

PROCLAMATION NO. 52/1993
A PROCLAMATION TO PROMOTE THE
DEVELOPMENT OF MINERAL RESOURCES

WHEREAS, all mineral resources are public property which have a significant contribution to the economic development of the country and that the state shall ensure the conservation and development of the resources for the benefit of the people:

WHEREAS, prospecting, exploration and exploitation of mineral resources should be carried out in accordance with appropriate technology and sound principles of resource conservation and develop national expertise in the mining industry; and

WHEREAS, recognizing the significant role of private investment in the capital formation, technology acquisition and marketing of minerals;

WHEREAS, to achieve these ends it is essential to promulgate a new law on mining operations;

NOW, THEREFORE, in accordance with article 9 (d) of the Transitional Period Charter of Ethiopia, it is hereby proclaimed as follows:

PART I
GENERAL

1. Short Title

This Proclamation may be cited as the "Mining Proclamation No.52/1993."

2. Definitions

In this Proclamation unless the context provides other wise:

1. "agreement" means a contract between the Government and a licensee in order to prospect, explore and mine for minerals;
2. "artisanal mining" means, unless otherwise specified by the Minister, non – mechanized mining operations of gold, platinum, precious minerals, metals, salt, clay, and other similar minerals, an essentially manual nature carried out by Ethiopian individual s or groups of such persons;
3. "construction minerals" means sand, gravel, stone (marble, granite, basalt etc) clay including non-metallic minerals used for construction purpose and such other minerals as the Minister may, by directive, so designate;
4. "controller" means an officer authorized by the Licensing Authority to control Mining Operation;
5. "deposit" means any natural concentration of minerals found on or within a specified area of the earth's crust;
6. "to explore; means to undertake all acts to search for, appraise and evaluate a deposit, by using different methods of studies / geological and geophysical/ relating to subsurface geology and structure, excavation, boring and drilling, analysis of the physical and chemical properties of

minerals and examination of the economic feasibility of developing and producing a deposit;

7. "Government" means the Central Transitional Government or the National /Regional Transitional Self Government, as may be appropriate;
8. "large –Scale mining" means any mining operation to be designated as such by the minister in accordance with regulations to be issued for implementing this Proclamation;
9. "license" means a license issued pursuant to this Proclamation to prospect, explore or mine for minerals;
10. "License area" means any area which is the subject of a License;
11. "Licensing Authority" means the Mines and energy Bureau of the National/ Regional Self –Government for artisanal mining and construction minerals mining carried out by domestic investors and Ministry of Mines and Energy for the rest of mining operation
12. "to mine" means to undertake all acts to develop, extract and remove minerals from a deposit, including their storage, treatment, processing (excluding smelting and refining), transportation and /or disposal;
13. "mineral water" means water containing mineral wit healthful properties and water such as brines from which minerals may be extracted on an economic basis;
14. "minerals" means any naturally occurring mineral substance of economic value forming part on or found on or within the earth’s crust, including salt, mineral water and geothermal deposits, but excluding petroleum, natural gas and oil shale as defined in article 2(7) of proclamation No. 295/1986;
15. "Minister" and “Ministry” means the Minister and the Ministry of Mines and Energy, respectively;
16. "Mining Operations" means all acts carried out to prospect, explore and mine for minerals;
17. "Person" means any natural or legal person;
18. "precious minerals" means precious metals such as platinum, gold and silver and precious stones such as diamonds, rubies, emeralds and sapphires and such other minerals as the Minister may, by directive so designate;
19. "to prospect" means to undertake on or above the surface of the earth all acts to search for mineral occurrences in order to ascertain the possible presence of minerals including the geological and structural characteristics of the land;
20. "Small-scale mining" means mining operations to be designated as such by the Minister in accordance with regulations to be issued for implementing this Proclamation.

3. Scope of Application

This Proclamation shall apply to and govern the conduct of all of all operations and related activities within the territory of Ethiopia.

PART II
MINING RIGHTS
CHAPTER 1 GENERAL

4. Requirements of Mining Rights

1. Without prejudice to sub-article 2 of this Article, Articles 20(1) and 21 of this Proclamation, no person shall prospect explore or mine unless he is a holder of a license.
2. Any Ethiopian may prospect without a prospecting license. Provided he does not interfere in any way with the rights of a licensee or any other person.

5. Eligibility for Mining Rights

1. without prejudice to sub-article 2 of this Article, any person, who satisfies the requirements of license set out in this Proclamation, regulations, and directives to be issued under this Proclamation, may acquire a license provided that he is qualified to carry on trade under the provisions of the commercial Code and possessing the required financial resources, technical competence, professional skill and experience necessary to fulfill the obligations under the license.
2. No person is required to possess financial resources, technical competence, professional skill and experience in order to acquire artisanal mining license.
3. No person whose license has been revoked except as provided for under Article 15(2) of this Proclamation may hold another license for 5 years following such revocation.
4. Domestic investors who fulfill all requirements provided under sub-article 1 of this Article shall have priority in acquiring license.

6. Reserved and Excluded Areas and Minerals

The Government may, designate any area of mineral as reserved or excluded for particular mining operations and exclude any area from mining operations particularly as regards sites of historical, cultural or religious interest and public buildings, infrastructure and other installations.

7. Government mining Operations

The Government may undertake some mining operations that are vital for overall economic growth either by itself or in partnership with private investors.

CHAPTER 2
PRE-DEVELOPMENT RIGHTS
SECTION 1 PROSPECTING

8. Prospecting License

1. A prospecting license grants an exclusive right to prospect for the minerals within the license area. Prospecting license may not be transferred, assigned, encumbered or inherited.
2. A prospecting license is valid for a period for one year and may not be renewed.
3. Upon his discovery of indications of minerals specified in the license within the license area, the licensee shall have the right to be granted an exploration license, provided that,
 - a. he has fulfilled all obligations under the prospecting license;
 - b. meets all requirements in connection with the application for an exploration license; and
 - c. he is not in breach of any provisions of this Proclamation, regulations or directives issued hereunder which constitutes grounds for suspension or revocation of the prospecting license.

SECTION 2 EXPLORATION

9. Exploration License

1. An exploration license grants an exclusive right to explore for the minerals within the area specified in the license.
2. The license area shall, unless the Licensing Authority specifies otherwise, be of simple geometric form, as specified by directive issued by the Minister.
3. An exploration license may not be encumbered or inherited, but the license and the licensee's right to obtain a mining license pursuant to Article 10 sub-article 3 of this proclamation may be transferred or assigned with the prior approval of the Licensing Authority.

10. Duration and Renewal

1. An exploration license is valid for an initial period of three years and may be renewed twice for addition at terms of one year each. The Licensing Authority may further allow extension of renewal periods where the licensee documents the necessity for additional advanced exploration activity, or provides information on other circumstances which justify an extension of the duration of the license.
2. The licensee shall have the right to renew the license, provided he has fulfilled the obligations specified in the license, meets all requirements in connection with the application for the renewal and is not in breach of any provision of this Proclamation which constitutes grounds for suspension or revocation of the license.

3. The licensee shall have the right to be granted a small-scale or large-scale mining license in the event that he determines a deposit of the minerals specified in the license within the license area may be mined on an economically viable basis, provided that, he:
 - a. Has fulfilled all obligations under the exploration license;
 - b. meets all requirements in connection with the applications for such a mining license; and
 - c. is not in breach of any provisions of this Proclamation, regulation or directives issued hereunder which would constitute grounds for suspension or revocation of the exploration license.

11. Relinquishment of Portion of License area

1. In applying for each renewal of an exploration license, the licensee shall indicate the portion of the license area, to be relinquished, which shall not be less than one quarter of the original license area.
2. The form, orientation and other details regarding relinquishments shall be specified by directive issued by the Minister.

SECTION 3 DISCOVERY

12. Notification of Discoveries

Any person who discovers indications or existence of minerals shall immediately notify the controller in writing the location and nature of such discovery.

13. Preferential Right

1. Any Person who is not a licensee in an area where he discovers indications or a deposit of minerals which were not previously discovered and any licensee who discovers indications or a deposit of minerals which are not specified in the license or which are not located within the license area and which were not previously discovered shall immediately mark the location of the indication of the minerals or the likely boundary of the deposit.
2. If the minerals and the area in question are not subject to an exclusive license or have been excluded or reserved, the discoverer shall have a preferential right to obtain an exploitation or a mining license thereon, In such event, the Licensing Authority shall immediately issue a Discovery Certificate Valid for a period of one year from the date of notification of the discovery. During such period the discoverer may seek to acquire the financial and technical capability necessary to explore and/ or to mine for the minerals in question or he may assign or transfer such right to a third party with a prior approval of the controller.
3. The holder of a Discovery Certificate shall have the right to be granted an exploration or a mining or a combined exploration/mining license, as the case may be, with regard to such minerals, and a holder of a discovery certificate who is a licensee shall, alternatively, have the right to be granted an amendment to the license to include the discovered minerals or

area adjacent to his existing license, provided that the amended license area doesn't exceed the maximum allowable area and provided that he meets all requirements pertaining to the relevant application.

CHAPTER 3 DEVELOPMENT RIGHTS

SECTION 1 ARTISANAL MINING

14. Artisanal Mining License

1. An artisanal mining license grants an exclusive right to explore and mine for the minerals within the license area. Artisanal mining operations shall exclude all tunneling and other underground work except vertical excavations of less than fifteen meters in depth.
2. An artisanal mining license may be transferred, assigned, encumbered or inherited, subject to the approval of the Licensing Authority.

15. Duration and Renewal

1. An artisanal mining license shall be valid for one year and may be renewed indefinitely for like periods.
2. The Licensing Authority may, after giving 90 days prior written notice, cancel an artisanal mining license where it is considered that the deposit requires more advanced exploration and mining methods for the best development of its economic potential.
3. The Licensing Authority shall give preferential treatment to the licensee where the latter shows that he has the necessary technical and financial resources to engage in the advanced exploration and mining as prescribed by the Licensing Authority.
4. Where preferential treatment is not accorded to the licensee, the Licensing Authority shall determine the amount of compensation which shall be paid to the licensee for the loss he incurred due to the cancellation of the license. Such compensation shall be paid to the licensee promptly.

SECTION 2 SMALL-SCALE MINING

16. Small-Scale Mining License

1. A small scale mining license grants an exclusive right to mine for the minerals within the area specified in the license. The license shall cover the area reasonably necessary to carry out mining operations. The form and boundary of the area shall be determined by directive issued by the Minister.
2. A small-scale mining license may be transferred, assigned or encumbered with the prior approval of the Licensing Authority subject to the provisions of Article 5 of this Proclamation, the license may also be inherited, provided that no subdivision of the license area by partition shall

result without the prior approval of the Licensing Authority and, provided further, that suspension of mining operations under the license for more than 90 days shall, be grounds for its revocation.

17. Duration and Renewal

1. The licensee shall have the right to renew the license, provided that he can demonstrate the continued economic viability of mining the deposit has fulfilled the obligations specified in the license and is not in breach of any provision to this Proclamation, regulation or directives issued hereunder which constitutes grounds for suspension or revocation of the license.
2. The licensee shall have the right to renew the license, provided that he can demonstrate the continued economic viability of mining the deposit has fulfilled the obligations specified in the license and is not in breach of any provision to this Proclamation, regulation or directives issued hereunder which constitutes grounds for suspension or revocation of the license.

SECTION 3 LARGE - SCAL MINING

18. Large-Scale Mining License

1. A Large-Scale mining license grants an exclusive right to mine for the minerals within the area specified in the license. The license shall cover the area reasonably necessary to carry out mining operations. The form and boundary of the area shall be determined by directive issued by the Minister.
2. A large –scale mining license may be transferred, assigned or encumbered with the prior approval of the Licensing Authority. Subject to the provisions of Article 5 of this Proclamation, the license may also be inherited, provided, that no subdivision of the license area by partition shall result without the prior approval of the Licensing Authority and, provided further, that suspension of mining operations under the license for more than 189 days shall be grounds for its revocation.

19. Duration and Renewal

1. A large-scale mining license shall be valid for a maximum period of twenty years or the life of the deposit whichever is shorter. The license may be renewed subject to sub-article 2 of this Article for a maximum period of ten years each.
2. The licensee shall have the right to renew the license, provided he can demonstrate the continued economic viability of mining the deposit, has fulfilled the obligations specified in the license and is not in breach of any provision of this Proclamation, regulations or directives issued hereunder which constitutes grounds for suspension or revocation of the license.

SECTION 4
MINERAL WATER, GEOTHERMAL DEPOSITS
AND CONSTRUCTION MINERALS

20. Mineral Water and Geothermal Deposits

1. A legitimate occupant of land may produce and use for non-commercial purpose, without charge and with prior notification to the Licensing Authority, mineral water from the area he occupies, provided that the area is not reserved or excluded pursuant to Article 6 of this Proclamation and, provided further, that he does not disturb or damage the adjacent occupants land or property.
2. The mining license of mineral water may specify the amount and rate of production, which shall generally be limited to that which permits the renewal of the water aquifer, and the horizon or depth from which the water may be extracted. The license of brines may specify conditions of production and of extraction and disposal of minerals produced and of the use and disposal of minerals produced and of the use and disposal of the water remaining.
3. The mining license of geothermal deposit may limit the volume of water and the calorific content which may be extracted; it may also fix conditions on the extraction and disposal of by-products and on the production, use and re-injection of water in order to preserve the deposit.

21. Construction Minerals

1. A legitimate occupant of land, may produce and use for non commercial purpose, free of charge and without permission of the licensing Authority, construction minerals from the area he occupies, provided that the area is not reserved or excluded pursuant to Article 6 of this Proclamation and, provided further, that he does not disturb or damage the adjacent occupant's land or property.
2. Any person may produce and use for non-commercial purpose without charge and with prior permission of the Licensing Authority, construction minerals for the construction and maintenance of roads, dams, airports, schools, hospitals and other non-commercial public works.
3. The provisions of Articles 24 and 26 sub articles (3) and (4) of this Proclamation shall apply to the mining operation of construction minerals conducted pursuant to sub article (2) of this Article.

CHAPTER 4 RIGHTS OBLIGATIONS OF LICENSEE

22. Possession and use of land

1. The licensee may enter and occupy the land covered by the license during its term.
2. The licensee may use the land of the license area for activities in support of mining operations and may grow crops and graze livestock for the consumption of himself, his agents and employees and their dependents.
3. The holder of a small-scale or a large-scale mining license may also request the appropriate authority a lease for land outside of the license area which is required for mining operations. The terms and conditions of such lease shall be determined by the appropriate authority and its duration shall be the same as that of the license including any renewals thereof.

23. Use of construction minerals, water and timber

1. The licensee may remove and use construction minerals required for mining operations which are found within the license area or within the land covered by a lease, provided that no other license has been issued to another person for such minerals.
2. The licensee may use surface and subsurface water found in the license area and the area of a lease for the consumption of himself, his agents, employees and their dependents. A licensee may also use surface water for mining operations, provided that such use does not result in the substantial reduction of the amount of water needed by other users or, unless authorized pursuant to directive, result in the pollution thereof. A licensee shall not construct a dam or divert any watercourse without the prior approval of the appropriate government authority.
3. The holder of an exploration, small-scale or large scale mining license may cut and use, from the license area and the area of lease, timber which is necessary for mining operations. The licensee shall comply with the applicable laws regarding the cutting of timber and reforestation and must submit a restoration plan as may be specified by directive.
4. The holder of prospecting license or an artisanal mining license shall cut and use only such timber as is strictly necessary for access to the areas in which mining operations are carried out.

24. Other Occupants

1. The licensee shall take proper precaution not to interfere with the other legitimate occupants of the license area, the land covered by a lease and adjacent land.
2. Notwithstanding the provision of sub-article 1 of this Article 1 of this Article. If the licensee's mining operations require that the other occupant be displaced, the licensee shall attempt to negotiate the compensation payable to such occupant be displaced, the licensee shall attempt to negotiate the compensation payable to such occupant. If the occupant

refuses to be displaced or to agree on the amount of compensation, the Licensing Authority may cause the expropriation of immovable property, if any, and the eviction of such occupant on behalf of the license's mining operation, subject to the licensee's payment of compensation determined by the licensing Authority, In this connection, mining operations shall be deemed a public purpose within the meaning of Article 1460 of the Civil Code of Ethiopia.

3. A Licensee shall, if he damages, injures or destroys any installations or other property of another legitimate occupant of the license area, the land covered by a lease or adjacent land, pay to the occupant compensation representing the value of such damage, destruction or injury.

25. Infrastructure and other Construction

1. The holder of an exploration, small-scale or large-scale mining license ay construct, operate and maintain within the license area and the area covered by a lease all infrastructure necessary for operations, including facilities for roads, communications and power. The licensee may also, with the prior approval of the Licensing Authority and in consultation with other authorities of the Government, construct such facilities outside of the areas covered by the license and a lease.
2. The licensee may use the existing infrastructure if their use by such licensee shall not impair the use thereof by other persons.
3. The Licensing Authority may require the licensee to cooperate and contribute financially in the construction and maintenance of infrastructure to be use jointly with another licensee or other persons within the areas covered by his license or lease if such infrastructure is to the economic benefit of the persons concerned. The allocation of the costs of construction and maintenance of such infrastructure shall be determined by the licensing Authority on the basis of proportional use.
4. The licensing Authority may require the licensee to permit other persons to use infrastructure of the licensee, provided that such use does not impede mining operations.
5. The licensing Authority may impose on such person stated under sub-article 4 hereof a fee payable to the licensee if the use of such infrastructure is not for a non-commercial purpose. The fee imposed shall be based on the extent of that person's use in proportion to the total use of such infrastructure by all other such persons and the licensee.
6. In circumstances of urgency or national emergency the Government ma7y also require the licensee to permit another person or the Government to use temporarily the infrastructure of the licensee, subject only to the payment of compensation in the even of damage thereto.
7. The licensee may construct within the area covered by the license or a lease all industrial, administrative, residential, medical and other buildings and facilities necessary for mining operations.
8. All construction by the holder of a prospecting, and exploration or an artisanal mining license shall be of a temporary nature and shall be

removed prior to the termination of the license or to the relinquishment of the area on which such construction is located.

9. Notwithstanding the provisions of Article 52 (2) of this Proclamation, all constructions of permanent nature built by a holder of a small-scale or large –scale mining license may, upon the termination of the license, either be removed by the licensee or be abandoned and become the property of the Government free of charge.

26. Conduct of mining operations

The licensee shall:

1. Promptly commence and carry out mining operations in a prudent, diligent and efficient manner, in accordance with appropriate technology and good practices generally accepted in the mining industry;
2. comply with all work programmes and expenditure obligations unless a departure there from is justified and receives the prior approval of the Licensing Authority, and avoid the performance of work or the incurring of expenditure which is not required;
3. conduct mining operations in such a manner as to ensure the health and safety of his agents, employees and other persons, and to minimize damage or pollution to the environment; and
4. Conduct mining operations in accordance with applicable regulations and directives.

27. Employment, Training and Local Supply

The licensee shall,

1. Give preference to the employment of Ethiopian nationals, provided that such persons have the required qualifications;
2. Give employees the training and education necessary for mining operations and comply with appropriate training programs;
3. Give preference to domestic goods and services, where they are readily available at competitive prices and are of comparable quality,

28. Delimitation of Areas

1. The applicant for a small-scale or large-scale mining license shall delimit by official survey the boundaries of the area for which the license is sought. The same obligation shall apply with regard to the application for a lease.
2. Upon the modification of a license area, pursuant to Articles 11, 13 (3) or 31 of this Proclamation, or of an area subject to a lease, the licensee shall immediately delimit by official survey the boundaries of the area resulting from the modification.

29. Books Records and Reports

The licensee shall:

1. Maintain records of mining operation and submit reports and other documents periodically to the Licensing Authority, the form, content and manner of which shall be specified by directive to be issued by the Minister;
2. Maintain all financial, employment, commercial and other books and records and comply with all other reporting and filing obligations under the appropriate laws;
3. Make available all books and records for inspection by the Licensing Authority and other duly authorized officials.

CHAPTER 5 COMMON PROVISIONS FOR LICENSES

30. Applications

An application for a license or for its amendment, renewal, transfer, assignment encumbrance or inheritance shall be in the form and contain the information specified by regulations and directives issued to implement this Proclamation.

31. Modification and Relinquishment

1. The Licensing Authority may amend a license to add minerals which were not originally specified in the license.
2. If the holder of an exploration license or an artisanal small-scale or large-scale mining license determines that the license area does not include the entire deposit of minerals for which the license has been granted, the licensee may request that the area be adjusted to incorporate the entire deposit, provided that no exclusive license or an application thereof exists for such mineral in the additional area adjacent requested and that it doesn't exceed the maximum area allowed and that the area has not been reserved or excluded. If the licensee and the Licensing Authority agree on an appropriate adjustment to work program and expenditure obligations or to the development and production program as the case may be, the licensing Authority shall modify the license to include such additional adjacent area.
3. The licensee may, upon giving prior notice to the Licensing Authority, relinquish all or any part of the license area or the rights with regard to any minerals specified in the license, provided that the licensee has fulfilled all obligations under the license and is in compliance with the provisions of this Proclamation, regulations or directives issued hereunder. The notice requirements and other formalities relating to such relinquishments shall be specified by directive issued by the Minister.
4. The licensee shall vacate the whole of the license area relinquished and the entire area upon termination of the license.

32. Boundaries

The license area shall comprise all of the land within its boundaries and all subsoil there under to and indefinite depth within the vertical planes passing through each boundary.

33. Superimposition of Licenses

1. Unless the Licensing Authority determines otherwise on the basis of the economic benefit of the minerals or other appropriate investment objectives:
 - a. a large-scale mining operation shall take precedence over small-scale and arts anal mining operations, and small-scale mining operations shall take precedence over that of artisanal mining operations;
 - b. If more than one license of the same type has been issued covering the same area but for different minerals, the first-issued licensee shall take precedence over mining operation area of the other licensee.
2. If any area subject to a license is found to be superimposed upon that of another such license for the same minerals, the area in dispute shall be considered to be within the area of the first-issued license, and no compensation or indemnity shall be payable to the licensee of the more recently granted right, but the latter shall thereafter be allowed a reduction of rental in proportion to the reduction of his license area.
3. Subject to the provisions of sub articles 1 and 2 of this Article, the licensing Authority may grant licenses for different minerals within the same license area subject to notification of the holder of any existing license in the same area and assessment of the impact of the superimposed license on existing mining operations.

34. Combined Licenses

The Licensing Authority may, in circumstances be deems appropriate issue license which combine exploration and mining rights.

35. Title to, Sale and Export of Minerals

1. The holder of a prospecting or an exploration license is permitted to remove, transport, analyze and with the prior consent of the Minister, export samples of minerals for testing. However, such minerals shall remain the property of the Government, and the licensee shall not dispose of them without the prior consent of the Minister.
2. The holder of an artisanal, small-scale or large scale mining license shall obtain title to the minerals specified in the license upon their extraction.
3. The holder of mining license shall have the right to sell the minerals locally or export all minerals specified in the license.

36. Surrender

1. The holder of a small-scale or large-scale mining license or a lease may subject to any regulations issued hereunder and the rights of persons claiming from or under the license, surrender any such license or lease by giving to the Licensing Authority, unless otherwise agreed, at least twelve(12) months advance written notice

2. Any person who surrenders his license or lease right, pursuant to sub article 1 of this Article, shall not be released from the liability of performing the duties imposed upon him and due to be performed during the term of the license or lease.

PART III FINANCIAL REGIME

37. Royalty

1. The licensee shall pay royalty for all minerals produced.
2. The rates and manner of such payment, unless specified by agreement shall be as determined by regulations issued hereunder. The regulation may specify the conditions under which the regulation may specify the conditions under which the rate and manner of royalty payment shall be determined by agreement.
3. The Licensing Authority may, in circumstances he deems appropriate, cause the reduction, suspension or waivers of the imposition of royalty by requesting the appropriate Government body.

38. Taxes

1. The licensee shall pay income tax in accordance with the Mining Tax Proclamation NO.53/1993.
2. The compensation received, according to their contract of employment, by expatriate employees of the licensee or his contractor shall be exempted from the payment of income tax.

39. Fees

The licensee shall pay filling fee in connection with the application for a license and for the renewal thereof. The amount and manner of such fees shall be determined by regulations issued hereunder.

40. Rentals

1. The licensee shall pay annually in advance a surface rental for the license area. Such rentals shall be specified by regulations issued hereunder and may be adjusted; such adjustment shall only apply to licenses issued after the date of the adjustment.
2. The licensee shall also pay annually in advance a rental for the area covered by a lease. Such rental shall be fixed in the instrument granting the lease and shall remain fixed during its term, unless the instrument provide otherwise.

41. Exemption from Customs Duties and Taxes

1. The holder of a license and his contractor shall be entitled to import into Ethiopia, free of all import duties and taxes, all equipment, machinery, vehicles and spare parts (excluding Sedan Cars and their spare Parts) necessary for mining operations.
2. The expatriate personnel of the licensees and their contraction shall be entitled to import, free of all duties and taxes, their personal effects including single Sedan Car within six months of their arrival.
3. All goods imported pursuant to sub-articles 1 and 2 of this Article may be exported, free of all export duties and taxes, but may, subject to the provisions of Articles 25 (8) and 52 (2), be disposed of with the payment of duty and tax thereon in accordance with applicable Laws.
4. The holder of a license is entitled to export, free of all duties and taxes, all minerals produced pursuant to his license.

42. Exchange Control

1. A holder of a large-scale mining license or holder of a small-scale mining license producing exportable minerals may:
 - a. open and operate a foreign currency account in banks in Ethiopia in accordance with the regulations of the National Bank of Ethiopia;
 - b. retain a portion of his foreign currency earning as may be determined by directives to be issued by the National Bank of Ethiopia and pay from the retained earnings where foreign currency may not be readily available by the National Bank for the following purposes:
 1. to import equipments necessary for the mining operation;
 2. for services, leases, and licenses to be paid of in foreign currency in accordance with agreement entered into;
 3. for reimbursement of loans and debt services due legally to financial institutions cut side Ethiopia;
 4. for compensation payable to foreign employees who ate not permanent resident in Ethiopia, and
 5. for such other activities which contribute to the process and enhancement of mining operations.
2. A holder of a large-scale mining license or holder of a small-scale mining license producing exportable minerals may make the following remittances out of Ethiopia in the currency of investment or in an approved currency at the prevailing rate of exchange on the date of remittance:
 - a. profits and dividends accruing from mining investment;
 - b. principal; and interest on a foreign loan;
 - c. fees, royalties or any other payments accruing pursuant to a technology or management agreement relating to the mining investment;

- d. proceeds from sales of assets upon the liquidation or winding up of the mining business of a foreign investor or enterprise due to bankruptcy;
 - e. payment from the sale or transfer of shares of a mining investment or acquisition in part or in whole of a mining operation by a domestic investor.
3. Expertise employed in a mining operation may remit salaries and other payments securing from their employment in accordance with the foreign exchange regulations of Ethiopia.

43. Other Incentives

The rates of royalty and rentals to be determined under Articles 37 and 40 (1) of this Proclamation shall be in such a manner as to encourage investment in minerals given priority of development and mineral development areas.

44. Participation

Without prejudice to the provisions of Article 7 of this Proclamation, the Government may acquire without cost a participation interest of up to ten percent of any large-scale mining investment. An additional equity participation of the Government may also be provided by agreement, which shall specify the percentage, timing, financing resulting rights and obligations and other details of such participation.

45. Guarantee

The Licensing Authority may require the applicant for a license or renewal for the transfer, assignment or encumbrance of a license to provide cash, bank or other guarantee to secure the applicant's obligations. The conditions of such a guarantee shall be determined by directives to be issued by the Minister.

PART IV ADMINISTRATION

46. Responsibility of the Licensing Authority

1. The power to issue artisanal mining license and, construction mining license undertaken by domestic investors shall be given by Mines and Energy Bureau of National/Regional Self – Government while other mining operation licenses shall be given by the Ministry of Mines and Energy.
2. The Licensing Authority has the power to:
 - a. issue, suspend or cancel a license pursuant to this Proclamation and regulations and directives issued hereunder;
 - b. ensure that a licensee has the financial resources, technical competence and experience necessary to fulfill the obligations under the license

- c. either by competitive bidding or direct negotiation, enter into agreements on behalf of the Government;
 - d. inspect and ensure that mining operations are carried out in accordance with this Proclamation, regulations and directives issued hereunder and any agreement;
 - e. Without prejudice to the economic viability of the licensee's mining operations, require that the licensee, establish a smelting or refining plant for the treatment of minerals;
 - f. without prejudice to proclamation No.33/1992 issued to define the sharing of Revenue between the Central Government and the national Regional self –Government, collect and audit royalties, rentals and other fees payable pursuant to this Proclamation;
 - g. without prejudice to prior commitments of licensee, require that a licensee sell all or a portion of his minerals to the Government, to a person owned by it, or to another Ethiopian person subject to the payment of the international market price prevailing at the time of the sales transaction;
 - h. require an applicant for large-scale mining license to submit an environmental impact study before the granting of the license.
3. The minister may issue directives and prepare model contracts to serve as basis for the negotiation of agreements in order to give effect to the provisions of this Proclamation.

47. Inspection of Mining Operations

An officer, duly authorized by the Licensing Authority may, at all reasonable time but so as not to unreasonably impede or obstruct the mining operations, enter, inspect and examine any place, works, machinery and equipment occupied or used in or in connection with mining operations.

48. Registration and Representation of Licensees

1. Unless otherwise permitted or determined by the Licensing Authority, the licensee shall be registered in the Registry of Trade with the appropriate authority and shall maintain an office in Ethiopia during the entire term of the license.
2. The Licensee shall not be required to obtain any other authorization or permission from any other Government office in order to produce, sell or to import any goods or to enter into contract for the acquisition of licenses of any intellectual property required for mining operation.
3. The provision of sub-article 2 of this Article shall not relieve the licensee from complying with obligations of customs and bank formalities.
4. The licensee that is not a natural person shall also maintain during the term of the license a representative who is authorized to act on his behalf and shall notify the Licensing Authority of the identity of such representative or any change thereof.

49. Registration of Licenses & Leases

1. Every license, lease and every instrument under which such right is transferred, assigned, surrendered, suspended, revoked, encumbered inherited or other wise treated shall be registered in the registry maintained for this purpose by Licensing Authority Each instrument relating to such rights must be presented for registration within 90 days after the date thereof, or it shall otherwise be null and void. This registry shall be open to the public for inspection.
2. A copy of every instrument required to be filed with the Licensing Authority for registration, together with the map or other plan necessary for identification of the area concerned, shall be filed with the Register or Immovable Property of the Government Pursuant to the applicable laws.

50. Confidentiality

1. Except as provided in Article 49 of this Proclamation all information submitted in applications, reports and other fillings pursuant to this Proclamation shall be kept confidential.
2. Notwithstanding the provision of sub article 1 of this Article;
 - a. Government officials may request access to such information for their official duties;
 - b. The Government may compile and distributor information, geographic or geological maps, statistics and reports and other documents where the identity of licensee is not disclosed or apparent;
 - c. This confidentiality obligation shall end upon the termination of the license to which such information relates or as otherwise specified by agreement.
3. This confidentiality obligation shall end upon the termination of the license to which such information relates or as otherwise specified by agreement.

51. Settlement of Deputes

1. The Licensing Authority may in accordance with procedures to be laid down by regulations, examine and decide dispute's between licensees, as well as between a licensee and a third party concerning rights arising from licenses. The Licensing Authority shall have the power to determine and execute compensation to be paid by one party to the other.
2. A decision of the licensing Authority made pursuant to sub-article 1 of this Article may be appealed to the court of competent jurisdiction; provided, however, that no such appeal shall be admitted after the expiration of 60 days of the receipt of such decision or order by the appelland.
3. The Licensing Authority shall have the option to refer to a competent court disputes submitted to him pursuant to sub-article 1 of this Article.
4. The Licensing Authority Shall have the power to administer oaths in any proceeding before him.

5. Any dispute controversy or claim between the government and the licensee mining out of, or relating to the agreement or the interpretation, breach or termination, breach or termination thereof shall, to extent possible, be resolved through negotiations.
6. In the event that agreement cannot be reached through negotiations, the case shall be settled by arbitration in accordance with the procedures specified in the agreement. An arbitral award shall be final and binding upon the Parties.

52. Termination of Mining Rights

1. The Mining Rights shall terminate if:
 - a. the licensee relinquishes the whole area or surrenders the license;
 - b. The license is revoked by the Licensing Authority pursuant to the provisions of this Proclamation or regulations issued pursuant to this Proclamation;
 - c. The license expires without being renewed; or
 - d. Without prejudice to the right of heirs, the licensee dies or where the licensee is not a natural person, it is liquidated or declared bankrupt.
2. Upon the termination of a small-scale or a large-scale mining license, the Government may, unless an agreement specifies otherwise, acquire all of the immovable and movable property used in mining operations at a price equal to the then undepreciated and unamortized value of such assets, as shown in the financial books of account or the licensee. If the Government does not exercise such right, the licensee shall be free to dispose of such assets to another person in accordance with applicable laws.
3. The holder of a license or a lease may be required, on surrender or revocation, to fence and safeguard to the satisfaction of the Licensing Authority, any pits and such other works in the license and /or lease area so that the health, life and property or persons may not be endangered.

53. Infractions and Sanctions

1. If a licensee, or another person fails to comply with the requirements of this Proclamation, regulations or directive issued pursuant to this Proclamation or with the obligations of the license applicable to such person, he shall be quality of an infraction under this Proclamation.
2. An infraction may result in revocation or suspension of the license and/or in the imposition of a fine. The classification of infractions and the sanctions applicable to each category, in addition to those which may be applicable under the Penal Code of Ethiopia shall be specified by regulation.
3. Officials of the Licensing Authority or any other person shall report all infractions to the Controller. A report of any infraction shall include a statement of the facts and all available evidence in support of such statement.

4. The controller shall immediately notify the licensee of the infraction reported and, the licensee shall take immediate remedial action, if such infraction is capable or remedy.
5. Any person who violates the provisions of this Proclamation or regulations or directives issued hereunder is guilty of an offence and liable, upon conviction, to punishment under the provisions of the Penal Code.

PART V MISCELLANEOUS

54. Existing Mining Rights

1. All mining rights existing before entry into force of this Proclamation shall remain valid and shall be governed by the terms of that agreement, provided, however, that if such terms are inconsistent with the provisions of this Proclamation, the Licensing Authority shall undertake negotiations with the holder of such right so that the terms of such right shall, in so far as practicable, be revised to conform to the provisions of this Proclamation.
2. Notwithstanding the provision of sub-article 1 of this Article, the holder of mining rights issued before entry into force of this Proclamation may be entitled to incentives under this Proclamation, provided, however, the licensee shall be willing to negotiate with the Licensing Authority regarding the agreement which is inconsistent with this Proclamation.

55. Repeals and Inapplicable Laws

1. The following are hereby repealed.
 - a. Mining Proclamation No. 282 of 1971;
 - b. Proclamation No. 39 of 1975;
 - c. Mining Regulation No. 396 of 1971.
2. Unless otherwise provided by agreement, the Provisions of the Civil Code of Ethiopia regarding Administrative Contracts shall not be applicable to such agreements that may be concluded between the Government and the licensee.
3. Any law, regulations, directives or practices which are inconsistent with this Proclamation shall not apply with respect to matters provided for in this Proclamations.

56. Effective Date

This Proclamation shall enter into force on the date of its publication in the Negarit Gazeta.

Done at Addis Ababa this 23rd day of June 1993.

MELES ZENAWI
PRESIDENT OF THE TRANSITIONAL
GOVERNMENT OF ETHIOPIA