

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness

No. 76-2000-ND-CP

Hanoi, 15 December 2000

**DECREE**  
**MAKING DETAILED PROVISIONS ON**  
**THE IMPLEMENTATION OF THE**  
**MINERAL LAW**  
**(AMENDED)**

**The Government**

Pursuant to the *Law on the Organization of the Government* dated 30 Spplaw9./TT2 11.a5ac 1992;

Pursuant to the *Mineral Law* dated 20 March 1996;

Following thppi proposal of thppi Minister of Industry;

**Decrees:**

**CHAPTER I**

**Gen 1al Provisions**

**Article 1**

## CHAPTER II



mineral activities which fall within their respective areas of management.

#### **Article 5**

The Ministry of Planning and Investment, Ministry of Science, Technology and Environment and Ministry of Industry shall, depending on their respective functions, co-operate and provide uniform guidelines on international co-operation in the field of mineral activities. The Ministry of Industry shall preside over the co-ordination with ministries and branches at the central level and with provincial people's committees and shall be the focal point for State management of mineral activities conducted by foreign organizations and individuals investing in Vietnam.

#### **Article 6**

The Mineral Reserve Assessment Council, with its office located at the Ministry of Science, Technology and Environment, shall assist the Government in evaluating and approving mineral reserves referred to in mineral exploration reports in order to determine the feasibility of mining, except in the case of minerals used as common construction materials. The organizational structure and operation of the Mineral Reserve Assessment Council shall be governed by separate regulations of the Prime Minister of the Government.

#### **Article 7**

1. Provincial people's committees shall, depending on their respective functions, duties and powers, have the following responsibilities:
  - (a) To promulgate within their powers documents guiding the implementation of regulations of the Government, of the Prime Minister of the Government and of the Ministry of Industry on management and protection of mineral resources and management of mineral activities conducted in their respective localities;
  - (b) To preside over the co-operation with ministries, such as: Ministry of Industry, Ministry of Planning and Investment, Ministry of Construction, Ministry of Defence, Ministry of Police, Ministry of Culture and Information, Ministry of Agriculture and Rural Development and Ministry of Transportation and Communications, in defining regions in which mineral activities are permanently or temporarily prohibited as provided for in article 14.1 of the *Mineral Law*;
  - (c) To prepare and participate in the preparation of master plans for development of the mining and mineral processing industry in their respective localities;

- (d) To organize and provide guidelines for the implementation of measures to protect unexploited mineral resources in their respective localities in conjunction with protection of the environment and other mineral resources in order to ensure social security and order, public health and safety, and protection of assets of the State and citizens;
  - (dd) To organize the evaluation and appraisal of feasibility study reports on mineral mining and processing and of mine designs in accordance with the provisions of this Decree and other provisions of the law;
  - (e) To issue, extend or withdraw mining licences and processing licences for minerals used as common construction materials and peat and individual mining licences in accordance with the powers stipulated in this Decree; to settle, pursuant to their respective duties and areas of responsibility, conditions relating to land leasing and utilization of infrastructure facilities and other related conditions applicable to organizations and individuals licensed to conduct mineral activities and basic geological surveys of mineral resources in their localities;
  - (g) To promote, educate, supervise and inspect the implementation of the laws on minerals by organizations and individuals in their localities;
  - (h) To resolve, or to participate in the resolution of, disputes relating to mineral activities and deal with any breaches of the laws on minerals committed in their localities in accordance with the powers stipulated in article 57 of the *Mineral Law* and other provisions of the law.
2. Departments of Industry shall assist provincial people's committees in carrying out the function of State management of mineral resources in accordance with the provisions of the *Mineral Law* and this Decree. The duties and powers of Departments of Industry shall be determined by the Minister of Industry.

## Article 8

People's committees of districts, provincial cities, towns, townships, villages and wards (hereinafter referred to as *district people's committees*) shall, depending on their respective functions, duties and powers, have the following responsibilities:

1. To implement measures to protect unexploited mineral resources in their localities in conjunction with protection of the environment and other natural resources in order to ensure social security and order, public health and safety, and protection of assets of the State and citizens;

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this article. The Ministry of Industry shall provide guidelines for issuance of mining licences and processing licences for minerals used as common construction materials in areas located within the border region of two or more provinces.





## CHAPTER IV

### **Organizations and Individuals Conducting Mineral Activities**

#### **Article 15**

Organizations and individuals permitted to conduct mineral activities pursuant to the *Mineral Law* shall include:

1. Vietnamese organizations established and operating under the *Law on State Owned Enterprises*, the *Law on Enterprises*, the *Law on Cooperatives*, and other economic organizations, which have mineral activities as an objective of incorporation and which are established, permitted to be established, registered, or recognised by a competent State body; Vietnamese individuals satisfying the conditions stipulated by law;
2. Foreign organizations and individuals and joint ventures with foreign partners operating in Vietnam in accordance with the laws on foreign investment in Vietnam.

#### **Article 16**

In order to be granted a licence for mineral activities, the organizations and individuals referred to in article 15 of this Decree must satisfy the conditions stipulated by the Ministry of Industry.

#### **Article 17**

Organizations and individuals carrying out mineral exploration must have technical equipment and professional qualifications in accordance with the provisions of the Ministry of Industry.

#### **Article 18**

Any organization or individual permitted to mine minerals may conduct the mining activities stated in the licence only when there is a mine manager satisfying the standards stipulated by the Ministry of Industry.

The Minister of Industry shall make provisions on the standards of mine managers in accordance with article 36 of the *Mineral Law*.



## **Article 20**

1. Regions in which mineral activities are restricted shall be regions in which one or more of the following forms of restriction is imposed by the State:
  - (a) Reservation for one or more specified State organizations to use exclusively for mineral activities;
  - (b) Restriction of mining output;
  - (c) Restriction of exportation of mined products.
2. A list of the regions in which mineral activities are restricted shall be provided by the Prime Minister of the Government.

## **Article 21**

Regions in which mineral activities are subject to tender shall include:

1. Regions in respect of which the Prime Minister of the Government has stipulated that exploration and mining must be subject to tender;
2. Regions or mines the exploration of which was funded by State capital and which are now subject to tender for mining.

## **Article 22**

1. The area specified in a mineral prospecting permit shall not be greater than

2. A mineral prospecting permit for an area of one hundred (100) or more square kilometres may be extended once for a period of up to twelve (12) months if, at the time of applying for an extension:
- (a) No other organization or individual has applied for exploration in the area;
  - (b) The organization or individual issued with the mineral prospecting permit has fulfilled all obligations stated in the permit;
  - (c) The mineral prospecting permit remains valid for at least thirty (30) days;
  - (d) The organization or individual issued with the mineral prospecting permit must submit to the Ministry of Industry a report on the results of prospecting, specifying the reasons for extension and a schedule for further prospecting, together with an application for an extension of the issued licence.

#### **Article 24**

**Article 25**

2. The mining licence remains valid for at least three months;
- 3.

activities conducted within the mining area of a licensed organization or individual.

The procedures for collection, payment, management, and utilization of fees for exclusive exploration rights shall be stipulated by the Ministry of Finance.

### **Article 30**

In respect of an exploration licence, a deposit shall be paid once at the time of issuance of the mineral exploration licence; this does not apply to licences for projects directly funded by the State.

The deposit shall be equal to twenty five (25) per cent of the estimated costs of the first year of exploration as determined in the exploration proposal or plans approved by the licensing body.

In cases where exploration activities are not conducted within six months from the date on which the exploration licence takes effect and such licence becomes invalid, the deposit shall be paid into the State Budget.

In cases where exploration activities are conducted within six months of the licence taking effect and are in accordance with the plans, the licensed organization or individual may request a refund of the deposit.

Organizations and individuals licensed to conduct mineral exploration may open an escrow account at a Vietnamese bank or a licensed foreign bank in Vietnam in lieu of direct payment of the deposit.

The Ministry of Finance shall provide guidelines for payment, registration, and management of deposits or escrow accounts in relation to mineral exploration licences.

### **Article 31**

The minimum exploration cost in Vietnamese dong per square kilometre per year shall be the minimum cost required to carry out technical duties relating to mineral exploration in an area of one square kilometre in one year commencing from the date on which the licence takes effect.

The Ministry of Industry shall approve the minimum exploration costs applicable to projects which are financed by State capital or shall agree on such costs for projects which are not financed by State capital upon issuance or extension of a mineral exploration licence.

**Article 32**

In respect of a mineral exploration licence which is not financed by State capital for an area of one hundred (100) or more square kilometres and having a licence duration of up to two years from the date on which the licence takes effect, if the actual exploration costs over the two year period are less than the minimum estimated costs approved by the Ministry of Industry, the difference shall be paid into the State Budget upon expiry or extension of the exploration licence.

**Article 33**

Organizations or individuals licensed to conduct exploration activities must carry out the volume of the exploration work at the costs stated in the exploration proposal or plan approved by the Ministry of Industry.

Where the actual exploration costs of the previous year exceed the estimated and planned exploration costs for that year, the excess costs incurred shall be included in the actual costs of the following year.

**Article 34**

1. When using State information and data on the results of mineral prospecting and exploration, organizations or individuals must make a lump sum payment to the State or instalment payments in proportion to exploitation output.
- 2.



2.

**Article 38**

Organizations or individuals licensed to mine minerals must pay a deposit at a Vietnamese bank or a licensed foreign bank operating in Vietnam as security for rehabilitation of the environment and land upon completion of activities on each part of the licensed area and upon closure of the mine.

The amount deposited for rehabilitation of the environment and land shall be based on the mining schedule, rate of rehabilitation, and estimated costs of rehabilitation as stated in the feasibility study report, the mine design and the environmental impact evaluation report appraised and approved by the authorized State body.

The Ministry of Finance, Ministry of Industry and Ministry of Science, Technology and Environment shall make provisions on the method of calculation of deposits and shall provide guidelines for registration, management, and utilization of deposits paid for rehabilitation of the environment and land upon completion of mining activities.

**Article 39**

The Ministry of Finance shall submit to the Prime Minister of the Government for promulgation regulations on the allocation and utilization of State revenue obtained from mineral activities for the purposes of protecting the interests of the people living in areas where minerals are mined or processed in accordance with the provisions of article 7 of the *Mineral Law* and protecting unexploited minerals.

**Article 40**

In respect of certain minerals which are strategically important and in service of the national socio-economic development plan, the Prime Minister of the Government shall decide on the allocation of capital to State enterprises investing in mineral exploration where the raising of capital from other sources is difficult.

The Ministry of Industry shall preside over co-ordination with the Ministry of Planning and Investment and Ministry of Finance for submission to the Prime Minister of the Government of exploration projects to which allocation of State capital is recommended.

In other cases, State enterprises may obtain soft credit facilities in order to invest in mineral exploration. State capital invested in the exploration of minerals must be recovered gradually during the mining process.

The Ministry of Finance shall preside over co-ordination with the Ministry of Industry and Ministry of Planning and Investment in making provisions on and guiding the procedures for allocation of State capital, obtaining soft credit

facilities, and exemption from or reduction of capital recovery with respect to exploration of minerals.

## CHAPTER VII

### **Evaluation and Appraisal of Proposals and Reports on Mineral Activities**

#### **Article 41**

Organizations and individuals licensed to conduct mineral activities may prepare or evaluate proposals, projects, mine designs, or closures of mines or may engage a geological or mineral mining consultancy organization or consultant with legal status to do so.

#### **Article 42**

1. The Ministry of Industry shall make provisions on, guide and organize the evaluation of proposals on mineral prospecting or exploration prior to the issuance of prospecting permits or exploration licences.
2. The Minister of Industry shall, based on the results of evaluation, approve exploration projects which are wholly or partly financed by State capital.
3. In respect of projects which are not financed by State capital, the contents of approval shall be specified in the mineral exploration licence.

#### **Article 43**

1. Any report on the results of mineral exploration which is wholly or partly financed by State capital shall be evaluated and approved prior to filing at the State geological archives or shall be used for preparation of a mineral mining feasibility study.
2. Any report on the results of mineral exploration not financed by State capital which is used for preparation of a mineral mining feasibility study must also be evaluated by the authorized State body as stipulated in clauses 4 and 5 of this article and be filed at the State geological archives.
3. The requirements and contents of the evaluation of a report on mineral exploration shall include:
  - (a) Reliability of information in respect of quantity and quality of minerals discovered, including associated minerals; detection of exploration errors that may lead to the omission of a type of mineral;

- (b) Level and quality of assessment of hydro-geological conditions, geo-engineering features and technical and technological conditions which may affect the selection of mining or processing technology and the reasonable use of mineral resources;
  - (c) Comparison of exploration results and feasibility of investing in exploration (in the case of utilization of State capital) with objectives of the evaluated, approved, or ratified proposal.
4. The Ministry of Industry shall evaluate and approve reports on exploration of minerals used as common construction materials which are used to prepare mineral mining feasibility study reports.
  5. The Mineral Reserve Assessment Council shall evaluate and approve the reserves stated in exploration reports which are used to prepare mineral mining feasibility study reports in respect of minerals other than minerals used as common construction materials.

#### **Article 44**

1. The evaluation of mineral mining feasibility study reports for domestic investment projects shall be carried out in accordance with the *Regulations on Management of Investment and Construction*

**Article 46**

The Ministry of Industry shall make provisions on the regime and contents of periodical reports on mineral activities.

**Article 47**

Any proposals to close mines shall be evaluated and approved in respect of safety requirements, rehabilitation of the environment and land, and other requirements stipulated in clauses 2(b) and (d) of article 40 of the *Mineral Law*.

The Ministry of Industry shall make detailed provisions on closure of mines.

**CHAPTER VIII****Principles and Procedures for Issuance of Licences for Mineral Activities and Assigning and Bequeathing Mineral Exploration, Mining or Processing Rights****Article 48**

The issuance of a licence for mineral activities shall be mainly based on:

1. General socio-economic development strategies of the State and development strategies for mineral related industries, such as power, metallurgy, construction materials, fertilizers, chemicals, transportation and production and trading of mineral materials;
2. Policies of the State and the Party relating to mineral resources and strategies and plans for development of the mining industry in each province, locality, region and throughout the whole country in accordance with socio-economic development strategies and development strategies for various industries from time to time;
3. Socio-economic effects of each mineral activity in conjunction with requirements of national security and defence, environmental and ecological protection, conservation and reasonable utilization of natural resources, protection of historical and cultural sites and other public interests in accordance with the relevant laws;
4. Legal status of the applicant (investor) as stipulated by law and other specific conditions stated in this Decree.

**Article 49**

In addition to the main criteria specified in article 48 of this Decree, the written opinion of the provincial people's committee on whether the region in respect of which an exploration licence is intended to be issued is related or unrelated to regions where mineral activities are permanently or temporarily prohibited or regions in respect of which mining licences have been issued by the provincial people's committee shall be required for issuance of mineral exploration licences.

The provincial people's committee shall, within its respective areas of responsibility for State management in the locality, be responsible to preside over co-ordination with related competent bodies at central and local levels in delineating regions in which mineral activities are prohibited or temporarily

with foreign direct investment capital, the Ministry of Planning and Investment shall be responsible for co-ordinating with the Ministry of Industry in the consideration of the application, obtaining opinions from relevant bodies, and making submission to the Prime Minister of the Government for his decision or shall, pursuant to its powers, make a decision upon receipt of the written agreement of the Ministry of Industry.

2. Foreign organizations and individuals or joint ventures with foreign parties issued with exploration licences may enjoy preferential treatment as specified by law for the purpose of implementing the approved exploration project.
3. A mineral mining or processing licence shall be granted to a foreign organization or individual or a joint venture with a foreign party at the time of issuance of the investment licence in accordance with the provisions of the *Law on Foreign Investment in Vietnam*.
4. An investment licence granted to a foreign organization or individual or a joint venture with a foreign party for the implementation of a mineral mining project may cover mineral exploration, mining and processing activities.

### **Article 53**

The maximum time-limit for evaluation of an application for a licence for mineral activities, excluding the time required to collect opinions from relevant bodies as stipulated in articles 49 and 51 of this Decree, shall be as follows:

1. Forty five (45) days as from the date of receipt of a proper application in the case of a domestic organization or individual;
2. Sixty (60) days as from the date of receipt of a proper application in the case of a foreign organization or individual or a joint venture with a foreign party;
3. The above time-limit does not include the time reserved for supplementation of documents by an organization or individual at the request of the body receiving the application.

No later than seven days after the above time-limit, the authorized body shall be required to issue a licence or provide a written reply to the applicant stating the reasons for its refusal to issue a licence.

### **Article 54**

After a licence for mineral activities has been issued in accordance with the provisions of this Decree, State authorities at central and local levels must promptly settle all matters relating to land leasing, utilization of infrastructure

facilities, and other relevant conditions in order to enable the licensed organization or individual to conduct the mineral activities.

#### **Article 55**

Any organization or individual permitted to conduct mineral activities may surrender a part of the licensed area or the licence for mineral activities provided that the following conditions are satisfied:

1. The organization or individual permitted to conduct mineral activities has fulfilled all obligations in accordance with the provisions of the law up until the time of surrender of the licence; the organization or individual has taken measures to rehabilitate the environment and land and has ensured that the surrendered area is safe;
2. Within a period of no more than three months from the date of surrender of an exploration licence, the organization or individual permitted to conduct the exploration activities has fulfilled the obligations stipulated in clause 2(b) of article 30 of the *Mineral Law*;

Within a period of no more than six months from the date of surrender of a mining licence, the organization or individual permitted to conduct mining activities has fulfilled the obligations stipulated in clauses 2(b) and (c) of article 40 of the *Mineral Law*;

3. The licensing body has approved in writing the surrender of the licence.

#### **Article 56**

The assignment of rights to conduct mineral exploration or mining activities shall be carried out in accordance with the following provisions:

1. Organizations and individuals permitted to conduct exploration or mining activities may assign their exploration or mining rights in accordance with their issued licences to other organizations or individuals for the purpose of continued performance of the rights and obligations stipulated in the licence and in accordance with the provisions of the law.
2. Assets, documents and values to be assigned as well as any unfulfilled financial obligations of organizations or individuals permitted to conduct exploration or mining activities which are assigned in conjunction with exploration or mining rights must be inventoried and valued fully and accurately and must be expressly stated in the assignment contract between the parties.
3. A report on results of exploration or mining activities conducted up until the time of assignment must be attached to the assignment contract and the application for assignment of exploration or mining rights of the



organization or individual permitted to conduct exploration or mining activities.

4. Organizations and individuals being assigned mineral exploration or mining rights must satisfy all legal requirements stipulated in article 15 of this Decree.
5. Where the assignee is a foreign organization or individual or a joint venture with a foreign party, such organization or individual must possess an investment licence issued by the competent State licensing body in accordance with the *Law on Foreign Investment in Vietnam*.
6. The assignment of exploration or mining rights of organizations and individuals permitted to conduct mineral exploration or mining activities must be approved by the body issuing the relevant licence for mineral exploration or mining activities and shall be subject to payment of tax in accordance with the provisions of the law.

#### **Article 57**

The rights to conduct mineral exploration or mining activities of an individual permitted to conduct mineral exploration or mining activities may be bequeathed where the legal beneficiary of such individual satisfies the requirements stipulated in articles 15 and 16 of this Decree. Where the legal beneficiary of such individual permitted to conduct mineral exploration or mining activities fails to satisfy the conditions for continuance of the activities stipulated in the licence, the matter may be resolved as follows:

1. The legal beneficiary of the individual permitted to conduct mineral exploration or mining activities may assign the rights to conduct the activities stipulated in the licence provided that the actual conditions satisfy the requirements provided for in article 56 of this Decree.
2. The mineral exploration or mining licence shall be withdrawn and the beneficiary of the individual permitted to conduct mineral exploration activities shall have the rights and obligations stipulated in clause 2(b) of article 30 of the *Mineral Law*; the legal beneficiary of the individual permitted to conduct mineral mining activities shall have the rights and obligations stipulated in clauses 2(b), (c), and (d) of article 40 of the *Mineral Law*.

#### **Article 58**

A mineral prospecting permit may be withdrawn in accordance with article 24 of the *Mineral Law*. In the event that an organization or individual permitted to conduct mineral prospecting activities breaches any of the provisions stipulated in article 23 of the *Mineral Law*, the permitted time-limit for rectification of the breach shall not exceed thirty (30) days as from the date of the written notice

issued by the State management body in charge of minerals belonging to the Ministry of Industry.

#### **Article 59**

A mineral exploration licence may be withdrawn in accordance with article 29 of the *Mineral Law*. In the event that an organization or individual permitted to conduct mineral exploration activities breaches any of the provisions stipulated in article 27 of the *Mineral Law*, the permitted time-limit for rectification of the breach shall not exceed sixty (60) days as from the date of the written notice issued by the State management body in charge of minerals belonging to the Ministry of Industry.

#### **Article 60**

A mineral mining licence may be withdrawn in accordance with article 39 of the *Mineral Law*. In the event that an organization or individual permitted to conduct mineral mining activities breaches any of the provisions stipulated in article 33 of the *Mineral Law*, the permitted time-limit for rectification of the breach shall not exceed ninety (90) days as from the date of the written notice issued by the State management body in charge of minerals belonging to the Ministry of Industry or the Department of Industry, depending on the powers of that body.

#### **Article 61**

1. A mineral processing licence may be granted to an organization or individual other than the organization or individual permitted to conduct mineral mining activities under the following conditions:
  - (a) The organization or individual applying for a processing licence satisfies the requirements stipulated in articles 15 and 16 of this Decree;
  - (b) The mineral processing feasibility study report has been evaluated and approved in accordance with article 44 of this Decree;
  - (c) The environmental impact evaluation report has been appraised and approved by the competent State body.
2. The duration of a mineral processing licence shall be determined on the basis of the relevant feasibility study report and in accordance with the investment licence or investment decision.
3. A mineral processing licence may be withdrawn where the organization or individual permitted to conduct processing activities breaches any of the provisions stipulated in article 46 of the *Mineral Law*.



4. Permission has been granted by the provincial people's committee.

#### **Article 64**

The Ministry of Industry shall provide detailed guidelines on the procedures for the issuance, extension and surrender of licences for mineral activities, the approval of assignment or bequeathing of mineral exploration, mining and processing rights, and the registration of mineral activities for uniform implementation nationally.

## **CHAPTER IX**

### **Individual Mining**

#### **Article 65**

Individual mining is a form of mineral activity which satisfies the following conditions:

1. Exploration of the area to be mined is not required prior to exploitation;
2. The volume of materials mined, including waste stone, soil and minerals, under an individual mining licence granted to an individual (not a business enterprise) does not exceed five thousand (5,000) tonnes per year, or one hundred thousand (100,000) tonnes per year in the case of an organization;
3. In cases where explosives are used, a permit must be obtained in accordance with law; no toxic chemicals are used;
4. Any individual may be granted only one individual mining licence.

#### **Article 66**

Regions which are subject to individual mining licensing shall include:

1. Regions in which minerals exist in the form of non-concentrated small mineral sands, rolling ore and small ore bodies which have been investigated and evaluated but in respect of which investment in industrial scale mining would not be economically feasible;
2. Regions in which minerals used as common construction materials are located far from traffic-ways, lakes, rivers and urban residential areas but the socio-economic conditions as well as the consumption demand do not allow investment on an industrial scale;



damages paid by the organization or individual permitted to conduct mineral activities in the area license

