



REPUBLIC OF MOZAMBIQUE

MINISTRY OF MINERAL RESOURCES AND ENERGY

Mining Law
(Law Nr. 14 / 2002, of June 26)

The mineral resources of the Republic of Mozambique constitute an important factor for social and economic development, when evaluated and utilised rationally.

Current economic transformations in the Country and the development of the mining sector impose the revision of the legislation applicable to the mining activity in order to adapt it to the objectives of the national economic policy.

Thus, in accordance with nr.1 of Article 135 of the Constitution of the Republic, the Parliament of the Republic determines:

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1
SCOPE

1. This law governs the terms for the exercise of the rights and obligations regarding the use of mineral resources taking into account the environment, aiming its rational utilisation to the benefit of the national economy.
2. The petroleum use is governed by a specific legislation.

ARTICLE 2
OBJECTIVES

The right to the use of mineral resources shall be exercised in accordance with the best and safest mining practices, observing legally established patterns of environmental quality, with the view of sustainable development in the long-term and aiming at realizing the following objectives:

- a) Reconnaissance;
- b) Exploration;
- c) Mining;

- d) Treatment and processing;
- e) Trade or other forms of disposal of the mineral products
- f) Other purposes related to those described above.

**ARTICLE 3
DEFINITIONS**

The meaning of the words herein used are shown in the glossary attached to this law, of which it is an integral part.

**ARTICLE 4
OWNERSHIP OF MINERAL RESOURCES**

- 1. Mineral resources found in the soil or in the subsoil, in territorial waters or on the seabed within territorial waters, in the exclusive economic zone or on the continental platform of the Republic of Mozambique, are the property of the State under the terms of the Constitution.
- 2. Mineral resources situated on the seabed and in the subsoil of the seabed of the territorial waters are included in the provision of previous number

CHAPTER II

MINING TITLES AND PERMITS

**SECTION 1
TITLES AND PERMITS FOR EXPLORATION AND EXPLOITATION**

**ARTICLE 5
ACQUISITION OF RIGHTS**

- 1. The right for reconnaissance, prospecting, and exploration and exploitation of mineral resources is obtained pursuant to the following mining titles and permits:
 - a) Reconnaissance licence;
 - b) Exploration licence;
 - c) Mining concession ;
 - d) Mining certificate;
 - e) Mining pass.
- 2. Mining titles and permits shall be granted on the basis of first come first served priority taking into account the date of receipt of the respective application by the relevant authority, in accordance with the applicable regulations.

3. The exercise of rights granted in accordance with Article 20 and nr.2 of Article 40 of this Law does not require a mining title.
4. No mining title is required for geological survey carried out in accordance with Article 39 of this Law.

ARTICLE 6
REQUIREMENTS FOR THE ACQUISITION OF A MINING TITLE OR PERMIT

1. Any singular or collective person, national or foreigner, with juridical capacity, intending to undertake mining operations can be holder of reconnaissance or exploration licence.
2. Any collective person or company established and registered in Mozambique can be mining concessionaire.
3. Any singular or collective person, or company, with domicile in Mozambique, national or foreigner, with juridical capacity and any cooperative or family being capable of undertaking mining operations authorised through certificate can be mining certificate holder.
4. A mining pass holder can be any Mozambican individual with juridical capacity allowing him to undertake operations authorised under an mining pass.
5. The mining titles and permits shall be granted by the Ministry in charge of supervising mining activity, in conformity with this Law and in accordance with the specific requirements to be defined through regulations.

SECTION II
RECONNAISSANCE LICENCE

ARTICLE 7
CONDITIONS AND VALIDITY PERIOD

1. The reconnaissance licence shall be granted in favour of a person that complies with the necessary requirements and pays the respective fee.
2. No reconnaissance licence shall be granted in areas considered by law as excluded from mining activity or in areas subject to other mining titles or permits.
3. Taking into consideration national economic interest, a reconnaissance licence may, exceptionally, be granted in areas mentioned in the previous number.
4. Once a mining title or permit is granted to an area under reconnaissance licence, that area ceases to be under that licence.
5. The maximum term of the reconnaissance licence is of two non-renewable years.
6. A reconnaissance licence is personal and non-transferable.

**ARTICLE 8
TITLE-HOLDER RIGHTS**

The reconnaissance licence entitles its holder, within the reconnaissance area, the right to:

- a) To access, enter or fly-over, in order to carry out reconnaissance without exclusivity;
- b) Obtain and remove samples;
- c) Occupy land and erect any temporary installations, camps, buildings or structures necessary for the undertaking of reconnaissance, subject to the laws in force;
- d) Use water, timber and other materials necessary for reconnaissance, subject to the laws in force.

**ARTICLE 9
TITLE-HOLDER OBLIGATIONS**

1. The reconnaissance licence holder must, apart from any other conditions:
 - a) Carry out reconnaissance activities in the respective area;
 - b) Submit information and periodic reports in accordance with the legal requirements;
 - c) Compensate the land users for damage caused to their land or property resulting from the reconnaissance activities in the area;
 - d) Perform their activities in accordance with good mining practices and restore the land in case of any damage resulting from reconnaissance activities, in conformity with the appropriate environmental standards.
2. A reconnaissance licence holder can only drill or excavate, in accordance with the terms to be defined through regulations.
3. A reconnaissance licence may be revoked if the holder does not comply with the obligations foreseen in lines c) and d) of number 1 of this Article and does not pay the surface tax.

**SECTION III
EXPLORATION LICENCE**

**ARTICLE 10
CONDITIONS AND VALIDITY PERIOD**

1. The exploration licence shall be granted in favour of a person who fulfils the necessary requirements and pays the respective fee.

2. No exploration licence shall be granted in areas designated by law as excluded from mining activity or in areas that are subject to other mining titles or permits
3. When an area is or becomes excluded from mining activity by law, it ceases to be subject to any exploration licence.
4. The term of the exploration licence is five years, renewable for a maximum of same period.
5. The exploration licence is transferable, in accordance with the terms to be defined through regulations.

**ARTICLE 11
TITLEHOLDER RIGHTS**

The exploration licence entitles its holder, within the exploration area, the right to:

- a) Access to the area subject to exploration;
- b) Explore, on exclusivity basis, the mineral resources covered by the licence and undertake operations and works necessary to achieve this objective;
- c) Explore associated minerals that may exist in the area, in accordance with the terms to be defined through regulations;
- d) Collect, remove and export samples and specimens not exceeding acceptable limits for exploration purposes, in accordance with the standards and criteria to be defined through regulations;
- e) Conduct sampling and trial processing of the ore, without exceeding acceptable limits for the determination of the mining potential;
- f) Sell, subject to authorization, specimens and samples obtained for exploration or for sampling and trial processing purposes;
- g) Occupy land and erect any temporary installations, camps, buildings or structures necessary for the undertaking of exploration activities;
- h) Use water, timber and other necessary materials for exploration, in accordance with the laws in force;
- i) In the case referred to in number 3 of Article 10, receive indemnity, as long as exploration activities have been undertaken for more than two years.

**ARTICLE 12
TITLEHOLDER OBLIGATIONS**

1. The holder of an exploration licence who sells any mineral product in accordance with lines (f) of Article 11, shall be subject to the payment of all taxes and fiscal bills as if the mineral products sold have been obtained under a mining concession.

2. The exploration licence may be revoked whenever the holder of any exploration title violates any term or condition defined in a regulation or specified in the Mining Contract;

SECTION IV MINING CONCESSION

ARTICLE 13 CONDITIONS AND VALIDITY PERIOD

1. A mining concession shall be granted in favour of a person complying with necessary requirements and pays the respective fee.
2. Whenever a request emerges from an exploration licence and the respective holder has fulfilled his obligations, the requested mining concession shall be granted. A concession application formulated by the holder of an exploration licence is considered as emerging from the licence whenever it refers to any area within the licence and as non-emerging from licence in the other cases.
3. No mining concession shall be granted in any area under exploration licence or mining certificate to a person other than the exploration licence holder or the mining certificate holder.
4. A mining concession shall not be granted in areas considered by law as excluded from mining activity or in areas designated for mining pass.
5. The term of a mining concession shall be based on the economic life of the mine or mining operations and it shall be for a maximum of twenty-five years, renewable for an equal or lesser period.
6. A mining concession is transferable in accordance with the terms to be defined through regulations.
7. An area of any mining concession shall not exceed an area reasonably necessary for mining operations.

ARTICLE 14 TITLEHOLDER RIGHTS

1. A mining concession grants to its holder, within the mining area, the right to:
 - a) Use and occupy land and undertake, under exclusivity regime, the exploitation of mineral resources identified during exploration and execute the necessary operations and works;
 - b) Use land and erect any installations or infrastructures necessary for the undertaking of mining operations;

- c) Use water, timber and other materials necessary for mining operations, in conformity with the laws in force;
 - d) Use parts of the area that may be required for agriculture and cattle-raising or animal farming purposes, in proportions adequate for personal consumption;
 - e) Store, transport, process mineral products and dispose of any waste;
 - f) Sell or otherwise dispose the mineral products resulting from mining.
3. The holder of a mining concession has the right to apply for and be granted a land use title, in accordance with the land legislation and Article 43 of this Law.
4. The holder of a mining concession may, under the terms to be defined through regulations, fully or partially relinquish a mining area covered by the concession.

**ARTICLE 15
TITLE-HOLDER OBLIGATIONS**

1. The beginning of any development or mining activity under a mining concession shall be subject to prior issuance of:
- a) An environmental licence, required by Law;
 - b) A land use permit.
2. The holder of a mining concession must obtain an environmental licence and the permit specified in number 1 of this Article within three years from the date of the mining concession issuance, which failure shall lead to revocation of the concession.
3. The holder of a mining concession shall not remove, beyond the boundaries of the mining area, for commercial purposes, any timber, fossilised timber, archaeological artefacts or other forestry, wildlife products or water obtained or drawn from the mining area.
4. The mining concession holder may, in accordance with the conditions defined in Law n° 16/91, of 3 August, use the water captured during the mining operations.
5. The mining concession holder who sells or otherwise transfers any mineral produced, pursuant to line f) of Article 14, shall be liable to payment of the relevant taxes.
6. In addition to other conditions that may be imposed in conformity with the law and those that may be defined in the Mining Contract, the mining concession holder shall:
- a) Commence the development of the mine within twenty-four months from the date the last licence or permit was issued as required under number 1 of this Article.
 - b) Commence mineral production no later than thirty six months, from the date the last licence or permit was issued as required in accordance with number 1 of this Article;

- c) Maintain a level of production as proposed in the mining production plan and approved by the Ministry;
- d) Keep adequate mining balance-sheets and records of other businesses undertaken in the mining area and of the sales or transfers obtained from mineral products, as well as produce financial records that may be legally required;
- e) Submit information and periodic reports in accordance with legal requirements;
- f) Allow scientific surveys by educational institutions and government agencies as provided for in Article 39 of this Law;
- g) Maintain the area and mining operations in a safe state, in compliance with management, health and safety regulations;
- h) Comply with the obligations for environmental protection, management and restoration, in accordance with legislation in force;
- i) Allow access through or over the mining area to any adjoining area as long as it does not interfere with the mining operations;
- j) Allow the construction and use, in the mining area, of waterways, canals, pipelines, sewers, drains, cables, transmission lines, streets and public infra-structures as long as they do not interfere with the mining operations;
- k) Compensate the respective title-holders for any damage caused to land and property resulting from mining operations;
- l) Demarcate and keep the limits of the mining area.

7. The mining concession may be revoked in the case the holder fails to comply with the provision of number 2 and lines (a), (b) or (g) of number 6 of this Article, or in the case the mining concession holder breaches any regulatory provision or specified in the Mining Contract and violation of such provision is penalised with the revocation of the mining concession.

SECTION V MINING CERTIFICATE

ARTICLE 16 CONDITIONS AND VALIDITY PERIOD

1. The mining certificate shall be granted to a person who complies with specified requirements and pays the respective fee.
2. The mining certificate shall not be granted for any area excluded by law from mining activity or for any designated area for mining pass.

3. The mining certificate shall not be granted for any area under exploration licence or mining concession to a person other than the holder of that exploration licence or mining concession.

4. The mining certificate shall be issued for a maximum period of two years, renewable for successive periods of not more than two years, as long as the ongoing mining activity so justifies.

5. The mining certificate is transferable, in accordance to the terms to be defined through regulations.

6. The area subject to a mining certificate shall not exceed the necessary for small-scale mining operations and shall not exceed five hundred hectares and any title-holder shall not hold more than four titles from adjoining areas.

7. The characteristics and limitations distinguishing small-scale mining operations, under mining certificate, from other mining operations, shall be defined through regulations.

ARTICLE 17 TITLEHOLDER RIGHTS

1. The mining certificate confers to its holder, in the mining certificate area, the right to:

- a) Occupy, use the land and undertake, under exclusivity regime, small-scale mining operations and undertake the necessary operations and works;
- b) Use land and erect temporary installations or infrastructures necessary for the carrying out of mining operations;
- c) Use water, timber and other materials necessary for mining operations, subject to the laws in force.
- d) Store, transport, process mineral products and dispose any waste, subject to the laws in force;
- e) Sell or dispose the mineral products resulting from mining;
- f) Apply for a mining concession;

2. The holder of a mining certificate shall not, unless authorized by law, remove beyond the boundaries of the mining certificate area, for commercial purpose, timber or other flora and fauna products or any water obtained in the area;

3. The holder of a mining certificate has the exclusive right to apply for and be granted a land use title, subject to land legislation and article 43 of this Law.

ARTICLE 18 TITLEHOLDER OBLIGATIONS

1. The holder of a mining certificate who sells or disposes any minerals produced pursuant to line (e) of number 1 of the previous Article, shall be liable to taxes and other fiscal obligations applicable under this law.

2. In addition to any other conditions that may be defined in conformity with the law, the holder of a mining certificate shall:

- a) Submit the periodic information and reports;
- b) Allow for scientific survey by educational institutions and government agencies to be carried out, under Article 39 of this Law;
- c) Maintain the mining certificate area and mining operations in a safe state and in compliance with management, health and safety regulations;
- d) Comply with the obligations for environmental protection, management and restoration;
- e) Allow access through or over the certificate area to any adjoining land as long as it does not interfere with the mining operations;
- f) Allow the construction and use of waterways, canals, pipelines, sewers, cables, transmission lines, streets and public utilities, as long as they do not interfere with the mining operations;
- g) Compensate land users for any damage caused to the land and property as a result of the mining operations;
- h) Demarcate and maintain the boundaries of the mining certificate area.

3. The mining certificate may be revoked in the case that the title holder fails to comply with the provision of lines (c), (d) and (g) of number two of this Article or in the case the title-holder breaches any specified term or condition and violation of such term or condition is penalised with the revocation of the certificate.

SECTION VI MINING PASS

ARTICLE 19 DESIGNATION OF AREAS

1. A specified land may be declared designated area for mining pass, in accordance with the terms to be defined through regulations.

2. A designated area for mining-pass may be declared wherever appropriate for the use of unsophisticated exploration, extraction and processing methods and shall take into account the nature and characteristics of the area.

3. No land shall be declared as designated area whenever it is considered excluded from mining activity by law or is under exploration licence, a mining concession or a mining certificate.

4. The characteristics and limitations that distinguish small-scale mining operations for the purpose of mining pass, from other mining operations, shall be defined through regulations.

ARTICLE 20
CONDITIONS AND VALIDITY PERIOD

1. A mining pass shall be granted to a person who complies with the necessary requirements and pays the respective cost, including the conditions considered appropriate.

2. A mining pass shall be granted for a term of twelve months and may be renewed for the same period.

3. A mining pass is personal and shall not be transferred.

4. The right to undertake mining operations under mining pass in any designated area may be temporarily or collectively suspended for a period not exceeding sixty days for ponderous environmental, public health and other reasons.

ARTICLE 21
THE RIGHTS OF THE HOLDER

A mining pass confers to its holder the right to carry out, on non exclusivity basis, in the respective designated area, any small-scale mining operations of any mineral resource as established in the pass, store, transport and sell the mineral resources extracted and dispose of the waste safely.

ARTICLE 22
OBLIGATIONS OF THE HOLDER

1. The holder of a mining pass shall:

- a) Hold his pass whenever involved in mining operations;
- b) Maintain the mining operation in a safe state and in compliance with management, health and safety regulations;
- c) Comply with protection, management and environmental restoration obligations, in accordance with this law;
- d) Comply with the terms and conditions set forth in the pass;
- e) Return the pass in case of its revocation.

2. Mining passes may be subject to collective revocation based on the provision of number 1 of Article 19.

SECTION VII TRANSFER AND REVOCATION

ARTICLE 23 TRANSFER OF A MINING TITLE

The transfer of mining titles is subject to prior approval in accordance with the terms to be defined through regulations and it implies the transfer of the respective land use title, under land legislation.

ARTICLE 24 REVOCATION OF AN EXPLORATION LICENCE AND A MINING CONCESSION

1. An exploration licence and a mining concession may be revoked upon notification to the title-holder in accordance with the terms to be defined through, whenever the person:

- a) becomes bankrupt, enters into agreement or composition with the creditors unless there is a registered mortgage of the mining installations;
- b) transforms or dissolves the company, unless prior approval for transformation or dissolution has been obtained for the purpose of a merger or reconstruction;
- c) fails to pay the surface tax.

2. An exploration licence and a mining concession shall not be revoked due to a failure of payment the surface tax if the title-holder pays the owed amount, including any interest or fines within the period to be defined through regulations.

3. The revocation of an exploration licence shall not exempt its title-holder from the liability to comply with any obligations arising out of acts or contracts related to the licence incurred prior to the revocation date as well as for any claims against damages or injuries by bona fide third parties.

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SECTION VIII CONTRACTS

ARTICLE 25 MINING CONTRACT

1. The Government may, exceptionally and taking into account the size of the project, enter into a Mining Contract with the holder of an exploration licence or mining concession.

2. A Mining Contract may contain provisions related to:

- a) the circumstances or the manner in which the Government shall exercise any authority conferred under this Law and complementary regulations;
- b) the settlement of disputes arising out of or relating to the Mining Contract or to the enforcement of this Law and complementary regulations, including provisions related to the settlement of any such disputes through international arbitration;
- c) Any other matter considered relevant and necessary by the parties.

SECTION IX

ARTICLE 26 TRADE

1. The selling of mineral products of national origin is allowed when resulting from mining activity undertaken in conformity with the mining title.

2. The selling of mineral products not resulting from mining operations under a mining title or permit, shall be made under the terms of a licence and shall be subject to proper control and inspection in accordance with the terms to be defined through regulations.

CHAPTER III

FISCAL OBLIGATIONS

ARTICLE 27 MINING TAXATION

1. People who undertake mining activity, their contractors, sub-contractors and operators, are liable to the taxes in force in the Republic of Mozambique, including the local government tax.

2. The following specific taxes are owed by the people referred to in the previous number:

- a) Production tax; and
- b) Surface tax.

ARTICLE 28 PRODUCTION TAX

1. Production tax is based on the value of mining products resulting from mining activity undertaken in the national territory, of which a percentage shall be destined to local services where the undertaking is carried out in accordance with the terms to be defined through regulations, with the aim of influencing local development.
2. Production tax is also based on the value of mining products:
 - a) Sold or;
 - b) Used for any commercial or industrial purpose other than construction in accordance with the terms of number 2 of Article 40, in any area subject to a mining title.
3. For the purpose of this Article, trade includes transfers, commercialisation, export, consignment, guarantees and any other form of free or onerous disposal.
4. The production tax rates shall be determined by the Council of Ministers, ranging from 10% to 12% for diamonds, and from 3% to 8% for other mineral products.
5. The title holders of exploration licence and mining concession shall pay the production tax, even in cases where the titles and permits have been granted for the undertaking of tests, trials or analysis of mineral products or samples obtained within the title or permit area, as long as they are destined for future sale.
6. In cases where the mining title is held by several people, all those interested in the title shall be joint and severally liable for the payment of the production tax relating to the mining title.

**ARTICLE 29
EXEMPTION FROM PRODUCTION TAX**

The holders of mining certificates and mining passes are exempted from payment of production tax, having, notwithstanding, the process to follow the legal requirements as stated in specific legislation.

**ARTICLE 30
SURFACE TAX**

1. The surface tax is owed annually by the title holders of reconnaissance licence, exploration licence, mining concession or mining certificate and is determined on the basis of the area subject to the mining title.
2. The surface tax rate, to be defined through regulations, shall contemplate in its distribution, the local services where the undertaking takes place.
3. The annual amount of the surface tax owed under the terms of the previous numbers shall be calculated by multiplying the respective Surface tax rate by the area subject to the mining title, expressed in hectares, on the day of issuance of the mining title and subsequently on the date to be defined through regulations.

4. The payment of surface tax excludes the payment of the annual land use fee, being however, owed the payment of the authorization fee under the land legislation.

**ARTICLE 31
LOCAL GOVERNMENT TAX**

Without prejudice to the provisions of Article 27 of this law, the persons undertaking mining activities, including trade, shall be liable to local government tax, in accordance with the Law n° 11/97, of May 31.

CHAPTER IV

INVESTMENT GUARANTEES

**ARTICLE 32
FORM AND VALUE OF INVESTMENT**

1. Direct foreign and national investments may be, individually or cumulatively, take the following forms, as long as they are susceptible of pecuniary evaluation:

- a) freely convertible currency or cash in the case of direct national investment;
- b) equipment and respective accessories, materials and other imported goods;
- c) in the case of direct national investment, infrastructures, installations and the forfeiture of the rights for land use, concessions, licences and other rights of economic, commercial and technological nature;
- d) assignment, in specific cases and under terms agreed upon and sanctioned by competent entities, of the rights to use patented technology and registered trademarks, whose remuneration is limited to participation in the distribution of the company profits resulting from the activities in which such technologies or trademarks have been or were applied;
- e) The value paid in a freely convertible currency for the acquisition of shares in a company established in Mozambique or title per se in the case of partial or total transmission.

2. The value of the direct investment includes the expenses dully calculated and confirmed by a competent and recognized auditing firm, incurred in reconnaissance, exploration, development and other mining operations in relation to the mining production under a mining concession or a mining certificate.

3. For the purpose of benefiting from the guarantees provided for in the Article 33 and 34, and from fiscal and customs benefits as part of the mining fiscal regime, the minimum value of direct investment is as follows:

- a) in the case of national direct investment, the amount is equivalent to fifty thousand United States of America dollars.

- b) in the case of foreign direct investment, the amount is equivalent to five hundred thousand United States of America dollars.

ARTICLE 33
INVESTMENT GUARANTEES

1. The State ensures the safety and legal protection to property of the goods and rights, including industrial property rights within the context of the authorized and realized mining activity investments under the terms of the mining title issued pursuant to this Law and other applicable legislation.
2. The State ensures that, once the exploration licence, mining concession or mining certificate has been issued and is recognized as a foreign or national direct investment project, the applicable fiscal regime to the mining activity in force at the time of issuing the above-mentioned title shall never be altered, unless the act is to the benefit of the withholder of the mining title.
3. The expropriation of private property goods and rights within the context of the mining title can only occur owing to public interest and shall be subject to the payment of a fair indemnity.
4. When more than ninety days have elapsed without a solution to any complaints submitted in writing to an authorized entity thus resulting or having resulted in financial damages as a consequence of immobilization of invested capitals or of change of the mining fiscal regime or any other provision of the mining legislation, the respective investors shall have the right to a fair indemnity for the damages incurred on exclusive liability of State institutions.
5. The evaluation of good or expropriated rights as well as of financial damages suffered by the investors due to explicit State liability, for the purpose of determining the amount of indemnity as outlined in numbers 1 and 3 of this article, shall be made within ninety days, by mutual agreement, by a commission specially established for this purpose or by a recognized fit, competent auditing firm.
6. The payment of the above-mentioned indemnity shall be made by a competent State agency and shall take place within ninety days, or other mutually agreed time-frame, starting from the date when the decision was taken by the commission or when the report by the auditing firm was presented, based on the evaluation made under previous number. The duration of appreciation for the purpose of decision-making about the evaluation undertaken and presented to authorized State agency, shall not exceed forty-five days from the date of handing over and receiving the evaluation file.

ARTICLE 34
TRANSFER OF FUNDS TO FOREIGN COUNTRIES

Subject to the conditions defined in legal instruments pertaining to investment, the State guarantees the transfer abroad of:

- a) Exportable profits resulting from investment eligible to export of profits;
- b) Royalties or other income earnings from indirect investment associated with technology transfer;
- c) Amortizations and interests from loans contracted in the international financial market and applied in investment projects undertaken in the Country;
- d) Indemnity products under the terms of number 3 of the previous Article;
- e) Foreign capital invested and re-exportable, irrespective of the respective investment project being or not eligible for export of profits;
- f) Amounts corresponding to payment of obligations to other non-resident entities.

CHAPTER V

ENVIRONMENTAL MANAGEMENT OF MINING ACTIVITIES

ARTICLE 35 PRINCIPLES

The mining activity shall be undertaken in conformity:

- a) With the laws and regulations in force, relevant to the use and exploration of mineral resources, as well as to the protection and preservation of the environment, including social, economic and cultural aspects;
- b) With the good mining practices, in order to minimize waste and the loss of natural resources and protect them against unnecessary damage.

ARTICLE 36 ENVIRONMENTAL MANAGEMENT TOOLS

The basic environmental management tools within the context of the enforcement of this law are the following:

- a) The environmental impact assessment;
- b) The environmental management programme;
- c) The environmental management plan;
- d) The environmental monitoring programme;
- e) The mine closure programme;
- f) The environmental audit;

- g) The risk and emergency control programme.

ARTICLE 37
ENVIRONMENTAL CLASSIFICATION OF THE MINING ACTIVITIES

1. For the purpose of this Law, mining activities are classified as of level 1, level 2 and level 3 according to the scope of the operations to be undertaken and the complexity of the equipment to be used.
2. Level 1 activities comprise small-scale operations undertaken by individuals or cooperatives as well as reconnaissance and exploration operations not involving mechanized methods.
3. Level 2 activities comprise mining operations in quarries or extraction and mining activities of other mineral resources for construction, exploration and mining activities involving mechanized equipment, as well as pilot projects.
4. Level 3 activities comprise mining operations not included in previous lines and involving mechanized methods.
5. When an activity is susceptible of causing negative environmental impact and may be placed in more than one level, that activity shall be governed by the higher level rules.

ARTICLE 38
ENVIRONMENTAL MANAGEMENT RULES

1. For the purpose of mining activity, environmental management is governed by the following rules:
 - a) Basic environmental management rules, for the level 1 activities;
 - b) Environmental management plan, for the level 2 activities;
 - c) Environmental impact study; for the level 3 activities.
2. Level 2 activities are subject to prior approval of the environmental management plan by the competent entity.
3. The evaluation, management and environmental control process of mining activities shall be carried out in accordance with specific legislation.

CHAPTER VI
MISCELLANEOUS PROVISIONS

ARTICLE 39
GEOLOGICAL INVESTIGATION BY THE STATE AND EDUCATIONAL INSTITUTIONS

1. The State promotes and undertakes, through specialized State entities, geo-scientific investigation, systematic geological mapping of the national territory and other geological, mining and metallurgical studies that may be considered appropriate, with the aim of making an inventory and assessment of the Country's mineral resources potential and, besides that, of creating the conditions conducive to the granting of mining titles and of minimization of the risk associated with such work.
2. The Council of Ministers has the power to authorize the undertaking of geological investigation in any part of the country. Under the terms of this number, no mining concession shall be granted to any agency in relation to any area that such agency has assessed on behalf of the State.
3. The educational or scientific research institutions may, subject to the Mozambican laws, with prior authorization from the competent entity, undertake scientific studies in any area of the country not excluded from mining activity by this or other legislation in force.
4. Geological investigation and scientific studies carried out under numbers 1, 2 and 3 of this Article do not require any mining title but are authorized as long as they do not interfere meaningfully with any mining activity.
5. Whenever a State entity, agency or educational institution, authorized under numbers 1, 2 and 3 of this Article, undertakes geological investigation, shall be liable to compensate the land user or the holder of rights upon the area for any damage caused by that investigation.
6. The compensation may, in the absence of an agreement, be claimed and determined by the competent suit.

ARTICLE 40
MINERAL RESOURCES FOR BUILDING MATERIAL

1. Without prejudice to the provision of number 3 of Article 5, the extraction of mineral products for building material shall require a title, under this law.
2. The extraction of mineral products for building material shall not require a mining title in areas not subject to a mining title or permit, when undertaken by:
 - a) Any Mozambican citizen to the extent and in the manner permitted by local customs and on land where it is common to undertake such extraction, if such materials are to be used for the construction of houses or other installations for such a person or for small-scale production of pottery, including the construction of houses, warehouses and installations of that land, when such refers to land users in their own areas;
 - b) Persons in construction projects, rehabilitation or road maintenance, railways, dams and other engineering works or infrastructures of public interest on land subject to a land use title or with exemption granted for such project, subject to approval by the competent authority;

3. The extraction of mineral products for construction carried out under number 2 of this Article, may at any time, be limited or suspended and be subject to a mining concession, a mining certificate or a mining pass, when sold or transferred for commercial purposes.
4. Persons who extract mineral products under a permit as defined in this article, shall comply with all the regulatory provisions applicable to mining management, health and safety.

**ARTICLE 41
MINERAL WATER**

1. The exploration and exploitation of mineral water shall require a title in conformity with this law.
2. The concession for exploitation of mineral water by the Ministry that oversees mining activity is granted subject to the provisions of Article 18 of law 16/91 of 3 August.

**ARTICLE 42
AREAS DECLARED RESERVED FOR MINING ACTIVITY**

1. When the development and exploitation of certain mineral resources is considered of public interest for the national economy or for the future development of the region in which they occur, the Council of Ministers may declare that the land on which the mineral resources are located be reserved, specifying the type of activities not allowed in the reserved area, with the aim of preserving such land for the granting of a mining title or for designated areas for mining pass.
2. The declaration of land as a mineral reserve does not violate any rights previously acquired.
3. Unless excluded from mining activity by law, any area declared as mineral reserve shall be available for being applied by any person who complies with necessary requirements to obtain a mining title.

**ARTICLE 43
LAND USE AND OCCUPANCY**

1. Without prejudice to the provisions of the following two numbers, land use and occupancy necessary for the undertaking of mining activities shall be governed by land use provisions of Law n° 19/97, of October 1.
2. Land use for mining operations shall have priority over other land uses whenever economic and social benefits related to these operations are higher.
3. Land use titles obtained under the terms of the land law and the environmental licence granted with the aim of mining exploitation under a mining concession or mining

certificate, shall have a validity period and size consistent with the mining concession or mining certificate and shall be renewed automatically whenever those mining titles are renewed.

4. Where the designated area for a mining pass is declared or a mining concession or mining certificate is issued on a land subject to land use rights, the rights previously held shall be considered terminated after the payment of a fair and reasonable indemnity to the previous holder of the rights, by the State where a mining pass is held and by the holder of the mining right in the case of a mining concession or mining certificate.
5. The reconnaissance authorized under a reconnaissance licence does not confer the right for land use for the purposes, objectives and requirements stated in the Land Law.

**ARTICLE 44
POWERS OF THE COUNCIL OF MINISTERS**

The Council of Ministers has the power to:

- a) protect and administer the national heritage of mineral resources;
- b) regulate this Law;
- c) approve environmental regulations for the mining activity and those for technical mining safety;
- d) establish taxation norms, fiscal and customs benefits applicable to mining activities namely, the undertaking of exploration operations and mining operations, modifying whenever necessary, through this way, the provisions on income taxes;
- e) regulate on guarantees and on fiscal and customs benefits;
- f) update the amounts defined in Article 32, whenever they become outdated.

**CHAPTER VIII
FINAL AND TRANSITORY PROVISIONS**

**ARTICLE 45
REGISTRATION**

The acquisition, modification, transfer and termination of mining titles are subject to registration as set forth in the regulations.

ARTICLE 46
REVOCATION OF THE LAW

1. Law 2/86 of 16 April, Law 5/94 of 13 September and any legislation contrary to the provisions of this law are revoked.
2. The rights acquired under Law n° 5/94 and subsidiary legislation by the holders of mining titles issued prior to entry into force of this Law are safeguarded.

ARTICLE 47
REGULARIZATION OF MINING RIGHTS

1. Mining titles and mining rights existing on the date this law comes into force, shall thereafter be governed by the provisions of this Law.
2. The holders of the rights referred to in the previous number shall have to regularize those rights within a timeframe and in accordance with the terms to be defined through regulations.

ARTICLE 48
RIGHTS GRANTED UNDER EXISTING AGREEMENTS

1. The agreements or contracts signed with the Government, before this Law came into force, shall remain applicable and shall continue to be governed by the provisions of those agreements and contracts.
2. The option to be fully governed by the provisions of this law is conceded to the title-holders who have celebrated contracts with the State, having such option to be exercised within 360 days from the date this law is promulgated.

ARTICLE 49
PUBLICATION

The Council of Ministers has the mandate to approve the regulations to this Law within 180 days from the date it enters into force.

ARTICLE 50
COMING INTO FORCE

This Law enters into force a hundred and eighty days after its publication.

Approved by the Parliament of the Republic.

Let it be published:

The President of the Republic.

GLOSSARY OF THE MINING LAW

1. **Mining Activity** – operations consisting of development in isolated or joint form of activities such as reconnaissance, prospecting, exploration, mining, processing and treatment;
2. **Mineral Water** – underground water originating from aquifers catchments area sprouting through a spring or natural exits, as well as obtained through bore-holes, wells, galleries or any excavation made to capture water, with therapeutic properties as it emerge, including minero-medicinal, medicinal and thermal waters;
3. **Mining Certificate Area**– area subject to a mining certificate;
4. **Designated Area for Mining Pass** – area declared available for the attribution of mining passes
5. **Exploration Area** – area subject to an exploration licence;
6. **Reconnaissance Area** – area subject to a reconnaissance licence;
7. **Mining concession Area** – area subject to a mining concession;

8. **Environmental Audit** – a tool for systematic, documented and objective management and evaluation, of the functioning and organization of the management system and the environmental control and protection processes;
9. **Permit** – a mining pass or other document granting the right to small-scale mining exploitation in designated areas or the realization of geological research works;
10. **Environmental Impact Assessment** – a tool for preventive environmental management, which consists of prior qualitative and quantitative identification and analysis of beneficial and harmful environmental effects resulting from a proposed mining activity;
11. **Mining Certificate** – mining title granted in accordance with this Law, allowing for small-scale exploitation of mineral resources;
12. **Mining Concession** – title granted in accordance with this Law, allowing the exploitation of mineral resources;
13. **Mining Contract** – written contract in accordance with Article 25 of this Law;
14. **Environmental Impact Study** – component of the environmental impact assessment process that analyses technically and scientifically, the consequences of the implantation and development of activities on the environment;
15. **Mining Exploitation** – operations and works related to exploration, extraction, treatment and processing of mineral resources, including their technical and economic utilization as well as the necessary or related activities of development and trade of these mineral products;

16. **Franchising** – a contract according to which the licence-holder sells a product, offers a service or produces an item under a trade-mark or licence holder;
17. **Direct Foreign Investment** – any form of foreign capital contribution susceptible of pecuniary valuation which constitutes personal capital or resources or at the account or

- risk of a foreign investor, originating from countries abroad and destined for incorporation in investment for the undertaking of mining projects, through a company registered in Mozambique and operating from the Mozambican territory;
18. **Direct National Investment** – any form of national capital contribution susceptible of pecuniary valuation that constitutes personal capital or resources or at the account or risk of a national investor, destined for the undertaking of mining projects, through a company registered in Mozambique and operating from the Mozambican territory;
 19. **Indirect Investment** – it refers to, isolate or cumulatively, the forms of loans, supplementary capital shares which remuneration takes the form of interest earnings upon an undertaking to which they are applied, patented technology, technical processes, confidential and industrial patterns, franchising, registered trade-marks, technical assistance and other forms of access to their utilization, be it exclusively or through restricted licensing based on geographical areas or industrial and/or commercial activity domains;
 20. **Exploration Licence** – mining title granted under the terms of this Law, which allows the exploration of mineral resources;
 21. **Reconnaissance Licence** – mining title granted in accordance with this Law, allowing the reconnaissance of mineral resources;
 22. **Exportable Profits** – part of liquid profits or dividends of all expenses related to mining activities, involving direct foreign investment, eligible for of profits in accordance with the terms of this Law, whose remittance abroad may be undertaken by the investor at his own free initiative, once the payment of taxes and other obligations owed to the State, legal deductions related to the constitution or replacement of reserve funds, credit refund goods and been respective interests and additional existing obligations provided for third parties has been provided for;
 23. **Mine** – any place, excavation or works where mineral exploitation is undertaken, including all infra-structures and land provisions, surface or underground, aerial, fluvial, lacustrine and marine, that are necessary for the operation, functioning and maintenance of mining exploitation, also covering the spaces for storing mining products such as debris, waste and residuals, as well as social infrastructures;
 24. **Mining** – Extraction of any mineral Resources;
 25. **Ministry** – the Ministry overseeing the area of mineral resources;
 26. **Mining Operations** –works undertaken in the context of any mining activity;
 27. **Petroleum** – crude oil, natural gas or other hydrocarbons produced or susceptible of being produced from crude oil or natural gas, shales or bituminous soils;
 28. **Environmental Management Plan** – document containing technical and scientific analysis of mining activities, as well as environmental objectives, including social, economic and cultural aspects;
 29. **Processing** – the activities undertaken in the context of any mining activity with the aim of obtaining metals, alloy or other mineral products that require treatment from other mineral substances either as extracted or as previously subjected to treatment in accordance with this law;
 30. **Mining Product or ore**– refers to minerals extracted from the land with or without beneficiation or processing;
 31. **Programme for the Control of Risk and Emergency Situations** – a set of procedures for the different risks for activity accidents, where the causes, consequences, frequency or probability, prevention and risk reduction measures are included;
 32. **Mine Closure Programme** – methods and procedures undertaken in the conception, development, construction, operation and closure, with the aim of decommissioning a

- mine and the rehabilitation and monitoring the environmental and of adjoining areas affected by mining activity, including social, economic and cultural aspects;
33. **Environmental Management Programme** – document consisting of methods and procedures aimed at achieving environmental objectives and goals, including also an environmental monitoring programme and a mine closure plan, including social, economic and cultural aspects;
 34. **Environmental Monitoring Programme** – a set of methods and procedures for the monitoring of environmental objectives and goals, including social economic and cultural aspects;
 35. **Exploration** – activities undertaken with the aim of discovering, identifying, determining characteristics and assessment of the economic value of mineral resources;
 36. **Reconnaissance** – activities undertaken with the aim of identifying mineral resources through geoscientific methods;
 37. **Mineral Resources** – any solid, liquid or gaseous substance formed on the crust of the land by geological phenomenon or linked to them;
 38. **Mineral Resources for Building Materials** – minerals and rocks with appropriate physical-mechanical and chemical properties appropriate to be used as minerals for construction, technically known as *inert*;
 39. **Fiscal Regime** – taxation regime applicable to the development of a mining activity in accordance with terms and conditions defined in it;
 40. **Royalty** – payment to an inventor, author or editor for the use of his patents or rights;
 41. **Mining Pass** – a permit granted in accordance with terms of this Law, allowing for small-scale mining activity in areas designated for the mining pass;
 42. **Mining Title** – reconnaissance licence, exploration licence, mining concession and mining certificate or any of these titles, according to the context in which the expression mining title is used;
 43. **Title-holder** – individual or entity on whose name the mining title is held in accordance with this Law;
 44. **Treatment** – an operation that aims at achieving the concentration, beneficiation and purification of mineral resources, as well as the separation of the respective mineral substances;
 45. **Land User** – individual or entity that, in accordance with the Land Law and the other applicable regulations, uses or occupies land;