads of relevant Ministries and branches shall submit to the Government for issuance of documents in conjunction with this Decree and shall be responsible for providing detailed guidance and monitoring the implementation.

Article 78. This Decree shall be of full force and effect from the date of signing.

ON BEHALF OF THE GOVERNMENT

PRIME MINISTER

(Signed and Sealed)

VO VAN KIET

CC:

- Political Standing Office
- Prime Minister, Deputy Prime Minister
- Ministries, Ministerial-level bodies, Government bodies
- People's Committees, People's Councils of provinces and cities under central authority
- Central office and Party Departments
- Office of the National Assembly
- Office of the President
- People's Supreme Court
- People's Supreme Court for Investigation
- Central bodies of mass organizations,

- VPCP: BTCN, PCN, Departments, Divisions,

- Gazettes,

- For filing: KTN (5), VT