

THE CHAIRMAN OF THE NATIONAL ASSEMBLY

NONG DUC MANH

Hanoi, 1 November 1996

Decree of the Government providing detailed Regulations for the Implementation of the Mineral Law.

Pursuant to the Law on Organization of the Government dated 30 September 1992;

Pursuant to the Mineral Law dated 20 March 1996;

Upon the proposal of the Minister of Industry,

DECREES:

Chapter I

GENERAL PROVISIONS

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

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

Chapter II

AUTHORITY OF STATE MANAGEMENT OF MINERALS

Article 3.

1. The Ministry of Industry shall exercise the State management functions on minerals throughout the country and shall have the following rights and duties:
 - a. Prepare and submit to the Government for issuance of, issue within its authority, legal documents in relation to management, protection and basic geological survey of mineral resources and mineral activities;
 - b. Organize and formulate planning, development plans for basic geological survey of mineral resources throughout the country.

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

- c. Conduct the appraisal, assessment of schemes, mineral prospecting and feasibility study reports in relation to minerals exploitation, mineral processing and mine designs in accordance with provisions as stipulated in this Decree;
 - d. Issue, extend, withdraw and approve the return of mineral licenses and permit assignment of the right to conduct mineral activities in accordance with provisions as stipulated in this Decree;
 - e. Propagandize, disseminate, guide and inspect branches, localities, organizations and individuals in respect of implementation of the laws on minerals; conduct mineral specialized inspections in accordance with provisions as stipulated in Articles 58, 59 and 60 of the Mineral Law; supervise and inspect the basic geological survey activities of mineral resources;
 - f. Deal with disputes, claims or denunciation in relation to mineral activities within its authority as stipulated in Articles 57 and 62 of the Mineral Law;
 - g. Manage international co-operation activities relating to basic geological surveys of mineral resources and mineral activities;
 - h. Register, supervise, assess and put together results of basic geological surveys of mineral resources and the situation of mineral activities nationwide and submit periodical reports to the Government;
 - i. Coordinate with People's Committee of provinces and cities under central authority and relevant Ministries and branches to protect the unexploited mineral resources.
2. The Government shall provide specific regulations for the organizational system, duties and power of the State management authorities in charge of geology and minerals under the Ministry of Industry.

Article 4.

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

Article 5. The Ministry of Planning and Investment, the Ministry of Science, Technology and Environment and Ministry of Industry shall, within their respective relevant functions, co-ordinate and uniformly control the international cooperation in respect of mineral activities. The Ministry of Industry shall take the leading role in co-ordination with the Ministries, branches at central level and People's Committees of provinces, cities under central authority which are focal organizations to carry out the State management of mineral activities conducted by the foreign organizations, individuals in Vietnam.

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

Article 7.

1. People's Committees of provinces or cities under central authority (hereinafter referred to as the Provincial People's Committee), in accordance with their respective functions, duties and powers, shall:
 - a. Promulgate within their respective authority the regulations providing guidance on the implementation of the provisions of the Government and the Ministry of Industry in relation to management, protection of mineral resources and management of mineral activities in their localities;
 - b. Co-ordinate with the Ministry of Industry, Ministry of Planning and Investment, Ministry of Construction, Ministry of National Defense, Ministry of Interior, Ministry of Culture and Information, Ministry of Agriculture and Rural Development to define the areas where mineral activities are prohibited, formulate development plans for the exploitation and mineral processing industry in their respective localities;
 - c. Conduct and direct the implementation of protection measures of unexploited mineral resources in respective localities, in combination with the protection of environment and other natural resources, assurance of social security and order, lives and health of the people and properties of the State and citizens;
 - d. Carry out the evaluation and approval of feasibility study reports in relation to mineral exploitation, processing and mine designs in accordance with provisions as stipulated herein;
 - e. Issue, extend or withdraw licenses for exploitation of minerals used for common construction materials and licenses for full exploitation within its authority as stipulated in this Decree; contribute opinions on the issuance of other licenses concerning local mineral activities; within their respective responsibility and power, deal with conditions relating to the land lease, infrastructure use and other related conditions for organizations and individuals permitted to carry out mineral activities, basic geographical surveys of mineral resources in localities;
 - f. Propagandize, educate, supervise and examine the implementation of the mineral laws of local organizations and individuals;
 - g. Settle or participate in the settlement of all disputes arising from mineral activities and deal with breaches of the mineral law in the locality in accordance with its delegated power as stipulated in Article 57 of the Mineral Law and other legal regulations.

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

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

1. Take measures for protection of local unexploited mineral resources, in combination with protection of environment, other natural resources, social security and order, lives and health of the people and properties of the State and citizens;
2. Within their respective scope of responsibility and power, deal with conditions relating to land lease, use of infrastructure and other relevant conditions for organizations and individuals permitted to carry out mineral activities, basic geological surveys of mineral resources in their localities in accordance with provisions of the laws and guidelines of the Provincial People's Committee;
3. Propagandize, educate and supervise the observance of the laws on mineral resources; participate in settling disputes arising from mineral activities and deal with breaches of the laws on mineral resources arising in their locality within their delegated power.

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

1. The Ministry of Industry shall grant the following licenses:
 - Mineral prospecting licenses;
 - Mineral exploration licenses;
 - Exploitation licenses, mineral processing licenses of all kinds, except for exploitation licenses and mineral processing licenses under authority of the provincial People's Committees as stipulated in clause 2 of this Article;
 - Exploitation licenses, mineral processing licenses for common construction materials issued for the boundary areas of two or more provinces or in case of issuance for foreign organizations and individuals or joint ventures with foreign parties.
2. The Provincial People's Committee shall grant the following licenses to the areas subject to the local administrative responsibility:
 - Full mineral exploitation licenses of all kinds for the areas delineated by the Ministry of Industry as stipulated in Article 66 herein;
 - Mineral exploitation licenses, mineral processing licenses for the utilization of common construction materials and peat coal for local organizations and individuals, except for mineral exploitation licenses and processing licenses subject to the issuance authority of the Ministry of Industry as stipulated in clause 1 of this Article.
3. If the competent authorities grant any kinds of licenses for mineral activities, they shall be entitled to extend, withdraw, approve of the return of such kinds of licenses and allow the transfer of rights to carry out mineral activities subject to such kinds of licenses.

Chapter III

BASIC GEOLOGICAL SURVEYS OF MINERAL RESOURCES

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

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

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

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

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

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

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

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

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

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

Chapter IV

ORGANIZATIONS AND INDIVIDUALS ENGAGED IN MINERAL ACTIVITIES

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

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

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

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

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

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

Chapter V

AREAS, SIZES AND DURATION OF MINERAL ACTIVITIES

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

1. Areas in which mineral activities are prohibited shall include:
 - Areas with historical and cultural relics which are classified and registered;
 - Areas of national forests and protective forests; geological preserve areas;
 - Areas exclusively used for purposes of national defense and security;
 - Areas of dike protection, embankment, river banks, bridges, highways and railways;
 - Areas reserved for religious activities;
 - Urban areas or areas with important infrastructure structures.
2. The Ministries of National Defense, Interior, Culture-Information, Agriculture and Rural Development shall, within their respective functions, duties and delegated powers, be responsible for co-ordination with the People's Committee of provinces and cities to define boundaries of areas where mining activities are prohibited within the administrative scope of each province. The Chairman of the Provincial People's Committee shall submit to the Government for decision and notify the Ministry of Industry in writing of such prohibited areas.
3. For areas where mineral activities are temporarily prohibited due to any reasons as stipulated by the law, the competent State bodies in charge of such areas shall notify the Ministry of Industry and the Provincial People's Committee in writing.
4. The underground mineral exploitation in the prohibited areas without using the earth surface shall also be approved in writing by the competent State bodies in charge of such areas.

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

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

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

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

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

Article 22.

1. The prospecting area granted a permit for mineral exploration demarcated subject to square coordinates shall not exceed two thousand square kilometers (2000 km²), not restricting the prospected minerals in the area. In special case of requiring the area of

more than 2000 km² the Ministry of Industry must submit to the Government for consideration and decision prior to the issuance of such licenses.

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

Article 23.

1. The duration of a mineral prospecting permit shall not be more than twelve (12) months.
2. A prospecting permit for an area of over hundred square kilometers (100 km²) may be extended once for a period of no more than twelve (12) months provided that it is the time applying for such extension:
 - No organizations or individuals submitted the application for prospecting in such area.
 - Organizations and individuals permitted to carry out the exploration has completed all their obligations in accordance with regulations stipulated in the previous license;
 - The mineral prospecting permit remains valid for no less than thirty days;
 - Organizations and individuals permitted to prospect minerals must submit reports on mineral surveys to the Ministry of Industry clearly stated the reasons for such extension, further prospecting plans together with an application for the permit extension.
3. Mineral prospecting permits for areas of less than one hundred square kilometers (100 km²) shall not be extended.

Article 24.

1. The explored area granted a license for prospecting precious metals or minerals shall not exceed fifty square kilometers (50 km²). For special cases requiring more than 50 km², the Ministry of Industry must submit to the Prime Minister for consideration and decision prior to the issuance of such license.
2. The explored area granted a license for prospecting coal and metal minerals (excluding precious metals), non-metallic minerals (excluding common construction materials) in land, with or without water surface, shall not exceed one hundred square kilometers (100 km²). In case of requiring the area of more than 100 km², the Ministry of Industry must submit to the Government for consideration and decision prior to the issuance of such license.
3. The explored area granted a license for prospecting minerals in the continental shelf shall not exceed two hundred square kilometers (200 km²). In case of requiring the area of more than 200 km² the Ministry of Industry must submit to the Government for consideration and decision prior to the issuance of such license.
4. The explored area granted a licence for prospecting minerals used for common construction materials in land, with or without water surface shall not exceed two square kilometers (2 km²).
5. The explored area granted a license for prospecting mineral water or natural thermal water shall not exceed one square kilometer (1 km²).
6. An organization or an individual satisfying all requirements in accordance with regulations provided in Articles 15 and 16 of this Decree may be granted some

exploration licenses, provided that the number of such licenses shall not exceed five (5) licenses and the total exploring areas defined in such licenses shall not exceed 5 times as stipulated in clauses 1, 2, 3, 4 and 5 of this Article.

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

1. At the time of application for extension, organizations or individuals permitted to explore minerals have completed all obligations in accordance with regulations provided in the previous license; the exploration license remains valid no less than thirty (30) days;
2. For each extension, at least, thirty percent (30%) of the explored area subject to the previous license must be relinquished;
3. The application for extension submitted to the Ministry of Industry must be accompanied by a report on exploration results and actual costs, explanation of reasons for such extension, programs, plans and costs for further exploration;
4. The exploration license as stipulated in clauses 1 and 2 of Article 19 herein shall be extended not more than twice, but the total duration of extension shall not exceed twenty four (24) months; Where the exploration license is extended, the total duration of exploration has covered forty eight (48) months, the organizations or individuals permitted to carry out the exploration have fully implemented or exceeded the work volume and the costs subject to the project but they are still unable to prepare the feasibility study or require some more time to study the feasibility of exploitation, then the exploration license shall be re-granted, provided that such organizations or individuals hereof have appropriate applications.
5. The exploration license as stipulated in clauses 4 and 5 of Article 24 in this Decree shall only be extended once and the duration of extension shall not exceed twelve (12) months.

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

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

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

Chapter VI

A NUMBER OF PROVISIONS ON FINANCE AND PROPERTY RIGHTS

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

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

Article 29.

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

The first year: 200,000 Dong/km² \-year

or 20 US\$/km²-year;

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

or 30 US\$/km² - year;

The third year: 400,000 Dong/km²-year

or 40 US\$/km² - year;

From the fourth year upwards:

500,000 Dong/km²-year

or 50 US\$/km² - year;

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

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

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

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

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

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

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

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

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

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

Article 32. For mineral exploration licenses for precious metal and precious stones, regardless of areas and other mineral exploration licenses covering an exploration area of more than one hundred square kilometers (100 km²), and the effective duration is two (2) years (24 months from the effective date of the license), where the actual exploration costs for the project implementation in a two (2) year period is lower than the minimum estimated costs as prescribed by the Ministry of Industry, then such difference shall be paid into the State budget upon the expiration or extension of the mineral exploration license.

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

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

Article 34.

1. Organizations and individuals using the State data and information of results of mineral prospecting and exploration must pay the fees to the State subject to a lump sum or installment according to the exploited output.
2. Organizations and individuals which have paid the fees for using the State information of results of mineral prospecting and exploration on a lump-sum basis, shall have the full rights to use and transfer such information to other organizations and individuals.
3. Organizations and individuals which are paid for the fees using the State information of results of mineral prospecting and exploration on an installment basis, shall have

the right to use such information for their exploration activities but not to transfer, sell or disclose such information to other organizations and individuals.

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

Article 35.

1. Organizations and individuals permitted to carry out mineral activities shall have the right to use or transfer information of results of mineral prospecting and exploration where they have fully financed the prospecting and exploration work.
2. Organizations and individuals permitted to carry out mineral activities partly or wholly using State funds for the mineral prospecting and exploration, shall not have the right to provide or transfer the information of results of mineral prospecting and exploration to other organizations and individuals, provided that such information is provided to competent state authorities or organizations responsible for management, use of such information in accordance with the laws.
3. Six (6) months after the expiration of the mineral exploration license, the organization or individual permitted to exploit minerals fails to apply for an exploitation license or six (6) months after the expiration of the exploitation license, organization or individual permitted to exploit fails to apply for extension of the license, the competent state body shall provide the mineral information relating to such licenses to other organizations and individuals.

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

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

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

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

The Ministry of Finance and the Ministry of Industry shall provide methods to determine the value of the transferred assets and the transfer procedures of the organization and individual permitted to explore and exploit minerals to the State where the licenses ceased to be valid in accordance with the regulations of the Mineral Law and other provisions of the laws.

Article 38. The organization and individual permitted to exploit minerals must carry out security deposit at a Vietnamese bank or a foreign bank permitted to operate in Vietnam for

an amount to guarantee the restoration of the environment and the land after the termination of partial operations on each particular area and mine closure.

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

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

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

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

Chapter VII

APPRAISAL AND APPROVAL OF SCHEMES AND REPORTS ON MINERAL ACTIVITIES

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

Article 42.

1. The Ministry of Industry shall organize the appraisal of mineral prospecting and exploration schemes prior to deciding to issue prospecting or exploration licenses.
2. Contents of schemes to be appraised shall include:
 - Location, boundary and area;
 - Geological features and prospecting and exploration targets (minerals, quantity and levels of research);
 - Technique and technology;

- Impacts on the ecological environment, natural resources, works and other properties;
 - Duration and operation schedule;
 - Estimated costs.
3. The Minister of Industry shall, based on the appraisal results, approve prospecting and exploration schemes which partly or wholly use the State funds.
 4. For projects which do not use the State funds, the approved contents shall be stated in the prospecting or exploration license.

Article 43.

1. All reports on results of the mineral exploration which partly or wholly use the State funds shall be appraised and approved prior to being submitted to the State geological archives or used for feasibility studies of mineral exploitation.
2. Reports on results of mineral exploration which do not use the State funds used for feasibility studies of mineral exploitation shall also be appraised and approved by competent State authorities as set forth in Clause 4 and 5 of this Article.
3. Requirements and contents of the reports on mineral exploration shall include:
 - Reliability of quality and quantity of minerals, including associated minerals; detection found in exploration operations resulting in unexploited mineral resources;
 - Level and quality of the determination of hydro-geology, geo-engineering features and techniques and technology in relation to the technology used for exploration, processing and reasonable usage of mineral resources;
 - Exploration results and investment efficiency (if using the State funds) in comparison with the targets of appraised, accepted and approved projects.
4. The Ministry of Industry shall appraise and approve reports on mineral exploration for common construction materials to be used for exploitation feasibility studies.
5. The Evaluation Council of mineral contents shall appraise and approve the contents of exploration reports used for feasibility studies of mineral exploitation, excluding minerals used for common construction materials.

Article 44.

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

Article 45.

1. The organizations and individuals conducting the appraisal of mine designs shall have no interests related to the interest of the organizations and individuals preparing the design and shall be responsible before the laws for their appraisal results.
2. The mine designs under mineral exploitation investment projects financed by the State funds must be appraised and approved in accordance with the following regulations:

- a. Mine designs of Group A projects shall be approved by the Minister of Industry;
 - b. Mine designs of the remaining projects shall be approved by the Head of the competent authority to make investment decisions.
3. The mine designs of foreign direct investment projects shall be appraised by the Minister of Industry.
 1. The mine designs of investment projects of non-state economic sectors shall be appraised by the professional organizations of the competent authority granting mineral exploitation licenses.
 2. The Ministry of Industry shall provide detailed guidelines on design contents and procedures for appraisal and approval of mine designs.

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

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

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

Chapter VIII

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

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

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

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

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

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

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

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

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

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

Article 52.

1. When receiving appropriate applications and documents in relation to investment licenses for mineral exploitation or processing licenses financed by foreign direct invested capital, the Ministry of Planning and Investment shall, in coordination with the Ministry of Industry, consider, consult with the relevant bodies and submit to the Government for a decision or a decide at its discretion within their competence after obtaining agreement in writing from the Ministry of Industry.
2. Foreign organizations or individuals or joint venture organizations with a foreign party which are granted exploration licenses shall enjoy several preferential treatments of the investment license such as duty exemption for import of exploration equipment, office equipment, test and analysis equipment (if necessary) to Vietnam with the aim to carry out the exploration subject to the approved project. After consulting with the relevant bodies, the Ministry of Planning and Investment shall provide specific regulations on preferential rights of foreign organizations and individuals or joint venture organizations with a foreign party investing mineral exploration.
3. The exploration or mineral processing license shall be granted to foreign organizations and individuals or joint ventures with foreign parties at the same time with the investment license or after the issuance of the investment license in accordance with the Law on Foreign Investment in Vietnam.

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

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

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

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

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

1. Organizations and Individuals permitted to carry out mineral activities have fulfilled their obligations in accordance with the laws up to the time of returning the license; restored the environment, land and guaranteed the safety on the area to be relinquished;
2. No later than three (3) months of from the date of returning the mineral exploration license, organizations and individuals permitted to exploit must fulfill fully their obligations in accordance with provisions as stipulated in Item b, Clause 2, Article 30 of the Mineral Law;

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

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

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

1. Organizations and individuals permitted to explore or exploit shall only be permitted to transfer the exploration or exploitation rights to other organizations and individuals to continuously carry out their rights and obligations as stipulated in the license and in accordance with the laws;
2. Assets, documents and value as well as the financial obligations to be transferred of organizations and individuals permitted to explore or exploit which haven't been completed and are transferred together with the transfer of the exploration or exploitation rights must be fully and truly listed and valued and clearly determined in the transfer contract between the parties;

3. Together with the contract and the application for transfer of exploration or exploitation rights, organizations and individuals permitted to explore or exploit must prepare reports on exploration and exploitation reports at the time of such transfer;
4. The transferees of the mineral exploration and exploitation rights shall satisfy all legal conditions in accordance with provisions as stipulated in Article 15 herein;
5. Where the transferees are foreign organizations and individuals or joint venture organizations with foreign parties, the investment license issued by the Ministry of Planning and Investment in accordance with the Law on Foreign Investment in Vietnam shall be required;
6. The transfer of exploration and exploitation rights of organizations and individuals permitted to explore or exploit must be permitted by the competent body granting such license and the tax shall be paid by such organizations and individuals in accordance with the laws;

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

1. The legal heir to the assets owned by individuals permitted to explore or exploit may transfer the mineral exploration and exploitation right in accordance with the regulations provided in the license if the real conditions are in accordance with provisions as stipulated in Article 56 herein.
2. Where the mineral exploration or exploitation license is withdrawn, the legal heir to the assets owned by individuals permitted to explore minerals shall have the rights and obligations in accordance with provisions as stipulated in Item b, Clause 2, Article 30 of the Mineral Law; the legal heir to the assets owned by individuals permitted to exploit minerals shall have the rights and obligations in accordance with provisions as stipulated in Items b, c and d, Clause 2, Article 40 of the Mineral Law.

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

Article 59. The mineral prospecting license shall be withdrawn in accordance with the provisions set out in Article 29 of the Mineral Law. Where the organizations or individuals permitted to explore minerals breach one of the provisions as stipulated in Article 27 of the Mineral Law, the time for rectification shall not exceed sixty (60) days upon receipt of written notice made by the State management body in charge of minerals under the Ministry of Industry.

Article 60. The mineral exploitation license shall be withdrawn subject to provisions as stipulated in Article 39 of the Mineral Law. Where the organizations or individuals permitted to exploit minerals breach one of the provisions set forth in Article 33 of the Mineral Law, the time for rectification of such breaches shall not exceed ninety (90) days upon receipt of

written notice made by the State management body in charge of minerals under the Ministry of Industry or the Department of Industry within their respective authority.

Article 61.

1. The mineral processing license shall be granted to organizations and individuals which are not permitted to exploit minerals with the following conditions:
 - a. The organizations and individuals asking for mineral processing satisfy all conditions in accordance with provisions as stipulated in Articles 15 and 16 herein;
 - b. The feasibility study reports on mineral processing enclosed with the application and technology which has been evaluated, approved and accepted in accordance with the provisions stipulated in Article 44 herein;
 - c. The report on environmental impact assessment has been approved by the competent State authority.
2. The duration of a mineral processing license shall be based on the feasibility study report for each project and in accordance with the investment license or the investment decision.
 1. The mineral processing license shall be withdrawn when the organizations and individuals permitted to process minerals breach one of the regulations in relation to obligations as stipulated in Article 45 of the Mineral Law.
 2. The transfer for the inheritance of the mineral processing right shall comply with the relevant regulations as set out in Articles 56 and 57 of this Decree.

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

1. Exploiting minerals to be used as common construction materials within the framework of the State projects of infrastructure construction such as construction of dams, hydro-electric and irrigation canals, roadways, tunnel digging, dredging in lakes, rivers and docks, underground works of the national defense and other State works of the same nature provided that mineral activities are not conducted inside the project area, the products are not sold, the investment project and the construction plan have been appraised and approved by the State competent body in accordance with the laws;
2. The full exploitation, transportation and utilization of waste soil and rocks in the field operation whose principle products are not minerals to be used as common construction materials.
3. The exploitation of minerals to be used as common construction materials shall not be for business purposes within the area allocated by the State to the organizations and individuals for utilization.

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

- Geological survey documents relating to the exploiting area prove that no other minerals with higher value are existed, and certified in writing by the Ministry of Industry;
- The land for exploitation is not agricultural land and protection forests;

- The exploitation activities do not adversely affect the eco-environment and the landscape of the area or do not destroy public works, infrastructure facilities and historical or cultural relics.
- Approval is granted by the Provincial People's Committee.

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

Chapter IX

FULL EXPLOITATION

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

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

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

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

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

have not been demarcated by the Ministry of Industry and transfer to the Provincial People's Committee.

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

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

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

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

1. Organizations and individuals permitted to fully exploit must remove all of their properties out of exploitation area, rehabilitate the environment and land and their losses shall be compensated by organizations and individuals permitted to conduct mineral activities over the area where its full exploitation license is withdrawn; where there are no organizations or individuals permitted to conduct mineral activities in such area or the full exploitation license is withdrawn in accordance with provisions as stipulated in clause 2 of Article 14 of the Mineral Law, the losses of organizations or individuals permitted to fully exploit shall be reasonably settled by the Provincial People's Committee;
2. Where organizations or individuals permitted to fully exploit satisfy conditions for establishment of an enterprise conducting mineral activities in accordance with the provisions set out in Articles 15 and 16 of this Decree, they shall be granted a new mineral license for the area where the full exploitation license is withdrawn.

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

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

Chapter X

MINERAL SPECIALIZED INSPECTORS

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

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

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

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

Chapter XI

PROVISIONS OF IMPLEMENTATION

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

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

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

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

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

ON BEHALF OF THE GOVERNMENT

PRIME MINISTER VO VAN KIET

(Signed and Sealed)

