

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 September 1992;

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

Following the proposal of the Minister of Industry;

Decrees:

CHAPTER I

General Provisions

Article 1

This Decree makes detailed provisions on the implementation of the *Mineral Law* passed 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 geological surveys of mineral resources and all mineral activities, consisting of prospecting, exploration, mining and processing of minerals, conducted in Vietnam by Vietnamese or foreign organizations and individuals.

CHAPTER II

State Management of Minerals**Article 3**

1. The Ministry of Industry shall exercise the function of State management of minerals nationally and shall have the following duties and powers:

- (a) To prepare and submit to the competent body for promulgation, or to promulgate within its own authority, legal instruments on management, protection and basic geological surveys of mineral resources and mineral activities;
- (b) To organize the preparation of a master plan and plans for development of basic geological surveys of mineral resources throughout the country;

To preside over the co-ordination with relevant ministries and bodies at the central level and people's committees of provinces or cities under central authority (hereinafter referred to *provincial people's committees*) in preparing strategies, master plans and policies on mineral resources and on the development of the mining and mineral processing industry for submission to the Government;

- (c) To organize the evaluation and approval of projects for mineral exploration, to report on results of exploration of minerals used as common construction materials, feasibility study reports on mining and mineral processing, and mine designs in accordance with the provisions of this Decree and other provisions of the law;
- (d) To issue, extend, withdraw and approve the surrender of licences for mineral activities; to approve assignments of rights to conduct mineral activities in accordance with the provisions of this Decree and other provisions of the law;
- (dd) To promote, disseminate, guide and inspect the implementation of the *Mineral Law* by branches, localities, organizations and individuals; to organize specialized mineral inspections in accordance with articles 58, 59, and 60 of the *Mineral Law*; to examine and inspect activities relating to basic geological surveys of mineral resources;
- (e) To resolve any dispute, complaint or denunciation relating to mineral activities which falls within its jurisdiction in accordance with articles 57 and 62 of the *Mineral Law* and with the laws on complaints and denunciation;

- (g) To manage international co-operation activities relating to basic geological surveys of mineral resources and mineral activities;
 - (h) To register, monitor, evaluate and consolidate the results of basic geological surveys of mineral resources and mineral activities nationally and to report periodically to the Government;
 - (i) To co-ordinate with provincial people's committees and relevant ministries and branches for the protection of unexploited mineral resources.
2. The organizational structure, duties and powers of the State geological and mineral management body of the Ministry of Industry shall be subject to separate Government regulations.

Article 4

1. Ministries, ministerial equivalent bodies and Government bodies (hereinafter referred to as *ministries*) shall, depending on their respective duties and powers, be responsible for co-operating with the Ministry of Industry in managing and protecting mineral resources and mineral activities.
2. Ministries delegated with the function of State management of production, utilization and trading of mineral materials shall be responsible for:
- (a) Co-operating with the Ministry of Industry, relevant ministries and branches at the central level and provincial people's committees in preparing policies on mineral resources, strategies, master plans and plans for development of the mining and mineral processing industry and the utilization and trading of minerals, including importation and exportation of minerals, which fall within their respective areas of management, for submission to the Government for approval;
 - (b) Co-operating with the Ministry of Industry in preparing guidelines on exploitation, protection and utilization of mineral resources which fall within their respective areas of management, for submission to the Government for promulgation, or for promulgation within its own authority;
 - (c) Directing and inspecting the implementation of strategies, policies, master plans and laws on minerals by units under their direct control;
 - (d) Co-ordinating with the Ministry of Industry in carrying out other duties relating to State management of basic geological surveys of

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;

2. To settle, pursuant to their respective 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 in their localities in accordance with the provisions of the law and guidelines of provincial people's committees;
3. To promote, educate and supervise the implementation of the laws on minerals, to participate in the resolution of disputes relating to mining activities, and to deal with any breaches of the laws on minerals committed in their localities in accordance with their respective areas of responsibility.

Article 9

The authority to issue, extend and withdraw licences for mineral activities and to approve the surrender of such licences or the assignment of rights to conduct mineral activities shall be provided for as follows:

1. The Ministry of Industry shall issue the following licences:
 - (a) Mineral prospecting permits;
 - (b) Mineral exploration licences;
 - (c) Mining licences and processing licences for various types of minerals, except those stipulated in clause 2 of this article which fall within the jurisdiction of provincial people's committees;
 - (d) Mining licences and processing licences for minerals used as common construction materials in cases of granting to foreign organizations or individuals or joint ventures with foreign parties.
2. Provincial people's committees shall issue the following licences in respect of regions which are under local management and administration:
 - (a) Individual mining licences covering areas for individual mining approved by the Ministry of Industry in accordance with articles 66 and 67 of this Decree;
 - (b) Mining licences and processing licences for minerals used as common construction materials (including in areas located within the border region of two or more provinces, after the Ministry of Industry has issued an exploration licence and has approved the report on exploration results) and peat granted to Vietnamese organizations and individuals, with the exception of mining licences and processing licences for minerals which fall within the jurisdiction of the Ministry of Industry as stipulated in clause 1 of

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.

3. The body authorized to issue a licence for mineral activities shall have the authority to extend, withdraw and approve the surrender of that licence and to approve the assignment of the right to conduct mineral activities under that licence.

CHAPTER III

Basic Geological Surveys of Mineral Resources

Article 10

Basic geological surveys of mineral resources shall include the following activities:

1. Prospecting for and discovering mineral potential in conjunction with preparing various types of regional geological maps, specialized maps and carrying out specialized geological and mineral research;
2. Evaluating mineral resource potential by kind or category and prospective geological structures in order to discover new mines.

Article 11

Activities of basic geological surveys of mineral resources shall be carried out at the same time and in conjunction with basic geological surveys and in accordance with the master plan and plans of the State.

The Ministry of Industry shall submit to the Prime Minister of the Government plans and programmes for basic geological surveys of mineral resources and the Ministry of Planning and Investment shall evaluate and submit such plans and programmes to the Prime Minister of the Government for approval.

Article 12

Organizations carrying out basic geological surveys of mineral resources shall have the following rights and obligations:

1. To register the duties and plans for geological surveys in accordance with the provisions of the Ministry of Industry;

2. To carry out basic geological surveys of mineral resources in accordance with the approved project and assigned plans;
3. To implement the procedures, regulations and technical and economic standards applicable to geological surveys issued by the Ministry of Industry;
4. To ensure the accuracy and adequacy of collected and consolidated documents and information relating to geology and minerals; to maintain the confidentiality of State secrets in relation to information on minerals in accordance with the provisions of the law;
5. To protect the environment, mineral resources and other resources when carrying out basic geological survey activities and basic geological surveys of mineral resources;
6. To file reports on basic geological surveys of mineral resources at the State geological archives and to deliver geological samples and mineral samples to the Museum of Geology in accordance with the provisions of the Ministry of Industry;
7. To be entitled to State rewards for achievements and new discoveries in relation to geology or mineral resources;
8. To be permitted to send samples abroad for analysis and testing in accordance with the provisions of the law.

Article 13

The results of basic geological surveys of mineral resources shall be evaluated, registered and filed at the State geological archives in accordance with the provisions of the Ministry of Industry.

The State geological archives shall maintain the confidentiality of any State secrets in relation to mineral resources and shall create favourable conditions for organizations and individuals to use the results of basic geological surveys of mineral resources and other information and documents relating to mineral resources in accordance with the provisions of the Ministry of Industry.

Article 14

The Ministry of Industry shall make detailed provisions on the contents of projects carrying out basic geological surveys of mineral resources; provisions on State geological archives and museums; and shall issue, and provide guidance for the implementation of, legal instruments, standards and unit prices applicable to basic geological surveys of mineral resources.

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*.

CHAPTER V

Regions, Areas and Duration of Mineral Activities

Article 19

1. Regions in which mineral activities are prohibited shall include:
 - (a) Registered or recognised regions in which historical or cultural sites are located;
 - (b) National parks, protected forests, and regions of geological preservation;
 - (c) Regions reserved exclusively for defence and security purposes or affecting defence and security duties;
 - (d) Regions reserved to protect dams, dykes, river banks, and important traffic works;
 - (dd) Regions reserved exclusively for religious purposes;
 - (e) Urban regions or regions where important infrastructure facilities are located.
2. The Ministry of Defence, Ministry of Police, Ministry of Culture and Information, Ministry of Agriculture and Rural Development and Ministry of Transportation and Communications shall, depending on their respective functions, duties and powers, be responsible for co-ordinating with provincial people's committees in delineating within their respective administrative boundaries those regions in which mineral activities are prohibited. Chairmen of provincial people's committees shall submit to the Prime Minister of the Government for his decision and notify the Ministry of Industry in writing of the prohibited regions.
3. In respect of regions which are determined as regions in which mineral activities are temporarily prohibited due to reasons in accordance with law, the State body in charge of such regions shall have the responsibility to notify the Ministry of Industry and the people's committee of the local province in writing.
4. Underground mining of minerals not requiring the utilization of any land surface within a region in which mineral activities are prohibited must also have the written agreement of the State body in charge of such region.

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 two thousand (2,000) square kilometres as delineated by square co-ordinates and no restrictions shall be imposed on the types of minerals which may be prospected. In exceptional cases where an area of more than two thousand (2,000) square kilometres is required for the purpose of mineral prospecting, the Ministry of Industry shall submit a proposal to the Prime Minister of the Government for his consideration and approval prior to issuance of a permit.
2. Mineral prospecting permits may be granted to a number of organizations and individuals operating in the same site. Organizations and individuals making applications for a prospecting permit shall be considered on a "first in time" basis provided that the procedures provided for by law have been complied with.

Article 23

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

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

1. The area specified in a licence for exploration of precious metal minerals (gold, silver, platinum) and precious stones (diamonds, rubies, sapphires, emeralds) shall not exceed one hundred (100) square kilometres.
2. The area specified in a licence for exploration of coal, metal minerals (other than precious metal minerals) and non-metal minerals (other than common construction materials) on the mainland with or without water surfaces shall not exceed two hundred (200) square kilometres.
3. The area specified in a licence for exploration of various kinds of minerals within the continental shelf shall not exceed five hundred (500) square kilometres.
4. The area specified in a licence for exploration of minerals used as common construction materials on the mainland with or without water surfaces shall not exceed ten (10) square kilometres.
5. The area specified in a licence for exploration of mineral water or natural thermal water shall not exceed twenty (20) square kilometres.
6. Any organization or individual satisfying the conditions stipulated in articles 15 and 16 of this Decree may be granted a number of exploration licences provided that the total number of licences granted does not exceed five.

Article 25

The duration of a mineral exploration licence, including the time reserved for preparing a report on exploration and its results and on feasibility study for exploitation, shall be no less than six months but shall not exceed twenty four (24) months, and may be extended subject to the following conditions:

1. At the time of making the application for an extension, the organization or individual licensed to conduct exploration has fulfilled all obligations stipulated in the licence and the licence remains valid for at least thirty (30) days;
2. At least thirty (30) per cent of the area specified in the licence is returned at each time that an extension of the licence is sought;
3. Attached to the application for extension of a licence to be submitted to the Ministry of Industry is a report on exploration results and actual costs, reasons for extension, and programmes and plans for and costs of further exploration;
4. A mineral exploration licence issued in accordance with clauses 1, 2 and 3 of article 24 of this Decree may be extended twice only and the total extended duration shall not exceed twenty four (24) months. In cases where an exploration licence has been extended so that the total duration of exploration is forty eight (48) months and the organization or individual conducting the exploration activities has fulfilled or exceeded the work volume and costs planned but there is still insufficient grounds to prepare a feasibility study report or more time is required to prepare a mining feasibility study, the exploration licence may be reissued provided that such organization or individual files a proper application.

Article 26

The area specified in a mineral mining licence shall be determined on the basis of the mineral mining feasibility study report evaluated and approved in accordance with article 44 of this Decree.

Article 27

The duration of a mineral mining licence shall be determined on the basis of the mineral mining feasibility study report evaluated and approved in accordance with article 44 of this Decree and shall not exceed thirty (30) years, and may be extended subject to the following conditions:

1. At the time of making the application for extension, the organization or individual licensed to mine minerals has fulfilled all obligations specified in the *Mineral Law* and other relevant provisions of the law;

2. The mining licence remains valid for at least three months;
3. Attached to the application for extension to be submitted to a competent licensing body is a consolidated report on mining results up until the time of the application for extension together with a status map of the mine, specifying the unexploited areas and reserves and plans and programmes for further exploitation;

Where a licence was issued prior to the date of effectiveness of the *Mineral Law*, in addition, it shall be required to submit a mine design and an environmental impact evaluation report approved by a competent body;

4. A mineral mining licence may be extended a number of times on the basis of plans for a continuation of mining approved by the competent licensing body provided that the total duration of the period of extension shall not exceed twenty (20) years.

CHAPTER VI

Provisions on Financial Matters and Property Rights

Article 28

A licence fee shall be the fee paid for issuance or extension of a licence for mineral activities.

The licence fee and the procedures for collection, payment, management, and utilization of licence fees shall be stipulated by the Ministry of Finance.

Article 29

1. Fees for exclusive exploration rights shall be calculated on the basis of the area and duration specified in the mineral exploration licence in accordance with the following provisions:

First year: VND300,000/km²/year;

Second year: VND400,000/km²/year;

Third year: VND550,000/km²/year;

Fourth year onwards: VND700,000/km²/year.

2. Fees for exclusive exploration rights shall not apply to exploration licences which have a duration of less than twelve (12) months, including the duration of any period of extension, and shall not apply to exploration

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. Organizations or individuals making lump sum payments for use of information on the results of mineral prospecting and exploration shall be entitled to use and assign the information to other organizations or individuals.
3. Organizations or individuals making instalment payments in proportion to exploitation output for use of information on the results of mineral prospecting and exploration shall be entitled to use the information in conducting their mineral activities but shall not be entitled to assign, sell or disclose the information to any other organizations or individuals.

The Ministry of Finance and Ministry of Industry shall provide guidance for determining the amount to be paid for use of State information and data on the results of mineral prospecting and exploration and guidelines on the method and procedure of such payment.

Article 35

1. Organizations or individuals permitted to conduct mineral activities shall have the right to use or assign any information on results of mineral prospecting or exploration obtained from mineral prospecting or exploration which has been wholly financed by them.

2. Organizations or individuals permitted to conduct mineral activities which are financed by State capital for the whole or a part of their prospecting or exploration activities shall not have the right to supply or assign any information on results of mineral prospecting or exploration to any other organizations or individuals, with the exception of State bodies which have the authority or responsibility to manage and use the information in accordance with law.
3. If, after six months from the date of expiry of a mineral exploration licence, the organization or individual permitted to conduct exploration activities fails to lodge an application for a mining licence or if, after six months from the date of expiry of a mining licence, the organization or individual licensed to conduct mining activities fails to lodge an application for extension of the mining licence, the authorized State body may provide information relating to such licences to other organizations or individuals.

Article 36

Where permitted to assign or bequeath the right to conduct mineral exploration or mining, organizations or individuals licensed to conduct mineral exploration or mining activities may assign or bequeath any asset legally owned by them, including geological and mineral information, data and samples, construction works and equipment erected, built or installed at the mining site.

Where an assignment of the right to mine minerals has been approved, a new land leasing contract shall be entered into without the requirement to complete the procedures for transfer of the right to use land.

The assignment of State owned assets allocated to organizations or individuals licensed to conduct mineral exploration or exploitation activities shall be carried out in accordance with the provisions of the law.

Article 37

Upon expiry of a mineral exploration or mining licence, ownership of the assets used in mineral exploration or mining shall be dealt with in accordance with the provisions of clause 2(b) of article 30 and clauses 2(b) and (c) of article 40 of the *Mineral Law*.

The Ministry of Finance and Ministry of Industry shall provide guidelines for the valuation of assigned assets and the procedure for assigning assets of organizations or individuals licensed to conduct mineral exploration or mining activities to the State upon expiry or termination of licences in accordance with the provisions of the *Mineral Law* and other provisions of the law.

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* promulgated by the Government.
2. The evaluation of mineral mining feasibility study reports for projects with foreign direct investment capital shall be carried out in accordance with the regulations on evaluation and implementation of foreign direct investment projects promulgated by the Government.

Article 45

1. Organizations and individuals evaluating mine designs must be independent in terms of interests from organizations and individuals preparing such designs and shall be responsible before the law for their evaluation.
2. Mine designs in relation to mineral mining projects shall be evaluated and approved in accordance with the provisions of the *Regulations on Management of Investment and Construction* promulgated by the Government.
3. The Ministry of Industry shall provide detailed guidelines for mine designs and procedures for evaluation and approval of such designs.

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 prohibited as provided for in article 14.1 of the *Mineral Law* and article 7.1(b) of this Decree.

In special cases where mineral exploration and mining activities are required to be conducted in regions where mineral activities are permanently or temporarily prohibited as stipulated in article 19 of this Decree, the Ministry of Industry shall report to the Prime Minister of the Government for his consideration and decision on issuance of exploration and mining licences in those regions.

Article 50

The issuance of a mineral mining or processing licence shall depend on the feasibility study report, environmental impact evaluation report and report on mineral reserves as evaluated or approved by competent bodies in accordance with law.

Article 51

Prior to issuance of a mineral mining licence, the authorized body must seek the written opinion of the provincial people's committee on the matters referred to in article 49 of this Decree in cases where such opinion has not been obtained at the time of issuance of the exploration licence.

The provincial people's committee shall, within its respective powers, have the responsibility to reply in writing to the body receiving the application within fifteen (15) days of receipt of the written request for an opinion.

Where necessary, the body receiving the mineral mining application may publish in the media the mineral mining application for the purpose of obtaining opinions at least fifteen (15) days prior to issuance of a mining licence.

Article 52

1. Upon receipt of a proper application for an investment licence for a project for mining or processing or related to mining or processing of minerals

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. The assignment or bequeathing of the right to conduct mineral processing activities shall be carried out in accordance with the relevant provisions stipulated in articles 56 and 57 of this Decree.

Article 62

The mining of minerals used as common construction materials shall not require a mining licence in the following cases:

1. Mining of minerals used as common construction materials in infrastructure projects of the State, such as building dams, digging channels for irrigation or hydro-electric projects, levelling roads, digging tunnels, dredging rivers, lakes or ports, works for national defence and other State construction works of a similar nature, provided that the mining activities are conducted within the construction area, the exploitation is for the purpose of individual mining only and not mainly aimed at trading minerals, and the investment project and construction designs have been evaluated and approved by the State competent body in accordance with the provisions of the law;
2. Mining of minerals used as common construction materials for the purpose of non-commercial individual mining which is conducted within areas allocated by the Government to organizations or individuals for their use;
3. Prior to carrying out mining or individual mining of minerals used as common construction materials as stipulated in clauses 1 and 2 of this article, organizations and individuals having mining rights shall be required to register their capacity, volume, equipment and their mining plan with the local Department of Industry.

Article 63

Exploitation of soil of various kinds to be used as levelling materials in construction works, urban areas, and so forth, shall be permitted to be conducted provided that the following requirements are satisfied:

1. Having documents relating to geological surveys of the exploration area which have been approved in writing by the Department of Industry, evidencing that there are no other minerals of higher value;
2. The land specified in the application for exploitation is not agricultural land or protected forest;
3. The exploitation activities will not cause any adverse impact on the environment, ecology and surrounding landscape or damage public works, infrastructure, historical and cultural monuments, works for national defence and terrain of military value;

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;

3. Mines in respect of which a decision on mine closure has been granted for the purposes of liquidation or protection and re-exploitation on an industrial scale is not economically feasible, and individual mining would not cause insecurity to the closed mine.

Article 67

The Ministry of Industry shall approve regions of individual mining of minerals other than precious minerals, metals and stones, following the proposal of the provincial people's committee for the latter to manage and issue individual mining licences, in accordance with the provisions of article 66 of this Decree and the guidelines of the Ministry of Industry. Individual mining licences shall not be granted in respect of areas which have not been approved by the Ministry of Industry.

Article 68

The licensed area under an individual mining licence issued to an organization must not exceed twenty (20) hectares, or one hectare in the case of an individual.

Article 69

The duration of an individual mining licence shall not exceed thirty six (36) months and may be extended several times provided that the total extension period does not exceed twenty four (24) months and the following conditions are satisfied at the time of extension:

1. The organization or individual permitted to conduct individual mining activities has fulfilled all obligations stipulated in article 52 of the *Mineral Law*;
2. Individual mining is still appropriate to be conducted in the area licensed under the individual mining licence in accordance with the *Mineral Law* and articles 65 and 66 of this Decree;
3. The individual mining licence remains valid for at least thirty (30) days.

Article 70

An individual mining licence shall be withdrawn in accordance with article 53 of the *Mineral Law*. In cases where individual mining is no longer appropriate in an area licensed for individual mining, the individual mining licence shall be withdrawn and the consequences of such withdrawal shall be dealt with as follows:

1. The organization or individual permitted to conduct individual mining activities shall remove all of its assets from the mining site and rehabilitate the environment and land and shall be entitled to compensation for

damages paid by the organization or individual permitted to conduct mineral activities in the area licensed under the individual mining licence which has been withdrawn.

2. In cases where there is no organization or individual conducting mineral activities in the area in which the form of individual mining is no longer appropriate or where the individual mining licence is withdrawn in accordance with article 14.2 of the *Mineral Law*, the damages suffered by the organization or individual permitted to conduct individual mining activities shall be considered and dealt with by the State in accordance with the provisions of the law.
3. If an organization or individual permitted to conduct individual mining establishes a mineral enterprise, a licence to conduct mineral activities in the area licensed under the individual mining licence which has been withdrawn may be granted to that organization or individual by the competent body.

Article 71

Organizations and individuals permitted to implement individual mining licences may request State bodies, scientific and technological research organizations, and State enterprises conducting mineral activities to provide guidance and technical and technological assistance. Such organizations shall have the responsibility to satisfy the reasonable requests of organizations or individuals permitted to conduct individual mining activities.

Article 72

Provincial people's committees shall, pursuant to the provisions of the *Mineral Law* and this Decree, make detailed provisions on the management and issuance of individual mining licences in accordance with local conditions and subject to the approval of the Ministry of Industry.

CHAPTER X

Specialized Mineral Inspection

Article 73

Mineral inspectors must comply with the provisions on occupational safety and hygiene and environmental protection; they must actively co-ordinate with State labour inspectors and specialized environmental protection inspectors for the purpose of examining and inspecting occupational safety and hygiene and environmental protection in respect of mineral activities, especially mineral mining activities; they must co-ordinate with State inspectors of branches at

various levels in order to resolve complaints and denunciations made in respect of mineral activities conducted by organizations and individuals.

Article 74

The organization, duties and powers of specialized mineral inspectors shall be as stipulated in article 59 and 60 of the *Mineral Law* and as stipulated by the Government.

CHAPTER XI

Implementing Provisions

Article 75

This Decree shall be of full force and effect after fifteen (15) days from the date of signing and shall replace Decree 68-CP of the Government dated 1 November 1996 making detailed provisions on the implementation of the *Mineral Law*.

Article 76

The Minister of Industry and heads of relevant ministries and branches shall submit to the Government for promulgation legislation relating to this Decree and shall be responsible for providing detailed guidelines for and monitoring the implementation of this Decree.

Article 77

Ministers, heads of ministerial equivalent bodies, heads of Government bodies, and chairmen of people's committees of provinces or cities under central authority shall be responsible for implementation of this Decree.

On behalf of the Government
Prime Minister

PHAN VAN KHAI