

VI CONSTITUTIONAL GOVERNMENT

PPL no. 48 / III (5)

Proposed Law No. /2016

Of

Mining Code

The regulation of mining activities, including the reconnaissance, prospecting and exploration, evaluation, development, Processing and Processing, Processing, refining and commercialization of minerals, is of extreme importance to the Democratic Republic of Timor-Leste, taking into account the respective impact on the supply of materials essential to the country's development, economic growth and prosperity.

The existing legal regime is rudimentary and needs to be replaced urgently in order for a new set of rules to come into force in order to regulate the performance of mining activities and other forms of exploitation involving the use of industrial facilities, as well as for regulating the sale of Minerals in the domestic and international markets.

Thus, with the approval of this Law, the Democratic Republic of Timor-Leste takes a step forward in establishing a modern legal regime through an integrated framework for the effective regulation of the issuance of permits for Mining Activities in the country, including the respective Administrative procedures for the granting of licenses and authorizations to natural and legal persons Interested in carrying out such operations, defining the Concession Areas, the rights and obligations of the parties involved, as well as the rules regarding the inspection and supervision of Mining Activities, the sanctions and penalties applicable in case of non-compliance with the obligations set forth in the Mining Code, and the specific rules for environmental protection and payment of the respective fees.

In view of the foregoing, it is the objective of this Law to promote and facilitate the discovery and development of Mineral Resources in Timor-Leste, taking into account the need to encourage ecologically sustainable development and, in particular, to recognize and foster significant economic and social benefits to The country that may result from the efficient exploitation of Mineral Resources and ensure adequate revenue for the State stemming from it.

Pursuant to Article 97.1(c) and Article 115.2(a) of the Constitution of the Republic, the Government shall submit to the National Parliament the following proposed law:

Article 1

Approval of the Mining Code

The Mining Code is approved, attached to this Law.

Article 2

Revocation

All laws and regulations in force at the date of publication of this decree that contravene the rules set forth in the Mining Code, including Ministerial Diploma No. 1/2008, of July 30, are revoked.

Article 3

Implementation

This Law shall enter into force 90 days after its publication in the Official Gazette.

Approved by the Council of Ministers on 9 August 2016.

The Prime Minister,

/s/

Dr. Rui Maria de Araújo

The Minister of Petroleum and Mineral Resources,

/s/

Alfredo Pires

ATTACHMENT

Mining Code

**Chapter I
General provisions**

**Article 1
Scope and purpose**

1. This Code establishes the legal regime applicable to the activities of Reconnaissance, Prospecting and Exploration, Exploitation and Processing and Commercialization of Minerals in the Democratic Republic of Timor-Leste.
2. The administration of the activities referred to in the previous number is the responsibility of a Regulatory Authority, under the terms of this Code.
3. Notwithstanding the preceding paragraph, the management of activities related to minerals that are not classified as Strategic Minerals under Article 6 of this Code, in the Special Administrative Region of Oecusse Ambeno, is for the region's own organs.

**Article 2
Definitions**

For the purposes of this Code and the complementary regulations that are approved under it, the following terms have the following meanings:

- a) *Authorization area*: means the area over which a Mining Authorization is granted;
- b) *Concession Area*: means the geographical area on which is entered into a Mining Contract and the demarcated area where Mining Operations are conducted;
- c) *Prospecting and Exploration Area*: means the geographical area on which a Prospecting and Exploration License is awarded;
- d) *Excluded Area*: means an area classified under Article 4, in which no Mining Activities can be conducted;
- e) *Mine Closing activities*: means activities related to the decommissioning of facilities, remediation, reclamation, restoration, rehabilitation and monitoring conducted during all phases of Mining Activities to mitigate the environmental impact and ensure that the site does not pose a threat to health, environment or society in the future;
- f) *Artisanal Mining Activities*: means Mining Activities that cumulatively meet the following requirements:
 - i. Rudimentary nature of the operations and use of non-mechanical means and simple equipment in the extraction and processing;
 - ii. Mining Activities of reduced scale and volume; and
 - iii. Use of manual means of processing and transportation, except when the Mining Activities are carried out exclusively for own use or in any integrated community project, in which case mechanical means of processing and transportation may be used.
- g) *Marine Mining Activities*: means all activities aimed at Prospecting and Exploration and extracting minerals from sea beds in Timor-Leste's territory, as defined in Article 4 of the Constitution and the areas subject to its jurisdiction;
- h) *Mining activities*: means the activities and operations for Reconnaissance, Prospecting and Exploration, evaluation, development, exploitation and processing, refining, transport and commercialization of Minerals, as well as Mine closing activities;

- i) *Auditor*: means a natural person appointed by the Regulatory Authority for the purpose of auditing the books and records of a Prospecting and Exploration License Holder, a Mining Authorization Holder or a Concessionaire;
- j) *Regulatory Authority*: means the government agency under the supervision of the Government member responsible for the Mineral Resources sector, who has the responsibility and the power to supervise Mining Activities;
- k) *Reconnaissance authorization*: It means an authorization assigned by the Regulatory Authority to a natural or legal person to exercise reconnaissance activities under Article 13;
- l) *Mining authorization*: authorizations which allow the holder to carry out Mining activities regarding Industrial Minerals, as referred to in Article 5.1(d); for use in integrated industrial projects or for sale in the domestic and international markets;
- m) *Timor-Leste goods*: means materials, equipment, machinery and consumer goods grown or produced in Timor-Leste, which comply with any of the following conditions:
 - i. 100% (one hundred percent) conceived, designed and manufactured in Timor-Leste;
 - ii. Partially designed, designed and manufactured in Timor-Leste, if the total cost of materials, labor and local services used in the production of the good constitutes at least 50% (fifty percent) of the cost of the final product;
 - iii. Assembly of goods, the spare parts of which originate in imported goods already subject to customs duties; provided that the assembly itself is carried out in Timor-Leste with the use of local labor and costs, with high knowledge and capacity;
- n) *Good Mining Industry Practices*: means the standards and practices generally accepted in the international mining industry;
- o) *Commercialization* : means the import, export and sale of minerals;
- p) *Mining Concession* means a concession granted under a mining contract by the Government member responsible for the Mineral Resources sector to a natural or legal person to conduct Mining Operations in the Concession Area;
- q) *Concessionaire*: means the natural or legal person who has been assigned exclusive rights to the Exploration and Processing of Minerals in a Concession Area under this Code;
- r) *Local Content*: means the added value that is brought to Timor-Leste through the activities of the mining industry, realized through, among others: development of manual labor, employment of local workers, investment in the development of Suppliers, transfer of knowledge and technology and acquisition and contracting of local goods and services;
- s) *Mining Contract*: means the agreement between the State and a concessionaire to govern the execution of Mining Operations in Timor-Leste;
- t) *Mineral Deposit*: means all naturally occurring minerals;
- u) *Mining Rights*: means the rights to conduct Mining Activities under this Code;
- v) *Director, Manager or Focal Point for Mine Health and Safety*: means the individual appointed by the Concessionaire to oversee health and safety conditions in the mine;
- w) *National Mining Company* means a company incorporated under the laws of Timor-Leste that is directly or indirectly controlled by the State;
- x) *State*: means the Democratic Republic of Timor-Leste;
- y) *Pre-Feasibility Study*: means a generic study on a set of options for the technical and economic feasibility of a mining project, a preferred production method and an effective method of mining Processing;
- z) *Feasibility Study*: means the complete technical and economic study on the option selected for the development of a mining project that includes appropriately detailed assessments, including the technical, commercial and financial analysis necessary to demonstrate that the Mineral Reserves are capable of economic production;

- aa) *Exploitation and Processing*; means the operations and work conducted with purpose of extracting, loading, transporting and processing Minerals;
- bb) *Development Phase*; means the initial phase of exploitation and processing during which the means for minerals extraction are mobilized and installed;
- cc) *Financiers*, means an entity that provides any form of funding, whether in the form of debt or as capital, for Mining Activities;
- dd) *Force Majeure*: means an event beyond the control of anyone who claims to be affected by it, as a state of war, declared or not, rebellions or riots, natural disasters, fires, earthquakes, cuts in communications and accidents or other circumstances that could not reasonably be foreseen or avoided;
- ee) *Timor-Leste supplier* means a natural or legal person:
 - i. Whose company is incorporated or organized under the laws of Timor-Leste;
 - ii. Whose main place of business is Timor-Leste;
 - iii. Which is at least 50% (fifty percent) owned and controlled by nationals of Timor-Leste; and
 - iv. Provides goods and/or services to Mining Activities.
- ff) *Reserve for Mining Rehabilitation*: means the fund established to finance the rehabilitation of the mine site in accordance with Article 78;
- gg) *Inspector* means a natural person appointed by the Regulatory Authority to carry out inspections;
- hh) *Controlling Interest*: means 50% or more of the voting rights or the power to appoint the majority of directors of a company Holding Mining Rights, or has the power to veto any decision on the corporate structure;
- ii) *Public interest*: means the common concern with the welfare of Timor-Leste citizens, as periodically defined by the Government;
- jj) *Law*: means any regulations, statutes, codes, laws including authorizations, decisions and directives that may be issued and be in force in Timor-Leste and relevant to the implementation of the provisions of this Code;
- kk) *Commercialization license* means a license that allows the holder to conduct Commercialization operations;
- ll) *Prospecting and Exploration License* means a license entitling the holder to one Prospecting and Exploration license to conduct activities of Prospecting and Exploration;
- mm) *Exploitation and Processing License* means a permit to carry operations in accordance with Article 31;
- nn) *Construction Materials*: means any mineral and/or very common stones in nature, such as sand, gravel, earth, stones, pebbles and boulders, with low unit value with minimal processing before their respective use as aggregates or source materials for the construction industry, as classified under Article 5.1(d)(i);
- oo) *Transformation Materials*: means non-metallic minerals and/or in mineral rock formation that have special characteristics which allow them to be used as raw materials in specific manufacturing industries, as classified under Article 5.1(d)(ii);
- pp) *Strategic Minerals*: means the minerals classified as such under Article 6;
- qq) *Industrial Minerals*: means a group of minerals that occur naturally and/or in rock formation, excluding minerals classified under subparagraphs a), b), c), e) and f) of Article 5.1;
- rr) *Mineral* means any substance that occurs naturally and which has been formed as a result of geological processes, that is a stable solid at room temperature, including coal and solid kerogen, but excluding gas produced in association with coal and oil sands, which are regulated by Law No. 13/2005 of 2 September (Law on Petroleum Activities);
- ss) *Municipalities*: means the administrative areas for organization of local state administration and constitute the territorial base of local authorities in the Democratic Republic of Timor-Leste;

- tt) *Community Relations Official*: means the representative of the Concessionaire appointed in accordance with Article 65;
- uu) *Mining Operations*: means Mining Activities defined in paragraph aa);
- vv) *Order of Environmental Protection*: means an order issued under Article 76.3 with the goal of mitigating environmental risk from Mining Activities;
- ww) *Associated minerals*: means the minerals that are not originally covered under the Mining Contract or Mining Authorization, discovered together in the same area;
- xx) *Exploitation and Processing Period*: means the period during which exploitation and processing activities are conducted under an Exploitation and Processing License;
- yy) *Prospecting and Exploration Period*: means the period during which Prospecting and Exploration activities are carried out under a Prospecting and Exploration License;
- zz) *Health and Safety Management Plan*: means a document prepared by the Prospecting and Exploration License holder, by the Concessionaire and the holder of the Mining Authorization to address the risks to health and safety from the respective Mining activities and to their workers;
- aaa) *Environmental licensing procedure*: means the procedure defined by the Government member responsible for the Mineral Resources sector, in coordination with the Government member responsible for the environmental sector, to assess the environmental impact of Mining Activities, conducted in accordance with this Code and Applicable Law, before the beginning of the Mining Activities;
- bbb) *Work Program and Budget*: means the technical and financial document prepared by the Concessionaire to detail the work plans and budgeted expenditure for Mining Activities;
- ccc) *Proposed definition of Project scope*: means a document describing what environmental impacts should be considered and elaborated in detail in the environmental impact assessment, depending on the nature and location of activities, this scope can cover, in particular, atmospheric emissions, noise emissions, water discharge;
- ddd) *Prospecting and Exploration*: means the set of operations and studies carried out by using geological, geochemical, geophysical and other relevant methods in order to discover and evaluate mineral deposits;
- eee) *Ornamental Stones*: means stones which occur naturally or in mineral rock formations, which, because of their special characteristics, such as colors, textures, patterns and resistance to breakdown, make them commercially valuable to be produced in forms of blocks or plates meeting certain size specifications (width, length and thickness) and forms for the purpose of construction of buildings and raw materials for ornamental purposes, as classified under Article 5.1(d)(iii);
- fff) *Mineral Resources*: means the concentration of natural mineral occurrences in or on the Earth's crust in such form and quantity which is reasonably justified by a certain level of confidence of geological knowledge;
- ggg) *Labor regime*: means the legal framework for employment and training provided for in Law No. 4/2012 of 21 February, and other complementary legislation;
- hhh) *Mining register*: means the register organized and managed by the Regulatory Authority, into which must be entered, for public consultation, specific information relating to Mining Activities;
- iii) *Feasibility Study Report*: means the report prepared by the Prospecting and Exploration License holder under Article 24;
- jjj) *Mineral Reserves*: means the economically producible part of Mineral Resources;
- kkk) *Mining Permit* means a permit to carry Artisanal Mining Activities;
- lll) *Timor-Leste Services*: means services provided by a Timor-Leste Supplier;
- mmm) *Territory*: means the territory of the Democratic Republic of Timor-Leste and areas subject to respective jurisdiction, as defined in Article 4 of the Constitution of the Democratic Republic of Timor-Leste;

- nnn) *Mining Authorization Holder*: means the natural or legal person authorized to carry out Mining activities for Industrial Minerals under Article 5.1(d);
- ooo) *Prospecting and Exploration Holder*: means the natural or legal person to whom allowances are allocated to carry out activities of Prospecting and Exploration;
- ppp) *Mining Rights Holder* means a natural or legal person authorized to conduct Mining Activities;
- qqq) *Artisanal Mining Permit Holder* means a natural or legal person authorized to undertake Artisanal Mining activities;
- rrr) *Gross Value of Minerals*: means the value of the minerals at the point where they can be stored after extracted from the mine, or subjected to processing and limited processing, including in particular mining, crushing, grinding and sifting;
- sss) *Value of Processed Minerals*: means the value of the concentrated minerals or after processing, refined processing and metalworking, including, inter alia, concentrated grinding, smelting and refining.

Article 3

Ownership of mineral resources

1. All Mineral Resources in public and private areas of the Territory are part of the public domain of the State.
2. Minerals extracted and produced under this Code are owned by the Mining Authorization Holder and/or the Concessionaire to whom the Mining Rights have been assigned.
3. All illegally extracted minerals are the property of the state.
4. Where the Mineral Resources occur or are discovered on private land, the state can acquire land through negotiation, pursuant to the applicable law.
5. If the acquisition procedure provided for in the preceding paragraph does not result in any agreement between the State and the private owner, the State may use the mechanisms provided by expropriation law.

Article 4

Excluded Areas

1. If it is required for reasons of national security, security and wellbeing of the populations, the incompatibility of the Mining Activities with other uses, already in progress or projected, of soil or subsoil, or for environmental, cultural or religious reasons, the Council of Ministers may, on the proposal of the member of the Government responsible for the Mineral Resources sector, declare an area as an Excluded Area for Mining Activities.
2. The classification of an area as Excluded Area must be made through Government Resolution.
3. Mining rights awarded before the classification of an area as an Excluded Area remain valid and in force until they expire or are otherwise terminated so in accordance with the provisions of this Code.

Chapter II

Mineral classification

Article 5

Mineral classification

1. For the purposes of royalty, award of Mining Rights, of Mining Activities and taking into account the risks to health, safety and environment, minerals are classified into the following groups:
 - a) Minerals of Metallic Ores, which are subdivided into:
 - i. Precious Metals or Precious Minerals;
 - ii. Common Metals.

- b) Gems;
 - c) Radioactive Ores;
 - d) Industrial Minerals, which are subdivided into:
 - i. Construction Materials;
 - ii. Transformation Materials;
 - iii. Ornamental stones.
 - e) Rare Earth ores;
 - f) Coal.
2. The description of Minerals classified under the terms of the previous number is approved in Annex 1 to this Code, forming an integral part of it.

Article 6
Strategic Minerals

- 1. The Council of Ministers may, at the proposal of the member of the Government responsible for the Mineral Resources sector, classify certain Minerals as Strategic Minerals, by Decree-Law.
- 2. Strategic Minerals are defined according to one or more of the following criteria:
 - a) Economic, energy security and balance of trade balance of the nation;
 - b) Mineral Hazards involving specific technical or Processing aspects;
 - c) Rarity;
 - d) National defense and security;
 - e) Support the growth of domestic manufacturing, especially in agriculture, housing and infrastructure.
- 3. The Decree-Law referred to in paragraph 1 shall also list the special rules applicable to state participation in the respective mining rights and the Strategic Minerals Commercialization.
- 4. The Decree provided for in paragraph 1 shall not apply to Mining Rights allocated before classification.
- 5. Without prejudice to paragraph 1, in the Special Administrative Region of Oecusse Ambeno, minerals classified under Article 5.1(d)(i and iii), shall not be classified as Strategic Minerals.

Chapter III
Allocation of Exploration and Exploration License, Mining Rights and Phases of Mining Activities

Section I
Management of the area

Article 7
Raster and geodetic system

- 1. For the purpose of realization of Mining Activities, the area boundaries are always rectilinear and oriented along the grid of geographic coordinates.
- 2. The opening and redefinition of new areas for Mining Activities shall be defined in accordance with the provisions of the preceding paragraph.
- 3. The regulation of the grid system of the geographical coordinates and the geodetic system are contained in a regulation approved by the Regulatory Authority.

Article 8

Opening, closing, and redefining areas

1. Before proposing the approval of the opening of a new area to carry out Mining Activities to the Council of Ministers, the member of the Government responsible for the Mineral Resources sector should consult, through the Regulatory Authority, with the responsible governmental entities.
2. Following the consultation provided for in the preceding paragraph, the member responsible for the Mineral Resources sector shall, after a recommendation from the Regulatory Authority, propose to the Council of Ministers, for a decision, whether the area should be subject to public tender or direct award.
3. Before proceeding to the closure, redefinition and reopening of the areas referred to in paragraph 1 of this article to conduct Mining Activities, the Regulatory Authority shall inform the relevant governmental entities.
4. The Council of Ministers may, at the proposal of the member of the Government responsible for the Mineral Resources sector, reserve certain areas for mining activities for the national mining company.
5. The decision referred to in the previous number may be implemented through direct award for reasons of Public Interest.
6. The decision taken under paragraphs 2, 3 and 4 does not include or affect an existing Minerals Activities Area, for which rights have been assigned to a Mining Rights Holder.
7. The areas referred to in this article shall be published in the Official Gazette and disclosed through any other means determined by the Regulatory Authority.

Section II

Assignment of mining rights

Article 9

General provision

1. The allocation of Prospecting and Exploration License, a Mining Contract, a Mining Authorization or Mining Permit following a public tender or direct award procedure should be conducted in a transparent manner and in accordance with the rules provided in this Code.
2. The decision to reject the granting of a Prospecting and Exploration License, a Mining Contract, a Mining License or a Mining Permit must be substantiated by the Government.
3. Prior to assigning Mining Rights to a Prospecting and Exploration License Holder, a Mining Authorization Holder or a Concessionaire, the Government shall ensure that the Mining Rights are allocated on the basis of their economic value and according to another criterion, in accordance with following article.
4. The government's decision to award a mining contract and a Mining Authorization to a natural or legal person, must take into account the earlier investment during the Prospecting and Exploration period.

Article 10

Public tender

1. The Regulatory Authority should consider the proposals presented and, through an open and transparent process, select the one that best promotes the development of Minerals in the area required for Mineral Rights, taking into account:
 - a) The work program that the applicant proposes to carry out and the expenditure authorizations that he/she intends to carry out;
 - b) The technical and financial capacity of the applicant;
 - c) The previous experience of the applicant in conducting the type of Mining Activities for the requested type of Minerals;

- d) The extent that the applicant proposes to contribute to the sustainable development of Mining Activities in Timor-Leste.
2. The rules applicable to each call for tender, including their evaluation criteria, shall be laid down in the tender terms of reference.
3. The terms of reference of the tender referred to in the preceding paragraph must be approved by the member of the Government responsible for the Mineral Resources sector, on proposal of the Regulatory Authority.
4. The terms of reference of the tender shall include the right of the State of Timor-Leste, through the National Mining Company, to participate in Mining Activities, as provided for in Article 22.
5. The terms of reference of the invitation to tender must include at least the following:
 - a) The areas subject to competition;
 - b) The documents required to access the competition;
 - c) The criteria for technical, financial, legal and Local Content evaluation;
 - d) The time limits, location and timing of the release of the data, studies and other information necessary for the preparation of tenders, as well as the cost of their acquisition;
 - e) Contacts for obtaining information;
 - f) Detailed information on the evaluation committees, including the deadline for the assessment and recommendation to the Government member responsible for the Mineral Resources sector on the award of the tender.
6. The model Mining Contract and Mining Authorization to be concluded between the State of Timor-Leste and the contest winner will be attached, in draft, to the terms of reference of the competition.
7. The Regulatory Authority shall promote the publication of notices on the Government's official web site, in a national newspaper of large circulation and, if it deems appropriate, in a specialized publication of the International Industry, informing of the opening of the competition and inviting interested parties to present proposals.

Article 11
Direct award

1. The Government member responsible for the Mineral Resources sector, upon recommendation of the Regulatory Authority, may decide not to launch a public tender and not open a tender procedure and proceed to the direct award of a Prospecting and Exploration license, a Mining Concession and a Mining Authorization in the following cases:
 - a) The area to be released is considered as a new area delimitation with insufficient information and data;
 - b) The public tender has been deserted;
 - c) Health, safety and environmental risks are associated with the mining area;
 - d) For Strategic Minerals declared in accordance with Article 6;
 - e) In situations of direct award to the national mining company, as provided for in Article 8.5 and 8.6.
2. Artisanal Mining Permits are always assigned by direct award.
3. Notwithstanding the provisions of Article 8.2 and Article 10.1, the predefined areas for conducting Mining Activities to be allocated through direct award should be allocated in order of compliance with all the legal requirements for direct award.

**Article 12
Requests**

1. Without prejudice to the special rules established for the granting of Mining Authorizations and Artisanal Mining Permits, the request for the allocation of Mining Rights shall comply with the provisions of this article.
2. Any natural or legal person who has a demonstrated technical and financial capacity may request that he/she be allocated Mining rights.
3. The request for allocation of Mining Rights is addressed to the Regulatory Authority.
4. Applications may be submitted by the person referred to in paragraph 2, constituted in corporate form or not, provided that all members comply with the requirements of this Code and applicable regulations and declare permanent joint and separate liability to the state and third parties for complying with all the duties and obligations of Mining Law, as well as for all damages that may occur during the execution of Mining Activities.

**Section III
Granting of Reconnaissance Authorization**

**Article 13
Reconnaissance Authorization**

1. Any natural or legal person may approach the regulatory authority a request for grant of a Reconnaissance Authorization for specific areas of interest.
2. The request for Reconnaissance Authorization for approval of the Regulatory Authority shall include at least the following elements:
 - a) The identification of the applicant;
 - b) A map of the area intended for Reconnaissance of Authorization;
 - c) A detailed work plan for the reconnaissance program, including the timetable and schedule of activities;
 - d) Proof of payment of the fees of the application, as provided for in Article 158.
3. The Regulatory Authority can assign a reconnaissance authorization for a maximum period of three months.
4. The Reconnaissance Authorization does not confer the right to:
 - a) Extract minerals for sale;
 - b) Exclusivity over the area of Reconnaissance Authorization;
 - c) Dig trenches or ditches.
5. The holder of the Reconnaissance Authorization has the right to:
 - a) Conduct technical studies, including Geological, Geophysical and Geochemical studies in the area of Exploitation Authorization for analysis prospective minerals, prior to the application for allocation of mining rights or Mining Authorizations and/or Artisanal Mining Permits;
 - b) Conduct reconnaissance operations in an area whose maximum length cannot exceed two thousand square kilometers, which can be divided into four distinct areas;
 - c) Signal the extent of the desired location for requesting the granting of Mining rights;
 - d) Take outcrop samples of up to twenty kilograms per permitted location.
6. For the purposes of paragraph a) above, the Regulatory Authority may authorize the holder of the Reconnaissance Authorization to conduct analysis of samples outside of Timor-Leste.

**Section IV
Prospecting and Exploration**

**Article 14
License for Prospecting and Exploration**

1. Any natural or legal person shall, prior to obtaining a Mining Authorization or a Mining Contract, direct a request to the Regulatory Authority to grant a license for Prospecting and Exploration for specific interest areas.
2. The license application shall be addressed to the Regulatory Authority for its approval and shall include at least the following elements:
 - a) The identification of the applicant;
 - b) The map of the area intended for Prospecting and Exploration License;
 - c) A summary of the technical and geological studies indicating the mineral substances to be prospected;
 - d) A detailed Work Plan and Prospecting and Exploration Program; and
 - e) Proof of payment of the fees of the application, as provided for in Article 158;
 - f) The health and safety management plan, as provided for in Article 88.
3. The granting of the license of Prospecting and Exploration is subject to the issuance of the environmental license for the performance of activities of Prospecting and Exploration.
4. The Holder of Prospecting and Exploration has right of first refusal in the conclusion of a Mining Plan.

**Article 15
Duration and extension**

1. The period of Prospecting and Exploration has an initial maximum period of 3 years, which may be extended by up to two periods of two years each.
2. The Holder of Prospecting and Exploration must request an extension of the Prospecting and Exploration period at least 120 days prior to the date of expiry of the initial Prospecting and Exploration Period, or the Prospecting and Exploration period extended to be in course, by request addressed to the Regulatory Authority the following documents:
 - a) The desired extension period;
 - b) The area that the Holder of Prospecting and Exploration intends to retain, with a topographical map of the region that shows the configuration and size of the area;
 - c) A technical report on the progress of implementation of the approved annual Work Program and Budget; and
 - d) The proposed global Work Program and Budget and minimum authorizations of expenditure in respect of Mining Activities to be undertaken during the period of the extension and the detailed Work Program and Budget they wish to implement during the first year of this period.
3. In case of positive evaluation and approval of the technical report of developments referred to in subparagraph c) above, the Regulatory Authority approves the requested extension, provided that:
 - a) The holder of Prospecting and Exploration License is not in breach of any obligation under this Code;
 - b) The Work Program and Budget for the desired extension period is in accordance with the Good Mining Industry Practices and environmental standards;
 - c) The Prospecting and Exploration License holder has completed the Work Program and Budget approved for the Prospecting and Exploration period in process.

Article 16

Prospecting and Exploration Operations

During the Prospecting and Exploration period, the Holder of Prospecting and Exploration shall, in accordance with the Work Program and Budget pursuant to Article 51, carry out prospecting and exploration operations with the aim of:

- a) Delimiting the Mineral Deposits, including the determination of its physical characteristics, chemical composition, distribution in the Concession Area and estimate of Mineral Resources;
- b) The Prospecting and Exploration License holder must submit a Proposed Project Definition Scope for environmental assessment;
- c) Conduct pre-feasibility studies, which must cover at least:
 - i. Preferred methods for Exploitation and Processing of ores;
 - ii. Infrastructure requirements;
 - iii. Mineral Deposit areas requiring further analysis under the Feasibility Study; and
 - iv. Commercial and technical analysis based on reasonable assumptions.
- d) Prepare the report of the Pre-Feasibility Study identifying minable minerals;
- e) Prepare the Work Plan; and
- f) Carry out the feasibility study.

Article 17

Pre-Feasibility Study Report

1. Before applying for a mining contract and the Mining Authorization, the Prospecting and Exploration Holder should present the Pre-Feasibility Study Report to the Regulatory Authority for approval.
2. The Pre-Feasibility Study Report should contain:
 - a) A copy or summary of the technical report on prospecting and exploration operations developed and the respective findings and conclusions;
 - b) Mineral Resources Report in accordance with Article 21;
 - c) Preliminary design of the project and proposed methods of exploitation and processing of ores;
 - d) Environmental Studies, plan to obtain the environmental and social impact license;
 - e) Preliminary assessment of the proposed product characteristics, forecast production and capacity of the mine and processing diagram according to paragraphs b) and f)
 - f) The evaluation and conclusions of the Prospecting and Exploitation License Holder about the Pre-feasibility of a commercial mining project, including a preliminary estimate of capital expenditures, operating costs, costs of Mine Closing Activities, Product Commercialization strategy, preliminary revenue projection and financial analysis in accordance with paragraph c).
3. The regulatory authority, through authorization by the member of Government responsible for the Mineral Resources sector, approves the Pre-Feasibility Study Report, except if it considers that the Pre-Feasibility Study Report does not foresee the most beneficial, timely and efficient use of the Mineral concerned.
4. The Regulatory Authority must give written notice to the Prospecting and Exploration Holder of approval of the Pre-Feasibility Study Report, including any reservations, changes or additions to it.

Article 18

Extension of the Prospecting and Exploration Area

1. In the case of a mineral deposit discovered by the Prospecting and Exploration License holder in the course of Mining activities extending beyond the borders of Prospecting and Exploration Area, the holder of a Prospecting and Exploration License may request the Regulatory Authority to enlarge the Prospecting and Exploration Area so that it covers the entire area covered by the Mineral deposit.

2. The application for the extension of the Prospecting and Exploration Area may be refused, in particular, in the following cases:
 - a) The requested area is subject to other Prospecting and Exploration Areas and/or areas defined in accordance with Articles 4 and 58;
 - b) The Holder of Prospecting and Exploration license is in breach of any obligation in this Code; or
 - c) For public interest reasons.

Article 19 Relinquishment

1. The Holder of Prospecting and Exploration may at any time during the period of Prospecting and Exploration and with 60 days prior notice, relinquish their rights over any part or all of the Prospecting and Exploration Area object of Prospecting License and Exploration.
2. The partially abandoned Prospecting and Exploration Area is no longer part of the Prospecting Area and Exploration and the Holder of Prospecting and Exploration should, in the respective measure, be released from obligations under the Prospecting and Exploration License.
3. If the holder of Prospecting and Exploration License proposes to relinquish all of the Prospecting and Exploration Area, he/she is required to deliver to the regulatory authority all geological data and work reports ever produced, in which case the Prospecting and Exploration License expires.
4. Relinquishment of all the Prospecting Area and Exploration does not release the holder of a Prospecting and Exploration license of its obligations in the Prospecting and Exploration period.

Article 20 Duties of the Prospecting and Exploration License Holder

1. During the period of Prospecting and Exploration, the Holder of Prospecting and Exploration has the following obligations:
 - a) Demarcate the Prospecting and Exploration Area with easily identifiable concrete landmarks, within 30 days from the date of issue of the Prospecting and Exploration license or any change in the area;
 - b) Undertake Prospecting and exploration work in the Prospecting and Exploration Area under approved Work Programs and Budgets, which should include, among other things, the planned use of explosives in the activities of Prospecting and Exploration;
 - c) The use of explosives in Prospecting and exploration activities referred to in the paragraph above and respective procedures and transport rules, storage, security and risk mitigation, under the law;
 - d) Prepare and submit annual work reports to the Regulatory Authority;
 - e) Conduct the activities of Prospecting and Exploration under the applicable law, the Good Mining Industry Practices and applicable health, safety and environmental standards;
 - f) Recognize, observe and respect the rights, customs and traditions of local communities;
 - g) Immediately notify the Regulatory Authority as provided in Article 69.2 (d) and (e) and temporarily suspend activities of Prospecting and Exploration in the respective discovery area for conducting additional investigation;
 - h) Promote and contribute to the development of host communities and neighboring communities of Prospecting and Exploration Area;
 - i) Timely pay all *royalties* and taxes and fulfill other obligations related to its activities;
 - j) Subscribe to all insurance required by law and any other insurance that the Prospecting and Exploration Holder, banks or lenders deem necessary to adequately cover the risks of the activities of Prospecting and Exploration; and

- k) Structure and operations management, including manual labor strategy and procurement policy, which must be oriented towards the use of local goods and services, in accordance with the provisions of this Code.
2. For the purposes of paragraph j) above, the Holder of Prospecting and Exploration may use international insurance coverage to the extent that it can be extended to cover Mining Activities in Timor-Leste and, by approval of the Regulatory Authority, of Prospecting and Exploration License holder may also resort to self-insurance when hiring commercial insurance is not possible or is too costly.
3. The insurance policies should be maintained at all times, and the limits of coverage should be adjusted to any changes in risk in Mining Activities in accordance with Good Mining Industry Practices, and, provided they offer the same market conditions, the holder of Prospecting and Exploration License should give preference to insurance companies registered in Timor-Leste.

Article 21

Minerals Resources and Mineral Reserves Report

1. The Holder of Prospecting and Exploration and/or the Concessionaire shall prepare and submit to the Regulatory Authority the report of Mineral Resources and Mineral Reserves.
2. The Mineral Resources and Mineral Reserves report should be presented in accordance with standard industrial report formats adopted pursuant to this Code.
3. The standard industrial report formats referred to above are approved by the following entities:
 - a) International Council on Mining and Metals (ICMM);
 - b) Committee for International Reporting Standards on Mineral Reserves (CRIRSCO).
4. Notwithstanding the preceding paragraph, under the proposal of the Regulatory Authority, the Government member responsible for the Mineral Resources sector can create a structure for defining the standard format for reporting Mineral Resources and Mineral Reserves.

Article 22

Timor-Leste State participation in Mining Activities

1. The Timor-Leste State's decision to participate in Mining Activities is the responsibility of the Council of Ministers, on proposal of the Government member responsible for the Mineral Resources sector.
2. The decision provided for in the preceding paragraph shall, in express form, foresee the right of the State of Timor-Leste, through the national mining company, to decide to participate in Mining Authorizations or the Mining Contracts with a participatory interest of up to 30%.
3. Upon request of the Concessionaire or the holder of the Mining Authorization, the percentage of participation of the State of Timor-Leste in the preceding paragraph may be increased in accordance with the terms and conditions of the Mining Contract or the Mining Authorization.
4. The participation of the State referred to in paragraph 2 and 3 do not apply if Mining rights have been assigned to the national mining company, in terms of Article 11.1(d) and (e).
5. For the purposes of paragraph 2, the State participation decision shall be taken by the Council of Ministers within 180 days after the submission of a proposal to the member of Government responsible for the Mineral Resources sector.
6. The conditions of participation of the national mining company in Mining Activities shall include Mining Authorizations and respective Mining Contracts.

**Article 23
Mining Plan**

1. Within 24 months after the approval of the Pre-feasibility Study, the Holder of the Prospecting and Exploration License should introduce the Mining Plan, which must take into account compliance with the environmental standards provided for in this Code, the applicable law and respective complementary regulations.
2. Notwithstanding the provision of the preceding paragraph, the holder of a Prospecting and Exploration license may request an extension of the deadline for submission of Mining Plan at least 60 days prior to the date of expiry of the deadline for submitting the Mining Plan, and the Regulatory Authority may extend the deadline for submission of Mining Plan for an additional period of 180 days.
3. The Mining Plan must be consistent with the approved Pre-feasibility Study Report and include at least the following:
 - a) Delineation, a topographical and geological map of the concession area and/or authorization proposal and any other relevant areas, including easements and rights of way;
 - b) Mineral Reserves estimate in accordance with Article 21, including capacity and production schedule, in which it indicates the anticipated date for the start of production for the first sale or disposal, commercialization strategy for the product and full recovery of minerals;
 - c) Feasibility Study Report
 - d) Detailed information on conditions and methods of exploitation including processing and any alternatives that can be adopted if the circumstances so require;
 - e) Specifications of equipment, machinery and facilities to be used in the Exploitation and Processing and other Mining activities;
 - f) Map of facilities and other infrastructure to be installed in the Concession Area and/or Authorization, and this area only approved for the purpose of Mining Activities;
 - g) Summary of risks and controls for health and safety;
 - h) Summary of the environmental management plan and monitoring program;
 - i) Detailed information about the development work to be undertaken and estimated duration for completion;
 - j) The management structure and operation, including workforce and contracting strategy intended to use national goods and services, in accordance with the provisions of this Code;
 - k) Mine closure plan for the Concession Area and/or authorization;
 - l) Other requirements for the development of Mineral Deposits according to Good Mining Industry Practices.

Article 24 Feasibility Study Report

Upon completion of the Feasibility Study, the Holder of Prospecting and Exploration shall prepare the Feasibility Study Report referred to in paragraph 3(c) of the preceding article, which must contain:

- a) The annual rate of production, including raw materials, concentrated, sterile and sludge;
- b) Information on manual labor;
- c) Revenues from exploitation and processing of Minerals;
- d) Summary of Capital Investment and expenditure;
- e) Market research and market demand;
- f) A proposal on the financing needs and available resources for the continuation of Prospecting and Exploration and developing the project;
- g) Technical and economic studies necessary for the development of the Feasibility Study.

Article 25
Mining Contract

1. After the approval of the Pre-feasibility Study report, the Regulatory Authority shall notify the holder of Prospecting and Exploration License to start the negotiation process and sign the mining contract.
2. Within 30 days of being notified in accordance with the preceding paragraph, the holder of Prospecting and Exploration license should confirm to the Regulatory Authority that accepts opening negotiations for the mining contract.
3. The mining contract is approved and signed by the Government member responsible for the Mineral Resources sector, proposed by the Regulatory Authority.
4. The Government member responsible for the Mineral Resources sector may delegate to the regulatory authority the power to assign Mining contracts.
5. The recommendation referred to in paragraph 3 of this article may be made after approval of the Mining Plan.
6. The mining contract applies to minerals classified under subparagraphs a), b), c), e) and f) of Article 5.1.
7. The mining contract should include, inter alia, the following
 - a) Identity of the Concessionaire;
 - b) Demarcation of granted Concession Area;
 - c) Indication of Ores covered by the mining concession;
 - d) The term of the mining concession and the conditions for possible extensions, specifying the term of the Exploitation and Processing Period;
 - e) The conditions and procedures for change of the Concession Area;
 - f) The terms and conditions for the direct or indirect transfer of the mining concession;
 - g) The statement of the rights and obligations of the parties, including:
 - i. The conditions and timeline for the reversal of the mining concession to the State;
 - ii. The payments which must be made by the Concessionaire to the State;
 - iii. Obligations relating to Exploitation and Processing of Minerals and its transformation and commercialization, or other obligations that might be beneficial to the technological and economic development of the country;
 - iv. Plans for the resettlement of local communities affected by mining activities;
 - v. Social and community development programs that should be implemented by the Concessionaire;
 - vi. The conditions for changing the Mining Contract;
 - vii. The legal framework that is subject to the Concessionaire;
 - viii. The frequency with which plans, budgets and activity reports are to be delivered;
 - ix. The reasons that may justify the termination of the mining contract; and
 - x. Estimated amount of the Mining Rehabilitation Reserve;
 - h) The special conditions to which the concessionaire may be subject, in particular the deadline for starting exploitation and Processing work; and
 - i) The right of the State to participate in Mining Activities under Article 22.
8. Contractual clauses on mining royalty and surface rents shall comply with this Code.
9. Within 60 days after the conclusion of the Mining Contract, an extract of the contract that contains the main elements of the contract should be published in the Official Gazette Series II and the official Government website.

10. The statement referred to above shall include, among other elements that are considered relevant by the Regulatory Authority, the identification of the Concessionaire, the delimitation of the Concession Area, indication of Minerals covered by the mining concession and the appropriate term.

Article 26
Mine Closure Plan

1. The Government member for the Mineral Resources sector and the Government member responsible for the environmental sector, are competent to authorize the mine closure plan.
2. The holder of Prospecting and Exploration license and the holder of the Mining Authorization shall submit to the regulatory authority, simultaneously, the mine closure plan and the Mining Plan.
3. The mine closure plan is approved by the regulatory authority and environmental authority.
4. The mine closure plan should include at least the following:
 - a) Identification of the authorizations and closure obligations;
 - b) Consultation of interested parties;
 - c) Uses of the land after closure and objectives of the closure;
 - d) Estimated liabilities incurred with the closure;
 - e) Implementation of the closure; and
 - f) Monitoring and maintenance shutdown.
5. The approved mine closure plan, should be reviewed occurs when one of the following conditions:
 - a) During 4 years after its adoption; or
 - b) When there are changes to the Environmental License; or
 - c) When the Plan Work suffers changes under Article 27.6; or
 - d) On a proposal made by the Concessionaire and the Mining Authorization Holder.
6. The approval of the mine closure plan, revised in accordance with paragraph 4 shall follow the provisions of paragraphs 2 and 3.
7. The Concessionaire or the holder of the Mining Authorization must create a Mining Rehabilitation Reserve for the closure of the mine in accordance with the provisions of Article 78.
8. The Mine closure activities should be conducted in accordance with the mine closure plan and comply with applicable law and respective regulations.

Article 27
Review, Approval and Amendment of the Mining Plan

1. The Regulatory Authority should review the Mining Plan within 180 days after receipt.
2. If the regulatory authority requires the provision of additional information, the holder of a Prospecting and Exploration license must be notified, within 20 days, to submit the requested information.
3. The Government member responsible for the mineral resources sector, on proposal by the Regulatory Authority, shall approve the Mining Plan within 90 days, except if it considers that the Mining Plan does not meet the requirements set out in Article 23.
4. The regulatory authority, within the period specified in paragraph 1, shall notify the Holder of Prospecting and Exploration, in writing, of the approval of the Mining Plan, or any reservations, changes or additions to it.
5. Any changes to the approved Mining Plan are subject to the prior approval of the Regulatory Authority.
6. The following are considered changes to the approved Mining Plan:
 - a) Changes to the level of impact on the surface of the mine;

- b) Changes to the method of extraction, the enter road to the mine or to the Processing facilities;
 - c) The premature or unexpected closure of the mine.
7. Where there are the circumstances provided for in Articles 28 and 29, the concessionaire must submit a new Mining Plan for approval by the Regulatory Authority.

Section V
Associated Minerals and other Mineral Resources

Article 28
Associated Minerals

1. If in the course of Mining operations, Associated Minerals not covered by the Mining Contract Mining or authorization are discovered, the Concessionaire or the holder of the Mining Authorization shall immediately notify the Regulatory Authority.
2. Within 6 months after the notification referred to in the preceding paragraph, the Concessionaire or the holder of the Mining Authorization shall submit to the Regulatory Authority a summary report on the technical and commercial evaluation of Associated Minerals referred to in the previous paragraph, indicating whether to exploit them
3. The Concessionaire or the holder of the Mining Authorization may also present together with the report referred to above, a proposal to the Regulatory Authority for the development of Associated Minerals, which may include:
 - a) Sale, at market prices, of all or part of the shares of the mining company to another company with technical know-how and financial structure to carry out the Mining Activities on the Associated Minerals;
 - b) Establishment of joint ventures with other companies, whether or not under the corporate form for exploitation of associated minerals; or
 - c) Proposal to conduct activities aimed at the exploitation of Associated Minerals under the Mining Contract or existing Mining Authorization, and amendments thereto.
4. The Regulatory Authority, within 150 days of receipt of the proposal referred to in the preceding paragraph shall evaluate it in accordance with the legal requirements of this Code and in accordance with criteria of technical and financial capacity of the Concessionaire or Mining Authorization Holder to explore other minerals and recommend to the Government member responsible for the Mineral Resources sector the respective approval.
5. The approval of the Government member responsible for the Mineral Resources sector in the preceding paragraph shall take place within 30 days of the recommendation of the Regulatory Authority.
6. In case of non-approval of the proposal, the unfavorable decision should have grounds.

Article 29
Other Mineral Resources

1. If, in the course of Mining operations, the concessionaire or the holder of the mining authorization discover any other minerals that have commercial value in the concession area and which are not the mineral covered by the mining concession or the mining authorization or other minerals, they must immediately notify the regulatory authority of the discovery of these other minerals, including the indication of the part of the concession area where they were discovered.
2. If the concessionaire has the means to that end, the Concessionaire or the holder of the Mining Authorization shall, within 6 months after the notification referred to in the preceding paragraph, present to the Regulatory Authority a summary report on the technical and commercial evaluation of other discovered minerals indicating whether to exploit them.

3. If they so wish, the concessionaire or the holder of the mining permit may submit with the report referred to in the preceding paragraph, a proposal to the Regulatory Authority for the development of other minerals, which may include:
 - a) Sale, at market prices, of all or part of the shares of the mining company to another company with technical know-how and financial structure to carry out the Mining Activities related to other minerals;
 - b) Establishment of joint ventures with other companies, whether or not under the corporate form for the operation of these other minerals; or
 - c) Proposal to conduct activities aimed at the exploitation of other minerals existing under the mining contract or mining authorization, and amendments thereto.
4. The Regulatory Authority, within 150 days of receipt of the proposal referred to in the preceding paragraph shall evaluate it in accordance with the legal requirements of this Code, and in accordance with criteria of technical and financial capacity of the Concessionaire or Mining Authorization Holder to explore other minerals, and recommend the respective approval to the Government member responsible for the Mineral Resources sector.
5. The approval of the Government member responsible for the Mineral Resources sector in the preceding paragraph shall take place within 30 days of the recommendation of the Regulatory Authority.
6. In case of non-approval of the proposal, the unfavorable decision should have grounds.

**Article 30
Conservation**

1. If other minerals and other mineral resources can be commercially produced, but the concessionaire or the holder of the mining permit chooses not to do so, they should include measures in their work program and budget for storage of the same or preservation for possible future exploration.
2. The storage or preservation methods listed in the previous paragraph shall be technically and economically feasible.

**Section VI
Exploitation period**

**Subsection I
Development phase**

**Article 31
Issuance of Exploitation and Processing License**

After the conclusion of the mining contract in accordance with Article 25, the regulatory authority, with the authorization of the Government member responsible for the Minerals resources sector, should grant the concessionaire an exploitation and processing license for existing mineral resources in the concession area.

**Article 32
Development Phase Term**

1. The development phase begins on the date of issue of the mining license and ends on the date established in the Mining Plan and cannot last for more than 36 months after the issuance of the Exploitation and Processing license.
2. The concessionaire may, with at least 120 days prior to the end of the development phase, request its extension to the Regulatory Authority.
3. The application referred to in the preceding paragraph shall contain:
 - a) Indication of the reason or reasons for the extension;

- b) Dates of extension;
 - c) A report on the work already undertaken;
 - d) A program and schedule of works which will be carried out during the period of extension;
 - e) Any changes or additions to the Mining Plan due to the extension
4. The Regulatory Authority, after reviewing and approving the request, and where the concessionaire is not in breach of any obligation in this Code or the mining contract, can assign one extension of the development phase for the time it deems appropriate on reasonable grounds.

Article 33
Development Operations

During the development phase, the holder must:

- a) demarcate the area of the concession with easily identifiable cement markers, within 30 days from the date of issue of the license for Exploitation and Processing; and
- b) Proceed to the construction, assembly and installation of infrastructure, including enter roads deemed necessary, water services, electricity and other consumables, equipment and mining machinery, processing, storage and transportation of minerals.

Subsection II
Mining Phase

Article 34
Term and Renewal

1. The mining phase starts from the date established in the Mining Plan.
2. Notwithstanding the preceding paragraph, the beginning of the mining phase should not exceed 48 months after the issuance of the Exploitation and Processing license.
3. The mining phase has the maximum of 25 years which may be extended one or more times for a total of 25 years.

Article 35
Mining Phase

During the mining phase, the concessionaire must extract the minerals authorized under mining contract and carry out all associated mining activities.

Article 36
Obligations of the Concessionaire

1. During the mining phase, the Concessionaire shall:
 - a) Start the extraction of minerals under mining contract, and according to the approved work programs and budgets, but in no case after the expiry of 48 months from the issuance of the Exploitation and Processing license;
 - b) Prepare and submit annual work reports for approval to the Regulatory Authority;
 - c) Conduct mining operations in accordance with the applicable law, the Good Mining Industry Practices and applicable health safety and environmental standards;
 - d) Recognize, observe and respect the rights, customs and traditions of local communities;
 - e) Promote and contribute to the development of host communities and neighboring communities of the concession area;
 - f) Immediately notify the Regulatory Authority as provided in Article 69.2 (d) and (e) and temporarily suspend mining activities in the respective discovery area for conducting further research;
 - g) Timely pay all royalties and rents and fulfill other obligations arising from its activities;

- h) Subscribe to all insurance required by law and any other insurance that Concessionaire, banks or financiers deem necessary to adequately cover the risks of mining activities; and
 - i) Structure and operations management, including manual labor strategy and procurement policy, which must be oriented towards the use of local goods and services, in accordance with the provisions of this Code.
2. For the purposes of paragraph h) above, the Concessionaire may use international insurance coverage to the extent that they can be extended to cover mining operations in Timor-Leste.
 3. Upon approval of the Regulatory Authority, the Concessionaire may also resort to self-insurance when hiring commercial insurance is not possible or is too costly.
 4. The policy of insurance must be maintained at all times, should the limits of coverage be adjusted to any risk of changes in mining activities in accordance with Good Mining Industry Practices.
 5. The Concessionaire shall give preference to insurance companies registered in Timor-Leste, always providing the same market conditions.

Section VII Rights of the Concessionaire

Article 37 Rights of the Concessionaire

The Concessionaire has the following rights, which shall be used, as appropriate, in accordance with the approved work programs and budgets and approved mining plans:

- a) The exclusive right to enter and occupy the concession area;
- b) The exclusive right to conduct mining operations in the concession area and from there to remove, treat and dispose of debris;
- c) With respect for the rights of third parties, enter, use and occupy areas outside the concession area, as necessary and appropriate to carry out mining operations.
- d) With respect for the rights of others, erect, over or under land and water, roads, railways, pipelines, aqueducts, pipelines or pipelines, sewers, drains, wires, lines and similar facilities, as necessary and appropriate;
- e) Build the facilities and necessary infrastructure in the concession area;
- f) Acquire, use and operate radios and other communications equipment, helicopters or other aircraft and transport means and facilities, as well as equipment and ancillary facilities, subject to licensing and registration requirements by the relevant state bodies;
- g) Clear away and remove from the area of the concession wood, debris and other obstructions as necessary;
- h) Using water resources in accordance with Applicable Law;
- i) Sell and export minerals in accordance with the provisions of Article 103.

Article 38 Third Parties

1. In exercising its rights under the previous article, the concessionaire must take into account other rights granted to third parties, such as grazing, fishing, cutting forests and farming rights and easements, conducting mining activities in order to minimize, as far as possible, interference with the rights of others.
2. Upon approval of the Regulatory Authority, the Concessionaire must allow access to relevant government institutions, education institutions and research institutes to conduct studies, effecting countryside views and other activities related to exploration in the course of mining operations.

Article 39
Exclusivity

The Government member responsible for the Mineral Resources sector should not assign conflicting mining rights on the concession area to third parties.

Article 40
Infrastructure

In planning, construction, establishment, utilization and maintenance of all infrastructure and facilities required for mining operations, the holder must:

- a) Consult and coordinate their actions with any regional and national studies and plans prepared by or for the state or state-approved at district or national level;
- b) Comply with Applicable Law and Good Mining Industry Practices; and
- c) Comply with any directives issued by the state authorities responsible for the planning and administration of the Territory.

Section VIII
Mining Industry

Article 41
Mining Authorizations

1. Mining authorizations allow the holder to conduct mining activities on minerals classified under the provisions of Article 5.1(d).
2. Any individual or collective person, with proven technical and financial capacity may request the granting of a mining authorization.
3. Notwithstanding the preceding paragraph, the allocation of Mining Authorizations relative to minerals classified in Article 5.1(d)(i) is reserved for the companies incorporated under the laws of Timor-Leste and more than 50% held by nationals and permanent foreign residents in Timor-Leste.
4. After the approval of the pre-feasibility study report, the regulatory authority shall notify the interested party to start the negotiation and award of the mining authorization process.
5. Within 30 days of being notified in accordance with the preceding paragraph, the interested party must confirm to the Regulatory Authority that accepts opening negotiations with a view to granting the mining authorization.
6. The mining authorization must contain at least the following information:
 - a) Date of issue and number of mining authorization;
 - b) Identity of the holder;
 - c) Covered industrial minerals;
 - d) Term;
 - e) Description of the area;
 - f) In the mining authorization, topographical map of the area covered by the license, indicating the geographical coordinates;
 - g) Mine closure plan; and
 - h) Management structure and operations, including hand-to-work strategy and procurement policy, which must be oriented towards the use of local goods and services, in accordance with the provisions of this Code.

Article 42

Allocation of mining authorizations

1. The application for allocation of mining authorizations is addressed to the Regulatory Authority and meets the requirements and procedures set out in Articles 10 to 12.
2. Mining authorizations are granted by the Government member responsible for the Mineral Resources sector, proposed by the Regulatory Authority after approval of the Mining Plan.
3. The Government member responsible for the Mineral Resources sector may delegate to the regulatory authority the competence to grant mining authorization.

Article 43

Term and extensions

Mining authorizations are granted by the following deadlines:

- a) For purely extractive operations for periods up to 5 years, renewable for an additional period of 5 years; and
- b) For extractive operations developed in order to provide fully integrated industrial projects, for a period up to 20 years, renewable for an additional period of 10 years.

Article 44

Rights of the authorization holder

Holders of mining authorization have the right to:

- a) Enter the area of the authorization;
- b) Exploration and research, evaluate and produce, on an exclusive basis, the construction materials covered by the mining authorization and carry out all the work and activities related to these transactions;
- c) Occupy and use the land required for the conduct of mining activities and the installation of the necessary equipment and facilities; and
- d) Sell, trade and export in accordance with the provisions of Article 103 or otherwise dispose of the construction materials produced from the area of the authorization.

Article 45

Obligations of the holder of the mining authorization

Holders of mining authorizations have the following obligations:

- a) Conduct mining activities in the area of the authorization in accordance with the approved work programs and budgets;
- b) Conduct mining activities in accordance with applicable law, the Good Mining Practices and applicable health safety and environmental standards;
- c) Timely pay all royalties and fulfill other obligations arising from their activities;
- d) Comply with the mandatory contractual rules on the hiring and training of national human resources.

Section XI

Artisanal mining activities

Article 46

Artisanal mining permits

1. The mining permit holder is awarded the right to conduct artisanal mining activities, described in Article 5.1(d)(i).

2. The Regulatory Authority is responsible for determining the suitability of sites and areas for the allocation of mining permit, taking into account the health, safety and the environment.
3. The mining permit holders should conduct their operations in accordance with environmental standards and operations in compliance with the rules set out in this Code, any regulations issued by the Regulatory Authority and in accordance with applicable law.
4. Any natural person who is a Timor-Leste national may request the granting of a mining permit, cannot be applying to work for any natural or legal person to whom the minerals extracted under mining permit are sold.
5. The artisanal mining permit must contain at least the following information:
 - a) Date of issue and permit number;
 - b) Identity of the holder;
 - c) Term; and
 - d) Identification of the site and the area.
6. Artisanal mining permits may not be transferred or transmitted.

Article 47

Application for granting of a mining permit

1. The application for artisanal mining permit assignment is directed to the Regulatory Authority.
2. The Mining Permit granting request is subject to specific instructions issued periodically by the Regulatory Authority.
3. Artisanal Mining Permits are assigned by direct award.
4. The Government member responsible for the Mineral Resources sector may delegate to the regulatory authority the power to assign artisanal mining permits.
5. The Government may delegate to the municipalities the power to issue Artisanal Mining Permits.

Article 48

Duration and extension

Artisanal Mining Permits are awarded for a maximum period of two years, renewable for periods of up to two years.

Article 49

Rights of the mining permit holder

Holders of Artisanal Mining Permits have the right to carry out small-scale mining activities in the area covered by the mining permit, including transportation and sale.

Article 50

Obligations of the mining permit holder

1. The Artisanal Mining Permits holders must carry out small-scale mining activities safely and in accordance with the environmental standards set out in this Code, with any instructions issued by the Regulatory Authority, and the applicable law.
2. Holders of artisanal mining permits must promptly notify the Regulatory Authority and suspend its activities in the event of any discovery:
 - a) Of minerals that are not covered by mining permit;
 - b) Under Article 69.2 (d) and (e).

Chapter IV
Work programs and budget, data, information, records and reports

Article 51
Work Programs and budgets

1. After the award of a mining contract, of a mining authorization or prospecting and exploration license, the concessionaire, the holder of the mining permit or prospecting and exploration license must prepare and submit for approval of the Regulatory Authority a detailed work program and budget consistent with the program and minimum work budget agreed in the mining contract, the mining permit or prospecting and exploration license, the concessionaire, the holder of the mining authorization, the holder of the prospecting and exploration license is It proposes to undertake with the grant of mining rights.
2. During periods of exploration and research, development, exploitation and processing and mining activities, and up to 90 days before the end of each calendar year, the concessionaire, the holder of the mining authorization, the holder of the prospecting and exploration license should prepare and submit for approval of the Regulatory Authority, a detailed work program and budget specifying the mining activities that the concessionaire, the holder of the mining authorization, the holder of the prospecting and exploration license aims to carry out the following year.
3. The work programs and budgets should be prepared in a form and with the content that they see to be periodically defined by the Regulatory Authority.

Article 52
Amendments to work programs and budgets

1. The concessionaire, the holder of the mining authorization, the holder of the prospecting and exploration license can modify or alter the work program and budget and the mining plan, provided that the changes are consistent with the obligations of the Concessionaire, the Mining Authorization Holder and Prospecting and Exploration Holder under this Code, the Mining Contract, the Mining Permit or Prospecting and Exploration License.
2. Notwithstanding the preceding paragraph, if changes materially or substantially alter or affect the budget or the shape or overall objective of the Work Program and Budget or the Mining Plan, the Concessionaire, the holder of the Mining Authorization and Holder of Prospecting and Exploration License shall, before implementing them, present their amendments for analysis and approval of the Regulatory Authority.
3. For the purpose in the preceding paragraph, a material or substantial change to Work Program and Budget or Mining Plan includes:
 - a) A substantial reduction in any Work program and Budget or the Exploitation and Processing designed the approved Mining Plan;
 - b) A change of date for the start of the Exploitation and Processing; or
 - c) A change of Work method.

Article 53
Data and information

1. All data and information, whether untreated or derivatives, processed, interpreted or analyzed, including any data and information acquired in the course of geological, geophysical, geochemical, geotechnical and engineering and any other studies in the course of all stages of Mining Activities, are owned by the Regulatory Authority.
2. In the case that data and information referred to above are missing or incomplete, the Regulatory Authority may periodically order in writing that the Mining Rights Holder submit or complete such data and information.

3. The Regulatory Authority may, by written notice, order a Mining Rights Holder to provide him or a third party designated within ten days of notification, a core or representative sample, or a representative fraction of any samples obtained during such Mining activities during the period of reconnaissance and prospecting and Exploration.

Article 54

Disclosure of data and information

1. The use of data and information, should follow the following rules:
 - a) The Regulatory Authority and the Government member responsible for the Mineral Resources sector are free to use the data and information referred to in the previous article for conducting internal studies, whether they are conducted by own staff or by independent third parties;
 - b) Unless approved by the Regulatory Authority, and according to the provisions of applicable law, the Mining rights holder may use the data and information referred to in the previous article in Mining Activities or for the purpose of submitting an application for allocation of mining rights;
 - c) The Regulatory Authority may use the information referred to in the previous article:
 - i. For reporting purposes other public bodies, whenever they agree to be bound by the conditions provided for in paragraph b) above;
 - ii. For the purposes of compliance with the judgment given by the national courts;
 - iii. Insofar as required by applicable law; or
 - iv. For the purposes of compliance with the rules of the Extractive Industries Transparency Initiative (EITI)
2. The Regulatory Authority cannot publicly disclose, to any natural or legal person, any information acquired in the course of Mining Activities in the following cases:
 - a. 6 years after the data or information has been acquired by the Concessionaire;
 - b. Mining Rights under which the data or information has been acquired expire;
3. The Mining rights holder may disclose the data and information mentioned in the previous article, after authorization by the Regulatory Authority and the terms defined by them:
 - a) Their employees, agents, contractors and affiliates to the extent necessary for the proper and efficient performance of Mining Activities;
 - b) Where required by law;
 - c) For the purposes of dispute resolution under its Mining rights; or
 - d) Where required by exchange of values and recognized under the law.
4. The Mining Rights Holder shall ensure that the persons referred to in paragraph 2(a), maintain the data and confidential information pursuant to this Article.
5. Paragraph 2 does not apply to data and information acquired under a reconnaissance authorization for the purpose of conducting multi-client studies, reserving this case to the regulatory authority, the right to conclude an agreement with the holder of the reconnaissance authorization for:
 - a) Allow the holder has the right to market the data for a certain period;
 - b) Halting the data under the terms and conditions agreed under the Reconnaissance authorization and a subsequent agreement.
6. Notwithstanding the provisions in paragraph 1 and 5, the Regulatory Authority cannot publicly disclose or make available to any person, except for the purpose of management of Mining activities under this Code or where required by law, any data or information they are provided the Mining rights Holder that:

- a) Constitute a trade secret or whose disclosure would, or could reasonably be expected to adversely affect the mining rights holder in respect to its legitimate business activities and financial affairs and; and
 - b) It has been clearly classified by the Mining Rights Holder as a trade secret when made available to the Regulatory Authority.
7. The preceding paragraph shall not apply where Mining Rights disposal in different directions or there is consent of the Mining Rights Holder.
 8. Without prejudice to paragraph 6(b), the Regulatory Authority may periodically notify a Mining Rights Holder to demonstrate this within the period indicated for this purpose in the notice, the reasons why the data and information which were classified as trade secrets and whether they should continue to be considered as such.
 9. If the Mining rights holder demonstrates, within the time allowed, that the data and information should continue to be a trade secret, they cease to be treated as such for purposes of paragraph 6, 7 and 8.

Article 55 Records and Reports

1. The Mining rights holder is subject to the following obligations of records and reports:
 - a) Keep financial, commercial, legal, operational, technical and other data records and information relating to the Mining activities, including the sale or other disposition of minerals and/or, with minerals extracted and the data and information referred to in Article 53;
 - b) Store all the collected core samples and during the period of Mining Activities in order to prevent, to the maximum possible extent, its contamination, deterioration or loss;
 - c) Prepare and maintain comprehensive, accurate and up to date records of Mining activities to keep the originals of these records in Timor-Leste;
 - d) Notify the Regulatory Authority of major developments occurring in the course of Mining Activities and provide them with all the available information, data, reports, evaluations and interpretations about these developments.
2. Mining rights holders, except for Artisanal Mining Permits must submit a monthly and annual Mining Activities Progress Report to the Regulatory Authority.
3. The holder of Prospecting And exploration license and the holder of the Mining Authorization shall, during the period of Mining Activities, within 30 days after the end of each quarter, prepare and submit to the regulatory authority a progress report of the Mining Activities developed in the previous quarter, which should address at least the sampling or drilling program, which should include the following elements:
 - a) The localization;
 - b) Drilling volumes and excavations made;
 - c) The results and interpretation of aerial photographs and satellite images;
 - d) Any analysis and testing in the field or in the laboratory;
 - e) Costs and expenses incurred;
 - f) Information about the workforce and the assessment and conclusions of the Concessionaire on the developed operations;
 - g) Local content; and
 - h) Other elements, as indicated by the Regulatory Authority.
4. During the term of the Mining Concession, and within 60 days after the end of each year, the Concessionaire shall prepare and submit to the Regulatory Authority an annual summary of Mining

Activities undertaken in the previous year, with technical, economic, financial and Local Content on mining Activities undertaken.

5. The report containing the bimonthly and annual summary of Mining Activities should be prepared in form and content that may be periodically defined by the Regulatory Authority.

Article 56
Public Information

The regulatory authority shall make available to the public in accordance with paragraphs 9 and 10 of Article 25:

- a) Any authorization to conduct Mining Activities and any changes thereto, whether or not expired;
- b) Details of exemptions and changes to conditions or suspensions of those granted under the provisions of Article 52.

Chapter V
Occupation of land, compensation for losses and relocation of local communities

Section I
Occupation of land

Article 57
Right to enter and occupy the land

1. The Mining rights holders are entitled to enter and take state land in areas identified as being areas of reconnaissance, in the areas and Prospecting and Exploration in the areas of authorization and in the concession areas.
2. The document which conveys rights to the land belonging to the State or assigns the right to use it in the scope of Mining Activities should be included as an annex to the Mining Contract, the Mining Authorization or mining permit.
3. The State may, in accordance with law, expropriate land or rights on them to include in the Areas of Concession, Authorization, Reconnaissance and Prospecting and Exploration.

Article 58
Restrictions on occupation of land

1. The following land cannot be occupied in the scope of mining activities:
 - a) The which are reserved for cemeteries;
 - b) Those containing archaeological and cultural heritage or which are located national monuments;
 - c) Those containing religious sites;
 - d) Those which are located within 250 meters of dams or reservoirs;
 - e) Those which are situated less than 100 meters from a state building;
 - f) Those which are used for national defense or are occupied by national defense institutions, including a buffer zone of 100 meters around;
 - g) Those which are located 100 meters or less from an airport;
 - h) Those which are reserved for construction projects of railways, aqueducts, pipelines;
 - i) Those which are reserved for tree plantations or forest projects;
 - j) Those which are situated in or within 250 meters of the perimeter of villages, towns, municipalities or a city;
 - k) On the streets, roads, bridges and other public infrastructure, including a buffer zone of 100 meters on each side;
 - l) Those which are within national parks; and

- m) Those which are classified as Excluded Areas under Article 4.
2. The land described in the preceding paragraph may be occupied for the mining activities, after authorization by Resolution of the Council of Ministers where shorter distances than those referred to in the previous paragraph for Mining rights.
 3. When the economic value or other benefits associated with the Mining Activities clearly exceed the value and importance of the archaeological and cultural heritage, national monuments or local religious or other restricted use areas imposed by law, the Government member responsible for the Mineral Resources sector can grant authorization to carry out mining activities at these sites, by proposal of the member of the Government responsible for the Mineral Resources sector after consultation with the municipal authorities and other relevant government bodies, and after approval by the Council of Ministers.

Article 59
Measures of protection

The Regulatory Authority may order the construction, within the perimeter of the areas over which they have been assigned Mining Rights, structures or areas for protection of buildings and built-up areas, water sources, roads, works of civil engineering and public utility or for other reasons of general public interest.

Section II
Compensation for losses

Article 60
Obligation to pay compensation

Mining Rights holders are responsible for payment of compensation for damage caused to third parties or to the State in the course of Mining Activities.

Article 61
Damages indemnified

1. Damages indemnified for the purposes of this law, include, inter alia, the following damage caused by Mining activities;
 - a) To human life and health;
 - b) To property estate including land, plantations;
 - c) To movable property including livestock and forest products;
 - d) To cemeteries and cultural and religious sites; and
 - e) To infrastructure.
2. The criteria and amounts of compensation in case of damage to property and assets are set by the Government.

Article 62
Holders of compensation

The following natural and legal persons may apply for payment of compensation for damages:

- a) Any individual and their heirs in the case of loss or damage to life or health;
- b) Any individual and his heirs for damage to property;
- c) Farmers for damage to crops or livestock; and
- d) The state.

Article 63

Procedure for application for compensation

1. The application for compensation made under this Code must be submitted to the Regulatory Authority within 180 days after the occurrence of the damage.
2. The application must be accompanied by the following documents:
 - a) Documentation relating to the damage alleged by the applicant;
 - b) Proof of ownership of the damaged property; and
 - c) Any other information that may be required by the Regulatory Authority.
3. After receiving the claim that compensation in the preceding paragraphs, the Regulatory Authority shall submit it to the competent governmental authority, and subsequent procedures regulated by applicable law.

Section III

Resettlement, protection and consultation of local communities

Article 64

General Principle

In the planning and development of operations of Prospecting and Exploration and of Exploitation and Processing, the state, the Prospecting and Exploration License Holders, the Concessionaires, the holders of Mining Authorization and any third parties with whom they cooperate in the implementation of Prospecting and exploration operations and Exploitation and Processing must take reasonable steps to consult with local communities and accommodate their legitimate concerns, to the extent that they do not interfere excessively with the mining activities or make it too expensive.

Article 65

Liaison with local communities

1. For the purposes of the provisions in the previous article, the holder of Prospecting and Exploration License, the holder of the Mining Authorization and/or the Concessionaire shall appoint a Community Relations Official, of Timorese nationality, properly enabled, who is responsible, along with the representative of the State Nominated by the Regulatory Authority, for promoting cooperation with local communities in the Concession Area, in the Authorization area and/or, in the area of prospecting and Exploration, as well as in surrounding areas.
2. During the planning of Prospecting and Exploration and/or production, the Community Relations Official and the State representative should consult the leaders of the local communities to discuss all relevant aspects of the activities that may have impact on those communities, including, in particular:
 - a) Job creation and training of Timor-Leste national citizens and local residents;
 - b) Development of local infrastructure;
 - c) Relocation, if necessary;
 - d) Environmental protection;
 - e) Protection, and/or relocation of cultural and/or religious sites and goods; and
 - f) Easements or corridors for the movement of people and animals, as well as for grazing these or access to water courses or cultural and religious sites,

Article 66

Resettlement

1. If the continued presence of local communities in Prospecting and Exploration Areas, in Authorization Areas and in the Concession Areas which have been assigned licenses for Prospecting and Exploration and for Exploration and Processing is incompatible with Mining activities, the Holders of Prospecting and Exploration licenses, the holder of the Mining Authorization and/or, the Concessionaire should

prepare and implement a resettlement plan for regrouping these communities in an area located as close as possible to that from which they were taken.

2. The resettlement plan is approved and monitored by relevant government entities, in accordance with the provisions of applicable law.
3. All costs related to the resettlement of local communities, including the costs and construction of housing and other social infrastructure, are established in accordance with the applicable law.
4. Natural persons who, prior to submitting an application for allocation of Prospecting And Exploration and/or Exploitation and Processing license, have occupied land within the Prospecting Area and Exploration and the Concession Area without formal title to them, have the right to compensation and be rehoused, provided they are recognized and legitimate occupiers as determined by a consultation process carried out between the Community Relations Official, the representative of the governmental authorities and the local community leadership.

Article 67

Compensation to Displaced Communities

1. Local communities displaced as a result of Prospecting and Exploration or Exploitation and Processing operations also have the right to be compensated for the loss of crops, livestock, forestry products or other loss of profits arising from the exploitation of the land.
2. The Prospecting and Exploration Holder and/or the Concessionaire must make reasonable measures to grant employment opportunities to members of displaced communities.

Chapter VI

Environmental Regime

Section I

General Provisions

Article 68

Environmental Licensing for Mining Activities

Mining activities can only be conducted after the Environmental Licensing Procedure has been duly completed by the Mining Rights Holder.

Article 69

Environmental Licensing

1. Mining activities are necessarily subject to an Environmental Licensing Procedure, conducted in accordance with the provisions of this Code, Applicable law and complementary regulations.
2. For the Environmental Licensing, the Government may approve, by decree-law, a specific environmental Regulation for Mining Activities.
3. The Environmental Licensing Procedure aims to:
 - a) Evaluate compliance with legal requirements and technical standards;
 - b) Approve the siting, construction, expansion and operation of facilities and activities that have as objects natural resources and which are, or could be, pollutants, or otherwise cause environmental damage or change, as well as the technical specifications applicable to the mining activities under evaluation;
 - c) Any other defined by law.
4. The Regulatory Authority is responsible for organizing and conducting the environmental licensing procedure for Mining Activities under this Code, the applicable law and the respective complementary regulations, in conjunction with the environmental authority.

5. The environmental permit issuance decision is taken jointly by Government member responsible for the mineral resource sector and the Government member responsible for the environmental sector, on joint proposal of the Regulatory Authority and the environmental authority.
6. If the issuance of the environmental permit is denied, the decision must be published in accordance with Applicable Law.
7. The Government member responsible for the Mineral Resources sector and the Government member responsible for the environmental sector may delegate as referred to in paragraph 5 in the Regulatory Authority and the environmental authority, respectively.

Article 70

Environmental management of mining activities

1. All Mining activities should be planned and implemented in accordance with:
 - a) The laws and regulations whose purpose is the protection and preservation of the environment, with a view to sustainable use and exploitation of minerals; and
 - b) Good Mining Industry Practices applied internationally, in order to prevent and minimize waste and loss of natural resources and protect them from unnecessary damage.
2. Mining Rights Holders are required to adopt the following measures:
 - a) Drilling equipment use equipped with automatic capture mechanisms for dust or, alternatively, water injection mechanisms, with the objective of preventing the spread or avoiding the formation of dust resulting from Mining Activities;
 - b) Combating dust formation in areas where mining activities are conducted in respective access areas, through the use of appropriate systems, including water sprinkling;
 - c) Where the Mining activities compromise normal water supply to the population, to ensure normal supply is restored in quantity and quality, through the use of alternative means, including pre-Processing of water and restoring the respective sources;
 - d) Notification to the Regulatory Authority of possible archaeological and cultural findings;
 - e) Notification to the Regulatory Authority of discoveries of indications of human remains;
 - f) For Mining Activities in the open, storage, as far as possible, of the soil removed with a view to subsequent restoration of the land and flora;
 - g) Preparation and implementation of a water resources management and conservation program.
3. For the situation set out in paragraph d) above, the Regulatory Authority shall inform the member of Government responsible for archaeological and cultural affairs of the existence of the findings as soon as reasonably possible.
4. When the situation set out in paragraph 2(e) of this Article, the Mining Rights Holder must immediately suspend activities in the area where the remains were found and the Regulatory Authority shall inform the criminal investigation authorities of the occurrence the discovery as soon as reasonably possible.

Article 71

Environmental licensing of existing mining activities

1. Environmental licenses granted for existing Mining Activities, are valid until the date of expiration.
2. The holder of an environmental license referred to in the preceding paragraph shall submit an application for renewal of the license, in accordance with this Code, at least 6 months before the expiration of the license.

Article 72

Changes of mining sites

The improvement, renovation, expansion and/or alteration of mining sites are also subject to prior environmental licensing.

Section II
Environmental Impact Assessment

Article 73
Issuance of environmental licenses

1. Environmental licenses shall be issued jointly by the Regulatory Authority and the environmental authority following the issuance of the favorable decision referred to in Article 69.5.
2. The Environmental Licensing Procedure, including the information and supporting documents to be submitted by the applicants, the procedures to be followed, the reasons for rejecting the license application, the penalties applicable to environmental infringements and other rights and obligations, shall be accordance with the provisions of this Code, Applicable Law and its complementary regulations.
3. Mining Activities can only begin after the issuance of the respective environmental license.

Article 74
License application

The environmental license must be requested by means of an application addressed to the Regulatory Authority, in accordance with the Environmental Licensing Procedure.

Section III
Protection of the environment

Article 75
Environmental audits

1. Where deemed necessary, the Regulatory Authority, in liaison with the environmental authority, may carry out environmental audits to ensure that ongoing activities comply with applicable environmental standards and, in particular, pollution prevention standards.
2. Without prejudice to the provisions of the preceding paragraph, provided that there has been previous communication between the Regulatory Authority and the environmental authority, either of the authorities may conduct environmental audits.
3. For the purposes of the provisions of the preceding paragraph, the Mineral Rights Holders shall provide all necessary cooperation for supervision activities carried out on the premises, including, specifically, the collection of samples and the availability of the requested information, and any obstruction by the Mining Rights Holder or their personnel constitutes an offense punishable under the terms of article 138.3.

Article 76
Review of operating conditions

1. Mining Rights must be reviewed from an environmental point of view whenever the Mining Activities:
 - a) Have caused damage to the environment;
 - b) Have led to a breach of existing environmental licenses; or
 - c) Constitute a violation of the environmental legal regime and regulations.
2. If one of the situations provided for in the preceding paragraph occurs or is expected to occur, the Regulatory Authority in coordination with the environmental authority jointly may issue an Environmental Protection Order intended to:
 - a) Prevent the violation;
 - b) To cease the carrying out of the activity; or
 - c) Ensure compliance with applicable environmental standards.
3. The Environmental Protection Order must be in writing and detail the respective bases in fact and law.

4. The Environmental Protection Order may include the following, to be observed by the Mining Rights Holder or the entities it contracts with:
 - a) Recommendations on actions and/or omissions that should be adopted; and
 - b) Total or partial suspension of Mining Activities for a certain period of time or until a new joint notification is issued by the Regulatory Authority and the environmental authority.

Article 77

Damage caused by mining activities

1. The Mining Rights Holder and entities associated with or contracted by them are obliged to protect the environment and are responsible for any environmental damage they cause as a result of Mining operations.
2. The serious environmental damage caused by acts or omissions in violation of the environmental conditions in force for mine operation may lead to the revocation of Mining Rights under the terms and as provided in Article 140(e).

Article 78

Reserve for mining rehabilitation

1. Mining Rights Holders, except Artisanal Mining Permit Holders, should conduct Mine Closure Activities according to the approved mine closure plan.
2. The Mining rights holders, except Artisanal Mining Permit holders, should conduct a study on the estimate of liabilities arising from the mine rehabilitation and submit it to the Regulatory Authority for approval.
3. The estimate of liabilities arising from the mine rehabilitation should be examined during the review of the closure plan for the same and must be approved by the Regulatory Authority.
4. The estimate of liabilities arising from the rehabilitation should be reviewed and submitted to the Regulatory Authority for approval when, reasonably, be necessary to review the mine closure plan, including its estimate of rehabilitation.
5. The amount of the Mining Rehabilitation Fund is calculated based on the estimated liabilities arising from rehabilitation for each mine site established in the environmental license in view of the specific nature and the respective environmental risks, as set out in the approved mine closure plan and respective changes.
6. Mining rights holders except Artisanal Mining Permit Holders should open a deposit account as collateral, *escrow account*, paid for the benefit of the Regulatory Authority to collect contributions for the reserve for rehabilitation mining to be used as contingency fund for the closure and rehabilitation of the mine site, including the reparation of environmental damage, if necessary.
7. For all minerals, except for strategic minerals, that are the object of exploitation in the Special Administrative Region of Oecusse Ambeno, the holder of mining rights, except holders of artisanal mining permits must open a deposit account as collateral, *escrow account*, paid for the benefit of the Authority of the Special Administrative Region of Oecusse, according to Article 1.2.
8. The Regulatory Authority should carry out an inspection at any place where Mining activities are carried out six months to a year in advance of total or partial abandonment of the site to assess the extent of operations and determine if their plan for mine closure is appropriate.
9. The annual provision of reserve for Mining rehabilitation for each year shall be calculated as follows:

$$RRA = RRR \times A / (A + B)$$

In which;

RRA is the Annual provision for Mining Rehabilitation Reserve.

RRR is the remaining rehabilitation reserve which can be recovered at the beginning of the year, multiplied by 2.5%.

In which the remaining rehabilitation reserve for a given year is calculated based on the estimate of total liabilities arising from rehabilitation minus the total Mining Rehabilitation Reserve recovered in the previous year,

A is the forecast of Mineral production in a given year.

B is the forecast of Minerals still to be produced as planned in the approved Mining Plan.

10. Management rules and the implementation of the Mining Rehabilitation Reserve, are approved by the Government.

Chapter VII

Liability and obligations relating to insurance

Article 79

Liability in mining operations

Concessionaires and/or the holders of Mining Authorizations are responsible for compensating, in accordance with this Code, any damages and losses resulting from conducting Mining activities or operations regardless of any form of liability, whether objective or from negligence of the Concessionaire or the Mining Authorization Holder.

Article 80

Obligations in Matters of Insurance and Types of Insurance

The Concessionaire or the Mining Authorization Holder shall:

- a) Ensure the continued maintenance in force of insurance coverage for all mining operations, and such insurance, unless otherwise decided by the Regulatory Authority, shall be underwritten by reputable insurers, with self-insurance, insurance through affiliates, captive or use of global insurance program policies allowed only upon prior written approval of the Regulatory Authority;
- b) Ensure that the limits, deductibles and other terms and conditions of such insurance are proportional as usual for the industry and the nature of the operations to be undertaken, as well as naming the Regulatory Authority, its members and employees as co-insured and get their to renounce insurers all subrogation rights against the Regulatory Authority and respective insurers;
- c) Delivering the Regulatory Authority certificates that clearly identify, in particular, the coverage limits, deductibles, and the names of insurance companies, reflecting the insurance required under this Code, and copies of integrals policies must be made available upon request; and
- d) Strive for all subcontractors conducting Mining Operations on behalf of the Concessionaire:
 - i. Name the Authority Regulatory, the respective members and employees as co-insured in insurance policies, excluding the liability insurance of employer and labor accidents and occupational diseases, as well as obtain the respective insurance waivers of all rights of regress against the regulatory authority and respective insurers;
 - ii. Ensure that each of the insurance policies remains in force after default or bankruptcy of the insured, for claims arising in verified fact before such failure or bankruptcy; and
 - iii. Delivered to the regulatory authority certificates that reflect such insurance before commencing the provision of services.

Article 81

Types of Compulsory Insurance

1. The Concessionaire or the Mining Authorization Holder must subscribe to and maintain, for the Mining operations provided for in the Mining Contract and during the lifetime of those, any and all insurance in the types and amounts proportionate to those used in the industry, taking into account the Mining

operations conducted by the Concessionaire, including liability insurance for all stages of Exploitation and Processing, responsibility of the employer, work injury insurance and occupational diseases and any other insurance that is compulsory under the applicable law, and further on, in particular:

- a) Any loss or damage of facilities and other assets used in connection with the Mining operations, with coverage that cannot be less than the full value of replacement;
 - b) All the usual insurance for construction and development projects provided for in Mining contracts, such as, in particular, insurance against all risks of construction and cargo insurance;
 - c) All losses materials or damage, death or personal injury of any kind suffered by third parties, in particular the staff of the Authority Regulatory during or directly or indirectly arising from Mining operations, and the Concessionaire or the Mining Authorization Holder responsible to indemnify the Authority Regulatory;
 - d) The cost of removal of debris and cleaning operations resulting from accidents, during, or directly or indirectly arising from Mining operations;
 - e) Provision for Guaranteed payment of wages, benefits and compensation, as well as other labor responsibilities, which may result from court decisions following proposed actions by workers employed by or the holder of the Mining Authorization, as their sole employer and true, the validity of the policy may not be less than three calendar years from the ending date of the Mining Contract, the insured amount cannot be less than or equal to 1+% of the payroll of the Concessionaire or Mining Authorization Holder concerning workers detached to conduct Mining operations under the Mining Agreement during the calendar year preceding termination;
2. The Concessionaire or the holder of the Mining Authorization shall promptly notify the regulatory authority where such insurance has been subscribed by the Concessionaire or the Mining Authorization Holder or by any subcontractor, as well as delivering certificates of insurance or copies of relevant policies after the issue the same; and
 3. When deemed necessary, the Regulatory Authority may ask the Concessionaire or the Mining Authorization Holder to subscribe and keep in force additional insurance coverage, according to the Good Mining Industry Practices.

Article 82 Right to Compensation

The Concessionaire or the holder of the Mining Authorization must defend, hold harmless and indemnify the Government and pay the necessary indemnities in respect of all claims, liability issues, complaints, claims and any other claims presented by third parties, resulting, directly or indirectly, from mining activities.

Article 83 Application of Insurance Receipts

1. If the Concessionaire or the Mining Authorization Holder receives insurance proceeds, the Regulatory Authority may order, by written notice, in the sense that they are implemented in replacement or reinstatement of the previous state.
2. If the Concessionaire or the Mining Authorization Holder refuses to apply the proceeds of insurance in accordance with the orders issued by the Regulatory Authority, the same become payable immediately and are due to the Regulatory Authority.
3. The application or non-receipt of insurance according to the orders of the Regulatory Authority shall not relieve the Concessionaire or the Mining Authorization Holder of any other obligations they may have under the Applicable Law.

Article 84

Insurance Coverage Evaluation and Periodic Reports

1. The Concessionaire or the holder of the Mining Authorization must assess the adequacy of insurance coverage subscribed for Mining operations, depending on the conditions that arise or planned during Mining operations and any identified risk, with the said assessment be carried out as and when necessary and in any case, at least once every 24 months.
2. If the Concessionaire or the holder of the Mining Authorization determine the unsuitability of any insurance coverage, under any aspect, they should strive to change or replace thereof, in order to ensure an adequate level of coverage.

Chapter VIII

Health and safety

Section 1

General rules

Article 85

Health and Safety Management

1. Mining Activities are subject to health and safety requirements of this Code, applicable law and complementary regulations.
2. Specific questions about health and safety in the scope of Mining Activities are regulated by the Government.
3. The Government member responsible for the Minerals Resources sector, in coordination with the member of the Government responsible for Labor Affairs, may adopt specific legislation on health and safety applicable to Artisanal Mining Activities,

Article 86

Health and Safety Obligations

1. The Mining Rights Holder or any of its sub-contractors working at the mine must carry out Mining activities with respect for the requirements of health and safety.
2. The Mining Rights Holder should ensure:
 - a) There is a clear and strict policy of prohibition of use and consumption of alcohol and drugs in the mine; and
 - b) If workers are exposed to physical, chemical or biological hazards, they are informed about the risks associated with their work and the respective preventive and protective measures are implemented.
3. The Mining Rights Holder should ensure that all persons working in the mine have the appropriate certificate of fitness.
4. The “appropriate” expression referred to above means that should be taken into consideration the nature and magnitude of the risks to health and safety of people created the work in question.

Article 87

Accident Investigation Committee

1. The Regulatory Authority, in collaboration with the member of the Government responsible for Labor Affairs, should investigate any mine accidents causing serious harm to people, property or the environment, as well as cases of serious accidents, dangerous occurrences and disaster at the mine.
2. Within 15 days from the date of the accident, should be formed an investigation committee for the accident including at least two members appointed by the Regulatory Authority and by the Government member responsible for Labor Affairs,

3. The objectives of the Investigation commission are:
 - a) Investigate the origin of the accident;
 - b) Propose corrective measures it deems necessary to prevent the recurrence of accidents; and
 - c) Publicize the results of the investigation after the completion of the legal proceedings.
4. The investigation commission should consist of persons endowed with technical capacity and investigation experience, as appropriate.

Section II
Requirements for health and safety

Article 88
Health and Safety Management Plan

1. Mining Rights Holders, except Artisanal permit holders, must have an approved Health and Safety Management Plan before conducting Mining Activities.
2. Among other requirements, the Health and Safety Management Plan should:
 - a) Demonstrate that the risks to which people working in the mine could be exposed were evaluated in accordance with this Code, with applicable Law and Good Mining Industry Practices, as agreed by the Regulatory Authority and the authority of the Government responsible for Labor Affairs;
 - b) Demonstrate that appropriate measures, including measures relating to the design, use and maintenance of the mine and appropriate equipment, have been and continue to be taken to safeguard the health and safety of people in the workplace;
 - c) Include a description of how the measures referred to in the previous paragraph are implemented and coordinated;
 - d) Demonstrate appropriate measures to deal with Mine closure activities;
 - e) The Health and Safety Management Plan should consider, as minimum health and safety measures, the following hazards:
 - i. Hazardous substances, goods and hazardous waste;
 - ii. Vertical or nearly vertical surfaces;
 - iii. Deficiency of gases and oxygen;
 - iv. Falls from a height;
 - v. Water;
 - vi. Electricity;
 - vii. Hydraulic systems and compressed air systems;
 - viii. Rotating equipment;
 - ix. Unsafe structures;
 - x. Explosives;
 - xi. Radioactive materials;
 - xii. Accumulation of goods and materials;
 - xiii. Fibrous materials (including asbestos);
 - xiv. Underground and surface work, and
 - xv. Other considerations such as enter to the mine sites and personnel rescue.
 - f) Include personal protective equipment necessary to the conduct of Mining Operations safely;
 - g) Include a mine evacuation plan.
3. In addition to the matters referred to in the preceding paragraph, whenever it proves to be appropriate, the Health and Safety Management Plan should also include:

- a) A plan detailing the equipment and measures required for the protection of persons in the workplace against explosion risks;
 - b) A stability maintenance plan for mined ground, when it is justified;
 - c) A fire prevention plan that details the possible outbreaks of fire and the precautions that must be made to detect, combat and protect against the outbreak and spread of fires;
 - d) Where toxic gases are or may be present in the atmosphere of the mine in concentration levels that could harm the health of people in the workplace, include a plan detailing the appropriate equipment and measures protection; and
 - e) In underground areas where landslides or gas leaks may occur, include an operational plan that, as far as possible, identifies the most sensitive areas and the measures to protect people in the workplace that approach or cross these areas.
4. The Mining Rights Holder shall ensure that the Health and Safety Management Plan is kept updated and is made available and explained to each of the workers in the mine.
 5. The Mining Rights Holder must ensure that the measures identified in the Health and Safety Management Plan are observed and the plans set out in the document are adopted.
 6. It is up to the Regulatory Authority in coordination with the member of Government responsible for Labor Affairs, to approve the Health and Safety Management Plan.
 7. The decision approving the Health and Safety Management Plan referred to in the preceding paragraph shall be taken within 120 days after receipt.
 8. The approved Health and Safety Management Plan should be reviewed at intervals of 4 years.
 9. Notwithstanding the preceding paragraph, the Health and Safety Management Plan should be reviewed in the following circumstances:
 - a) If there are major changes that do not alter the Mining Plan; and
 - b) If the Mining Plan to be changed.

Article 89 Accident Notification

1. Any accidents that occurred in the mine causing serious damage to persons, property or the environment, and in the case of serious fatal accidents, dangerous occurrences and disasters in the mine, should be promptly notified to the Regulatory Authority, the Government member responsible for Labor Affairs and other relevant authorities.
2. Accidents causing damage to property, near accidents, or injury or illness requiring first aid, medical Processing, suspension of activity or restriction on the exercise of functions must be reported to Regulatory Authority daily or monthly, as revealed appropriate.
3. In case of any accidents referred to in paragraph 1 an investigation committee under Article 87 shall be created.

Article 90 Alarms and Emergency Lighting

All mine locations where people might be exposed to risks must be equipped with alarms and emergency lighting.

Article 91 Control of Explosive Atmospheres

If there is the risk of accidental explosions at any place where Mining operations are conducted, must be taken every measure to prevent the occurrence and accumulation of explosive atmospheres and the ignition thereof.

Article 92

Risk of Fire and Fire Prevention and Safety Measures on Fire

1. A risk assessment of explosion and fire must be carried out before initiating Mining Activities.
2. In all locations where mining activities are conducted, if there is a risk of fire or explosion, the following rules must be observed:
 - a) Smoking is prohibited;
 - b) (b) no open flame shall be used nor any work carried out which may give rise to an ignition hazard, unless safety precautions are first taken to prevent the occurrence of any fire or explosion; and
 - c) All materials and tools used must be designed so as not produce sparks or other sources of ignition.
3. The localization of fire-fighting equipment should be indicated by signs placed at specific points of the site where mining activities are conducted.
4. The type and location of fire-fighting equipment should be included in the Health and Safety Management Plan.

Article 93

Appointment of Health and Mine Safety Director, Manager or Focal Point

1. No Mining Activities shall be conducted without the appointment of a Health and Mine Safety Director, Manager or Focal Point who is competent and appropriately qualified for the exercise of these functions.
2. The Health and Mine Safety Director, Manager or Focal Point in the above paragraph is named after approval of the Regulatory Authority.
3. The Health and Mine Safety Director, Manager or Focal Point shall ensure, including in their absence, that rules and regulations applicable to mining activities in the field of health and safety are always complied with.
4. The appointment of the Health and Mine Safety Director, Manager or Focal Point is subject to the legal nature of the company and the scale of Mining Activities.
5. This article does not apply to Artisanal Mining Activities.

Article 94

Written Instructions

Written instructions to the mine should be developed, which shall contain, in exhaustive form:

- a) Rules and safety instructions that must be observed to ensure the health and safety of people in the workplace and the safe use of equipment; and
- b) Information on handling emergency equipment and actions that should be taken if an emergency occurs in the workplace at the mine or close to the same.

Article 95

Flammable Materials

The amount of flammable materials should be limited to what is necessary for Mining Activities, in accordance with Good Mining Industry Practices and Applicable Law.

Chapter IX
Labor Scheme, training and supply of goods and services for mining activities

Article 96
Special Labor Regime for Mining Activities

1. Shall apply to activities Mining the Labor Law and Good Mining Industry Practices, duly adapted, with prevalence of rules that are more favorable to workers.
2. The Government shall approve, by Decree-Law, the specific labor rules for Mining Activities.

Article 97
Employment in Mining Activities

1. Employment in Mining Activities is exclusively reserved to Timorese citizens and should be based on the qualification and the skills of the candidates and be guided by a competitive process.
2. In the case of application where no Timorese citizens, according to the Good Mining Industry Practices, have the level required competence needed for the conduct of Mining Activities, for specialized jobs, the Concessionaire, the Prospecting and Exploration Holder and holder of the Mining Authorization are temporarily authorized to use other citizens until Timorese citizens are considered as qualified.
3. During the use of other citizens, as provided in the previous paragraph, the Concessionaire, the holder of Prospecting and exploration license and the holder of the Mining Authorization must submit a replacement plan for Timorese people to the Regulatory Authority and the Government member responsible for Labor Affairs for approval.
4. The regulatory authority may, depending on the individual case and taking into account industry practice, dispense with the replacement plan referred to in the preceding paragraph for jobs that require a record of qualifications and experience of time greater than the project life.
5. Notwithstanding the provisions of paragraphs 1 and 2, the Regulatory Authority may, taking into account the feasibility of Mining activities, authorize the Concessionaire, the holder of Prospecting and Exploration license and the Holder of the Mining Authorization to employ people other nationalities as follows:
 - a) Jobs that require specialized skills and experience for a service time of less than one year or work related to the development of the mine and the closure of the mine; or
 - b) Intellectual Property Protection.
6. All employment opportunities in Mining activities should be the object of public announcement.
7. Without prejudice to the provisions of this Article, the conditions offered to workers by the Concessionaire, by the Prospecting and Exploration License holder and the holder of the Mining Authorization shall not be subject to practices of discrimination based on color, race, civil state, gender, ethnic origin, language, social position, economic situation or political, ideological or religious beliefs.
8. All matters concerning the employment conditions in Mining Activities under this Code must be in accordance with Applicable Law.
9. The rules of this Article shall not affect those resulting from bilateral or multilateral agreements with other countries or regional organizations in order to promote the free movement of skilled workers.

Article 98
Training of Timorese Citizens and Technology and Knowledge Transfer

1. The Concessionaire, the holder of Prospecting and Exploration License and the Mining Authorization Holder should:
 - a) Provide training for employment and skills development at all stages of Mining activities; and

- b) Prepare a document that lists jobs and training required for Mining Activities, according to Good Mining Industry Practices.
2. In carrying out the Mining Activities, the Concessionaire, the holder of Prospecting and Exploration License and the Mining Authorization Holder must ensure the transfer of technology and knowledge to organizations or natural persons of Timor-Leste in all contracts associated with the respective authorization.
3. The transfer of technology and knowledge may include one or more of the following:
 - a) The provision of technical and financial support to national organizations and/or individuals in order to increase the capacity of the country in terms of providing goods and services to Mining Activities;
 - b) Increasing the knowledge and skills of Timorese citizens about the mining industry through internships, scholarships, jobs abroad and research and development; and
 - c) Any other statements that may be issued by the Government member responsible for Labor Affairs in coordination with the Government member responsible for the Mineral Resources sector.
4. The transfer of technology and knowledge described in paragraph 2 shall be incorporated in the Proposed Local Content.

Article 99

Procurement of Goods and Services

The supply of goods and services for Mining Activities is governed by the following principles:

- a) All goods and services for Mining Activities are purchased through an open and competitive basis from national suppliers and foreign suppliers;
- b) The Mining License Holders shall give preference to Timor-Leste suppliers in the procurement of goods and services, without prejudice to the rules resulting from bilateral or multilateral agreements with other organization concluded with countries
- c) The provisions of the preceding paragraph do not apply if the goods and services provided by Timor-Leste Suppliers have the same quality as imported goods and their price is more than 10% higher than that of imported goods, in which case the can purchase the goods and services through an open and competitive basis such as mentioned in a).
- d) If there are no suppliers in Timor-Leste, the Mining Rights Holder may hire foreign suppliers for the purpose of supply and provision of goods and services to Mining Activities;
- e) Goods and services used in Mining activities must be Timor-Leste Goods and Timor-Leste Services; and
- f) If the Timor-Leste goods and Timor-Leste services required for Mining Activities not comply with the requirements of this Code, the Mining Rights Holder can use foreign goods and services.

Chapter X

Transfer of rights

Article 100

Assignment or Transmission Rights

1. Mining Rights cannot be transferred, assigned, sold or otherwise disposed of to third parties without the prior written consent of the Regulatory Authority.
2. The holder of Mining Rights wishing to transfer or otherwise dispose of its rights shall notify the Regulatory Authority in writing and shall include in the notification, among other relevant information, the complete identity of the prospective assignee or transferee, economic conditions and other terms the proposed transaction.

Article 101
Change of Control

1. It cannot be transferred, assigned, sold or otherwise alienated or encumbered in any way without the prior written consent of the Regulatory Authority, any Controlling interest in society that holds Mining Rights.
2. The partner or shareholder who wishes to transfer or otherwise dispose of or encumber Controlling Interest shall notify the Regulatory Authority in writing, including the complete identity of the potential assignee or transferee, economic conditions and other terms of the proposed transaction.

Article 102
Forfeit of Mining rights and Mining Assets

1. Mining rights and the assets used in Mining activities cannot be encumbered without the consent in writing of the Regulatory Authority.
2. The Mining rights Holder or asset used in Mining Activities shall notify the Regulatory Authority of its intention to the encumber or link, by letter, which shall state the complete identity of the entity in favor of which the burden or charge is created and information on the underlying transaction under which the Mining rights or assets used in mining activities are encumbered.
3. The consent of the regulatory authority is not required in cases where the burden or charge is created in securing funding of Mining Activities and the entity in favor of which the burden or charge is established agrees, in writing, that any judicial sale held while implementing the burden is subject to authorization by the Government member responsible for the Mineral Resources sector.

Chapter XI
Commercialization

Article 103
Minerals Commercialization

1. Minerals Commercialization can be performed by the Concessionaire and the Mining Authorization Holder where these minerals have been obtained as a result of Mining operations conducted in accordance with the terms of the Mining License and the Mining Authorization.
2. The Concessionaire and the Mining Authorization Holder can only export minerals in the following situations:
 - a) When the potential of the domestic industry does not allow absorption the raw minerals produced;
 - b) When it proves technically and economically justifiable for raw mineral not to be processed in the country; and
 - c) In the case of Strategic Minerals, with prior approval of the Council of Ministers or pursuant to the applicable law.
3. Minerals Commercialization by third parties is subject to prior authorization by the Regulatory Authority, as provided in the following article.
4. The Regulatory Authority may authorize the Prospecting and Exploration Holder to extract certain amounts of commercial samples of minerals for market valuation effects.

Article 104
Commercialization License

1. The Concessionaire who intends to market minerals in accordance with paragraph 3 of the previous Article shall request the Regulatory Authority to issue the respective Commercialization License.

2. The Commercialization license allows the holder to market the minerals indicated in the license during the respective period of validity.
3. Requests for granting a Commercialization License are directed to the Regulatory Authority, accompanied by the following documents:
 - a) Applicant's identification documents and, in the case of a legal person, an indication of the respective legal representative;
 - b) Indication of minerals for which Commercialization is sought under the Commercialization license;
 - c) Demonstrated technical capacity; and
 - d) Demonstrated financial ability, including proof of nonexistence of tax debts and social security.

Article 105

Transmission of Commercialization Licenses

1. Commercialization Licenses may not be transferred, assigned, sold or otherwise sold without the prior written consent of the Regulatory Authority.
2. The holder of a Commercialization license who wishes to convey or otherwise dispose of it shall notify the Regulatory Authority by means of letter, which must include, among other relevant information, the complete identity of the assignee or transferee potential and the form and the conditions of the transaction proposal.

Chapter XII

Termination

Article 106

Reasons for Termination

Without prejudice to other situations provided for in this Code, Mining Concessions and other mining rights can be terminated, with or without the right to compensation to the mining rights holder, on the following grounds:

- a) Agreement between the State, represented by the Regulatory Authority, and the Mining rights holder;
- b) forfeiture;
- c) termination; and
- d) Abandonment of the entire area on which they were granted mining rights.

Article 107

Revocation by Mutual Agreement

Mining rights may be terminated by agreement between the State, represented by the Regulatory Authority, and Mining rights holder, upon request made by the latter to submit duly substantiated reasons to demonstrate the technical or economic infeasibility of Mining Activities.

Article 108

Expiration of Prospecting and Exploration License and Exploitation and Processing

The Prospecting and Exploration License and Exploitation and Processing lapses by:

- a) Expiration of the Prospecting and Exploration period or any extensions thereof, unless the holder of Prospecting and Exploration License has requested an Exploration and Processing license under Article 31, except in areas where Mining Activities continue to be conducted under contractually agreed or duly authorized terms; or
- b) Expiration of the Exploration and Processing Period, or any extension thereof.

Article 109
Expiration of other mining rights

Mining Authorizations and Artisanal mining permits expire at the end of the period for which they were awarded.

Article 110
Revocation

The revocation of Mining Rights may occur:

- a) In case of serious violation, by the Mining rights holder, of any provision of the Mining Contract, Mining Authorization or Mining Permit, this Code or complementary regulations;
- b) Whenever the Holder of Mineral Rights ceases to meet the requirements for holding the Mineral rights after the same has been granted;
- c) Whenever there is serious environmental damage as a result of Mining Activities and the same is attributable to willful misconduct or gross negligence by the Mining Rights Holder;
- d) Where, in the event of damage resulting from Mining activities, the Mining Rights Holder does not comply with the obligation to restore the land in accordance with the applicable environmental quality standards;
- e) For the proof of existence of tax debts for two consecutive periods of Exploitation and Processing;
- f) Whenever the Mining rights holder provide intentionally false information to the Government member responsible for the Mineral Resources sector, the regulatory authority or any other governmental entity;
- g) For breach of the general obligations of resettlement of local communities or paying compensation for damages caused to them or their property as a result of mining activities;
- h) If the Mining Rights have been transmitted or transferred in violation of Article 100;
- i) If Controlling Interest is transmitted in breach of Article 101; and
- j) If the Mining Activities are suspended for 120 consecutive days, except where such suspension:
 - i. It has been approved by the Regulatory Authority,
 - ii. Is due to the act or omission of the State or any person representing the State;
 - iii. It is caused by a force majeure event.

Chapter XIII
Mining Royalty and surface rental

Article 111
Mining royalty

1. The Mining royalty is hereby created, which focuses on the value of minerals extracted, mined or produced in the Territory.
2. The Mining royalty is due to the State for all minerals produced in areas subject to the rules provided in this Code and for which all of the following conditions are verified:
 - a) They have been sold or whose intention is to sell; or
 - b) They have been used, or whose intention is to use, for any commercial or industrial purpose.
3. The Mining Royalty is owed by the Mining Rights Holder who carries out Exploitation and Processing operations and activities, regardless of whether they are duly licensed to the effect.

Article 112

Mining Royalty for Artisanal mining permits

The extracted minerals, mined or produced under Artisanal mining permits are only exempt from Mining royalty when the respective extracted volume does not exceed 6,000 tons per year, since the minerals are for the exclusive use of the mining permit holder or local community.

Article 113

Value of Minerals

1. In accordance with Article 111.2, the value of minerals shall be determined on the basis of normal market transactions in which the value of sales is based on reputable price lists accepted by the Regulatory Authority.
2. If the minerals are extracted or mined for further Processing in the country with any commercial or industrial objective, the royalty payable to the State should be calculated based on the value of sales in a transaction effected under normal conditions according to the reference market price approved by Regulatory authority.
3. When sales were not made in a given month, the minerals extracted, mined or produced during this month are valued based on the price of the last sale made by the Mining Rights Holder.
4. The Regulatory Authority may adjust or otherwise correct the value of mineral sales when they have not been made under normal market conditions, according to a platform of reputable and independent prices.
5. If the taxpayer has not made any sales in the previous 6 months, the minerals are valued at their fair market value by reference to paragraph 1, as determined by the Regulatory Authority.

Article 114

Settlement of Mining royalty

1. The mining royalty fees are approved in Annex II to this Code, which is an integral part of it.
2. The Mining Rights Holder shall, by 30 December each year, present an annual estimate of future royalty earnings for the next year, which should be immediately updated whenever there should be a change in at least ten per cent.
3. The value of the mining royalty is to be paid monthly by the Mining Rights Holder and paid to the Central Bank of Timor-Leste or another bank approved by the Ministry of Finance, up to the 15th day of the month following the month to which it relates.

Article 115

Mining royalty Declarations

1. The Mining Rights Holder should provide monthly information to the Regulatory Authority concerning the sale of minerals and calculation of Mining royalty, and make each payment of Mining royalty within 30 days after the end of the month in question.
2. The Mining Rights holder must also submit quarterly reports on expenditure and revenue from the sale of minerals after the end of the quarter in question, should the statements be made according to an approved model, which shows, where applicable:
 - a) The amount of minerals extracted, mined or produced;
 - b) Details of any sale, transfer, delivery or disposal of minerals;
 - c) The value of the mining royalty of minerals;
 - d) The gross value of the Minerals invoice, the date of payment thereof and any income deduction for the respective period of the statement.

Article 116
Conservation of Mineral Records

1. For the purpose of audit, the Concessionaire or the Mining Authorization Holder shall keep all records, including records concerning the calculation of mining royalty, for at least five years.
2. The records referred to in the preceding paragraph should reflect a true and complete statement of:
 - a) The amount of extracted minerals, mined or produced; and
 - b) Any sale, transfer, delivery or disposition of minerals, including the date, destination, value and amount of each sale, transmission, delivery or other disposition of minerals.
3. The Concessionaire or Mining Authorization Holder must provide to the Regulatory Authority, or to whom is indicated, the information and records referred to in paragraph above and shall deliver them promptly to the regulatory authority, or to whom is indicated, on time and in the form that the Regulatory Authority indicates.

Article 117
Surface Rental

1. With the exception of Artisanal Permit Holders, natural and legal persons who conduct Mining Activities are subject to the annual payment of Surface Rental, determined based on the number of square kilometers of the Concession Area.
2. The surface rental does not apply to private property in the Prospecting and Exploration phase.
3. The annual values of surface rental are approved in Annex III which is an integral part of this Code.
4. The surface rental should be paid to the Central Bank of Timor-Leste or another bank approved by the Ministry of Finance.

Article 118
Calculation of Mining Royalty and Rent

The mining royalty and surface rent are calculated and payable by each Mining Concession or Mining Authorization.

Article 119
Other Administration Powers

The Regulatory Authority is responsible for reviewing and ensuring that the amounts paid to the State during the Prospecting and Exploration Period and Exploitation and Processing are correct and comply with the terms applicable to Mining royalty and surface charges, as well as to other fees related to licensing, as provided in this Code.

Article 120
Fiscal Regime and Customs applicable to Mining Activities

The general tax and customs regime applies to Mining Rights holders and their subcontractors, unless otherwise expressly provided in this Code.

Article 121
Delay in Payment of *Royalties* and Rents

Any *royalty* or income not paid entirely at maturity must be increased by interest, calculated monthly, at an annual rate equal to the *London Interbank Offered Rate* (LIBOR) for deposits in dollars of the United States for 1 month, as published periodically in London by the *Intercontinental Exchange for Benchmark Administration* (IBA), plus 5%, calculated from the due date of payment until the date on which the amount due, plus interest, is paid in full.

Chapter XIV
Guarantees for Holders and Compensation for expropriation

Article 122
Guarantees for Holders

The State guarantees Mining rights Holders:

- a) The right to structure their assets and their activity, subject to necessary approvals and Applicable Law;
- b) The right to subcontracting and recruiting the staff necessary for the conduct of Mining Activities, in accordance with the rules of this Code, other Applicable Law and respective complementary regulations;
- c) The right to free movement in the Territory of staff employed by the Mining Rights Holders and their subcontractors; and
- d) The right to import goods for the conduct of mining activities, subject to the provisions of this Code and Applicable Law.

Article 123
Compensation for Expropriation

Mining Rights, produced Minerals or the assets used by mining Rights holders cannot be expropriated by the State, except for reasons of public interest, under the law, and with timely payment of fair compensation to the Mining Rights Holder under applicable law.

Chapter XV
Monitoring, inspection and Audit

Article 124
Monitoring

The regulatory authority shall regularly monitor the areas of reconnaissance, of Prospecting and Exploration and Exploitation and Processing in order to ensure that activities in these areas comply with the legal and contractual obligations applicable at all stages of Mining Activities.

Article 125
Inspection and Audit

1. Inspections and audits may be conducted in buildings and facilities where, or by which, they are exercised Mining activities, to be carried out to ensure compliance with the applicable law and the respective complementary regulations and to confirm that they comply with the necessary technical and security conditions.
2. The Regulatory Authority has the right to inspect the books and records of Prospecting and Exploration and Exploitation and Processing Operations, of Prospecting and Exploration License Holder, holder of the Mining Authorization and the Concessionaire.
3. The Regulatory Authority shall, before carrying out the inspection, give written notice to Holder of Prospecting and Exploration, Mining Authorization Holder or the Concessionaire of its intent to carry out the inspections or audits provided for in the preceding paragraphs, with minimum 30 days advance notice.
4. Notwithstanding the preceding paragraph, the Regulatory Authority, may conduct random inspections and violations which it deems necessary.
5. Inspections and audits provided for in paragraph 1 shall be carried out by inspectors and auditors appointed by the Regulatory Authority.
6. The Regulatory Authority may approve internal regulations for the purpose of inspections and audits.

7. The inspectors are responsible for inspecting, investigating Prospecting and Exploration and Exploitation and Processing operations for compliance with the provisions of this Code and complementary regulations.
8. The auditors are responsible for auditing the books and records of Prospecting and Exploration and Exploitation and Processing operations, the Prospecting and Exploitation License Holder, the Mining Authorization Holder or Concessionaire.
9. The Regulatory Authority may carry out inspections and audits in coordination with other relevant government agencies.

Article 126

Scope of intervention

The inspection, audit of Prospecting and Exploration and Exploitation and Processing Operations on the part of inspectors and auditors include:

- a) The powers of inspectors to perform preliminary, random and offenses inspections, as well as other supervisory actions of natural and legal persons involved in Mining Activities;
- b) The powers of inspectors to inspect areas of Prospecting and Exploration and which have been awarded Mining Rights, including facilities and operations within the scope of those rights
- c) The powers of inspectors to inspect and test machinery and equipment;
- d) The powers of inspectors to collect samples and samples of minerals or other goods produced as a result of Mining activities, and carry out or order the analyzes of them as needed
- e) The powers of inspectors and auditors to conduct technical actions to coordinate, articulate and assess the reliability of internal control systems, proposing the adoption of measures that they see will improve the structure, organization and operation of such systems, accompanying the respective implementation and progress;
- f) The powers of inspectors and auditors to verify compliance with the legal and contractual obligations assumed by the Prospecting and Exploration Holder, Holder of the Mining Authorization or the Concessionaire;
- g) The powers of inspectors to conduct investigations, inquiries and investigations to natural or legal persons covered by its powers of audit and propose the application of administrative sanctions for violation of this Code or regulations;
- h) The powers of inspectors to interview, inquire and collect testimonies from alleged offenders and witnesses;
- i) The powers of inspectors to photograph, film, record or carry out other ways to collect evidence of administrative offenses to this Code and the regulations;
- j) The powers of inspectors to draft notices of offence and offence reports respecting administrative offences verified by it;
- k) The powers of inspectors to prepare and perform all actions necessary for the investigation and punishment of administrative offenses referred to in holdings or tax assessments of news under the Applicable law;
- l) The powers of Auditors to monitor compliance with local content requirements; and
- m) The powers of Inspectors and Auditors to perform other duties and responsibilities that are assigned by law or regulation, as well as other functions and powers deriving from the powers and responsibilities referred to or necessary to pursue the same.

Article 127

General Powers of Inspectors and Auditors

1. For the purposes of ensuring compliance with this Code or applicable regulations, inspectors may:
 - a) Perform searches on any part of the site;

- b) Inspect, measure, analyze, photograph or film any part of the site, or any object found in it;
 - c) Remove an object or a sample found at the scene for analysis or testing;
 - d) Examine and copy documents;
 - e) Take in or into the location of people, equipment and materials which the inspector, according to reasonable criteria, needs to exercise any of the powers provided for in this Code or in the complementary regulations;
 - f) Require that any person who is on site provide Inspector reasonable assistance to allow the inspector to exercise his/her powers;
 - g) Ask anyone who is on site and collecting their depositions that are necessary to allow the inspector to determine if an administrative infraction was, is being or may be committed;
 - h) Take the measures necessary to prevent the disappearance or destruction of evidence; and
 - i) Report to any relevant authorities of any violation or potential infraction that has been identified.
2. In order to ensure compliance with the provisions of this Code and additional regulations, auditors may:
 - a) Collect documentary evidence, such as contracts, invoices and receipts;
 - b) Save or make copies of the relevant documentation;
 - c) Access to books and records, including the accounting software used;
 - d) Accessing warehouses to carry out an inventory of spare parts or stored material; and
 - e) Inquire of relevant responsible persons.

Article 128
Professional Identification

1. Inspectors and auditors have the right and the obligation to use an identification card or a professional badge that gives them, in the exercise of their duties, the right to free enter to all facilities, sites, infrastructure and mining equipment.
2. The identification card or professional badge should be displayed before the realization of any inspection and audit activity.
3. The identification card or badge must be issued in accordance with regulations approved by the Regulatory Authority.

Article 129
Proportionality

In exercising its powers of control in the course of inspections and audit, the inspectors and auditors should use and implement balanced and proportionate procedures taking into account the purpose of the actions conducted.

Chapter XVI
Offences and Penalties

Section I
General rules

Article 130
Principle of Legality

Administrative offenses consist only of the facts typified as such under the terms of this Code or by Decree-Law that regulates it.

Article 131

Responsibility for Administrative Offences

1. Administrative fines may be applied to natural persons and public or private legal persons, regardless of the regularity of their constitution, and to companies and associations without legal personality.
2. The legal persons provided for in the preceding paragraph are responsible for administrative infractions of this Code when the acts were committed in the exercise of their activity in their name or on their behalf by members of their governing bodies, agents, representatives or employees.
3. The members of the board of legal persons referred to in the preceding paragraph, as well as those responsible for the direction or supervision of areas of activity in which some administrative violation is committed, incur the penalty provided to the author, mitigated when, knowing or having reason to know the practice of infringement, do not adopt appropriate measures to immediately put an end to it, unless more severe sanctions are applicable by virtue of another legal provision.
4. The responsibility provided for in paragraph 2 shall apply even if the legal person proves that they fulfilled all the duties that were required, but nevertheless was unable to prevent the commission of the infraction on the part of their employees or agents without representation powers, in which case the person applying for compensation for damage caused to the employee or agent, under the law.

Article 132

Accomplices

1. It is punishable as accomplice to natural or legal person who, intentionally and in any way, provides material or moral aid to others' practice of an intentional fact.
2. It is applicable to the accomplice the penalty fixed for the author, mitigated.

Article 133

Participation

1. If multiple agents participate to the illicit fact, any of them incurs administrative liability, even if the unlawfulness or the degree of illegality of the act depends on certain qualities or special relations of agent and these only exist in one of the participants.
2. Each participant is punished according to his guilt, regardless of the punishment or the degree of culpability of other participants.

Article 134

Recidivism

1. It is punished as a recidivist a natural or legal person who commits an administrative offense, after being punished for any other offense, provided that at least one of them has been committed intentionally.
2. The administrative offense for which the perpetrator has been punished is not relevant for the purpose of recidivism if the time between the two offenses has passed the limitation period of the first.
3. In case of recidivism, the minimum and maximum limits of the penalty are increased by one third of its value.

Article 135

Competing Administrative Offenses

1. The natural or legal person who has committed several administrative Offenses is punished, in addition to any additional penalties, with a penalty whose maximum limit is the sum of the pecuniary penalties specifically applied to the offenses in competition.
2. The penalty to be applied is limited to the minimum of the amount of the highest of fines specifically applied to various administrative offenses.

Article 136
Competing Offenses

1. If the same circumstances simultaneously constitute a criminal and administrative infraction, the agent is liable for both offenses being established, to this end, different processes to be decided by the competent authorities, without prejudice to the following paragraphs.
2. The administrative decision imposing a pecuniary penalty to the administrative offense expires when the agent is in a criminal case to be sentenced for the same offense.
3. Being the agent punished for a crime, there can also be applied the sanctions provided for the respective administrative offense.

Section II
Administrative Offenses and Sanctions

Article 137
Applicable Sanction

1. The actual determination of the fine and the application and scope of the sanctions is made depending on the seriousness of the administrative offense and the agent's culpability.
2. In determining the applicable penalty are taken into account the previous and subsequent conduct of the agent and the need for prevention.
3. In determining the applicable penalty, consideration is also taken of any conduct involving coercion, falsification, misrepresentation, simulation or any other fraudulent means used by the agent, and the existence of acts of concealment or disguise which tend to impair discovery of the offense.

Article 138
Offences punishable under the Present Code

1. Minor offenses are punishable by a fine of \$250 to \$15,000 or of \$1,250 to \$75,000, respectively, as is applied to natural or legal person, the failure to meet the obligation to prepare and submit within the legal time limits, any reports, studies, records, budgets, plans or other documentation under this Code, the complementary regulations or mining contract.
2. It is a serious offense punishable by a fine of \$750 to \$50,000, or \$15,000 to \$300,000, respectively, as is applied to natural or legal person:
 - a) Failure to timely report statements relating to *royalties* and fees, without prejudice to other penalties provided for in any applicable law or complementary regulations;
 - b) The assignment of rights or position changes by the concessionaire or Mining holder without approval of the regulatory authority;
 - c) Transfer of Market license to a third party without prior approval of the regulatory authority;
 - d) Breach of rules on training and employment for national citizens;
 - e) Breach of the procurement rules;
 - f) Failure to maintain safety for the duration and all phases of mining activities.
3. It is a very serious offense punishable by fine of \$1,500 to \$150,000 for individuals or \$75,000 to \$1,000,000 for collective persons:
 - a) The exercise of Mining activities without a valid Mining Right;
 - b) Noncompliance with the obligation of suspension and/or prior notification provided for in Articles 28 and 29, in Article 50.2 and in Article 69.2 (d) and (e); and
 - c) Noncompliance with health and safety rules, including:
 - i. Performing any activity that endangers people and goods;

- ii. The non-implementation of appropriate measures in accordance with the law, to prevent actions that endanger people and property;
 - iii. Undertake Minerals activities without a duly approved health and safety management plan;
 - iv. Take any action that infringes the approved health and safety management plan;
 - v. Noncompliance with the requirements for reporting accidents;
 - vi. Noncompliance with approved health and safety conditions;
 - vii. Impeding by any means the inspection and research actions in the field of health and safety.
4. The imposition of fines for the practice of minor infractions may be preceded by a notice to comply issued by the Regulatory Authority, establishing a period not exceeding 30 days for the agent to correct the noncompliant situation and indicating that if they do not do so within the established period, the penalty is applied.
 5. The Government regulates by Decree-Law the specific conditions and the measures of sanctions in the preceding paragraphs, and any other administrative violations necessary to ensure their implementation, with respect for the minimum and maximum amounts set out in paragraphs 1, 2 and 3.
 6. The revenue resulting from the application of financial penalties shall be collected by the Regulatory Authority, constituting its revenue and are intended to support regulatory activities, supervision and promotion of Mining Activities.

Article 139 **Additional Penalties**

Without prejudice to the preceding article, the following additional sanctions may be applied to the agent who commits an offense under this Code and complementary regulations:

- a) Seizure and confiscation of minerals, goods and equipment belonging to the agent and used to practice the offense or produced as a result of the practice thereof;
- b) Sealing production equipment;
- c) Temporary suspension for up to 3 years of authorizations, licenses and permits related to the performance of their activity in the case of serious or very serious infractions;
- d) Imposition of any appropriate measures to prevent environmental damage or to reconstruct the situation that existed before the offense is committed or to minimize the effects of the practice thereof;
- e) Revocation of licenses; and
- f) Publication of the conviction.

Article 140 **Process of Additional Penalties**

1. They are always applied sanctions to an agent who commits two very serious offenses, or any set of four minor, serious or very serious offenses, within a period of two years.
2. Notwithstanding the preceding paragraph, where the seriousness of the offense or the degree of agent guilt justifies, the agent may be subject to one or more additional penalties referred to in Article above, which can be applied together with the fines laid down in Article 138.
3. The Regulatory Authority should maintain a record of violations committed by the various agents for the purpose of determining whether to apply additional penalties.

Article 141
Suspension of Additional Penalties

1. The regulatory authority may suspend, in whole or in part, the execution of the sanction.
2. The suspension referred to in the preceding paragraph may depend on the fulfillment of certain obligations, in particular those necessary to remedy the situation of illegality, repair the damage or prevent the risk to health and safety of persons and property, or to the environment.
3. The suspension can last between 1 and 3 years, counted from the deadline for judicial review of the sentence for the practice of administrative offense.
4. It is considered a conviction without effect, after the expiration of the suspension period, when the agent has not committed any other administrative offense or violated any duty which was imposed during the period of suspension.
5. If the agent has committed any other administrative offense, or violated those duties, the additional penalty which had been suspended applies.

Article 142
Loss of Goods

Any property used or intended to be used to carry out an offense, or which has been produced as a result of the commission of an offense may be declared forfeited to the State.

Article 143
Third Party Goods

The loss of property belonging to third parties can only occur when:

- a) Their owners contributed, with guilt, to their use or production or have benefited from the Offense; or
- b) The property was acquired, regardless of the mode of acquisition, after the commission of the offense and its buyers were aware of the origin of the goods.

Section III
Process

Article 144
Regulations on Investigation Procedures and Additional Penalties

1. Notwithstanding the rules and procedures established in this Code, the Government may adopt rules on investigation procedures and specific requirements to determine the exact amount of financial penalties and on the application and extent of additional sanctions.
2. In the application and determination of administrative offenses, investigation procedures, application of financial penalties and/or additional sanctions as well as the respective resources, the Criminal Code, Code of Criminal Procedure and complementary regulations are subsidiarily applicable, duly adapted.

Article 145
Notification and Participation in the Infraction

1. Inspectors raise the respective notification when, in the exercise of their duties and responsibilities, they personally verify or prove, although not immediately, any violation of the rules of this Code or complementary regulations, which serves as verified proof of the occurrences.
2. Inspectors shall elaborate participation in an offense based on the evidence at their disposal relating to administrative offenses whose verification Inspectors have not personally confirmed, for the purpose of carrying out an inspection.

Article 146
Elements of Notification and Participation of Infraction

1. The notification or participation of that offense in the previous article shall, wherever possible, to mention:
 - a) The facts constituting the administrative infraction and the violated legal provisions;
 - b) The date, time, place and circumstances where the administrative infraction was committed or detected;
 - c) In the case of an administrative infraction committed by an individual, the elements identifying the agent and their residence;
 - d) In the case of an administrative violation committed by a collective or equivalent person, the elements identifying it, including its headquarters, identification and residence of the respective managers, administrators and other representatives;
 - e) The identification and residence of the witnesses, if applicable; and
 - f) Name, professional category and signature of the inspector or administrative agent who witnessed or participated in the offense.
2. Entities that do not have jurisdiction to undertake the investigation of the infringement process management must refer the notification or participation of the offense to the Regulatory Authority within 5 working days.

Article 147
Condemnatory Decision

1. The decision imposing an administrative pecuniary penalty and additional sanctions must be taken by the Regulated Authority and contain:
 - a) The identification of offenders;
 - b) The description of the alleged facts and the statement of the evidence obtained; and
 - c) Indication of law or regulation establishing the sanction and the basis for the decision.
2. The decision shall include the following information:
 - a) The conviction becomes final and enforceable if it is not contested under Article 149 or 150; and
 - b) In case of judicial review, the court may decide by hearing or if the agent and the prosecution do not object, by simple order.
3. The decision shall contain:
 - a) The penalty payment order within 30 days of the finality or transit judgment of decision;
 - b) The indication that it is extrajudicially enforceable for purposes of coercive collection under general law in the case of non-payment within the agreed timeframe; and
 - c) The statement that, if the agent is unable to make timely payment of the penalty pecuniary, should communicate this fact in writing to the Regulatory Authority.

Article 148
Notifications

1. The notifications provided for in this Code are effected by
 - a) Personal contact with the notice and in the place where it is found;
 - b) Registered letter with acknowledgment of receipt; or
 - c) Official letter.
2. The agent is notified by registered letter with acknowledgment of receipt, or by personal contact, with the notification of offense, the participation of the offense, the conviction, the decision imposing an additional sanction and whenever there is a summons to attend an act or proceeding.

3. Notifications are directed to the headquarters of the legal person or the domicile of the individual.
4. If the registered letter with acknowledgment of receipt is returned to the sending entity, the notification should be re-sent to the person to be notified by official letter.
5. The notification made by official letter must contain the date of sending the letter and the address to which it was sent, assuming in this case that the notification was carried out on the fifth day following the date indicated in the letter.
6. Where the notified person refuses to receive or sign the notice, the agent responsible for notifying shall certify the refusal in the letter, considering that the notification was effective.
7. Notifications can also be made by fax or email in these situations, notification deemed made on the date of sending, serving as proof a copy of the notice which must contain a statement that the message was successfully sent.
8. Any situation not foreseen by this article is governed by the rules of communications and constant notifications of the Criminal Procedure Code and other complementary regulations, duly adapted.

Article 149

Supervisory Appeal

1. The offender can bring a supervisory appeal to the Government member responsible for the Mineral Resources sector under the law within 15 days after notification of the decision of a process of administrative offense.
2. The supervisory appeal is presented through an application in which the applicant indicates all the grounds of appeal and evidence, if any.
3. The application for appeal must be filed with the author of the act or authority to which it is directed.
4. The supervisory appeal suspends the effects of the contested act, unless the law otherwise stipulates or when the author of the act considers that not executing it immediately will seriously harm the public interest.
5. The deadline for decision on the supervisory appeal must be decided within 30 days after the date on which the case is referred back to the member Government responsible for the Mineral Resources sector for its consideration.

Article 150

Judicial Appeals, Respective Procedure and Term

1. The decision imposing a penalty is directly appealable to the Timor-Leste judicial courts under the provisions of the Criminal Procedure Code, duly adapted.
2. The appeal may be brought by the offender or his advocate.
3. The applicant must notify the Regulatory Authority and the Government member responsible for the Minerals resources sector of his/her intention to appeal the decision before the final decision of the court of Timor-Leste.

Article 151

Limitation

Except as provided in the general rules on interruption and suspension of the limitation contained in other Applicable Law, which must be properly adjusted, the procedures designed to punish the practice of administrative offenses and impose pecuniary penalties and/or sanctions are limited to 5 years from the date of the violation.

Article 152

Liability

The application of the sanctions provided for in this Code shall be without prejudice to liability for damage arising from the practice of any infraction defined in this Code and complementary regulations.

Chapter XVII

Mining Register

Article 153

Mining Register

1. The Regulatory Authority shall establish and implement a Mining Register through a specific Regulation.
2. The following facts and rights must be recorded in the Mining Register:
 - a) Requests for assignment of Mining rights;
 - b) Mining rights assigned, as well as the rejection of allocation requests;
 - c) Cessation of Mining Rights;
 - d) Enlargement and abandonment of areas over which Mining rights have been assigned;
 - e) The extent of Mining Rights to cover associated minerals and other minerals;
 - f) The transfer or assignment of Mining rights; and
 - g) The creation of encumbrances and charges on Mining rights, and the modification and termination thereof.
3. The procedural rules for the registration of the facts listed in the previous paragraph, record keeping, consultation, issuance of certificates and other relevant operational matters are to be adopted by regulation issued by the Government member in charge of the mineral resources sector, on proposal the Regulatory Authority.

Article 154

Cadastral Maps

1. The Regulatory Authority, in coordination with other mandated ministries, shall draw up, for each district, cadastral maps on Mining Rights, which contain specific topographical references of the limits of each perimeter of the areas over which they have been assigned Mining rights or respective applications are pending, which are part of the Mining Registry.
2. Cadastral maps should be available for public consultation.

Chapter XVIII

Transparency and good practice

Article 155

Prohibition of Gifts or Benefits

1. It is forbidden to any natural or legal person, directly or indirectly, during the exercise of Mining rights, during the Mining Rights allocation process, or in the context of related activities, to deliver any gifts, benefits or other favors to any member of the Regulatory Authority or any member of their respective families, regardless of the reason.
2. The prohibition referred to in the preceding paragraph does not apply to offers received by members of the Regulatory Authority in the following situations:
 - a) Goods which by their nature can be immediately integrated into the heritage of the State or other public entities, or redirected by a member of the Regulatory Authority for the benefit of the community;

- b) Normal gifts in protocol terms, particularly those that have the logo of the person or entity that provides and/or which contains express and visible reference to the event giving rise to the gift, and they do not harm the good image of the state and/or other public bodies, and that these gifts remain the property of the Regulatory Authority; or
 - c) Gifts as a result of achieving certain targets related to the mining project, or to commemorate discoveries, beginning production or other important goals, specifically to include the logo of the natural or legal person making the gift and/or contains express and visible reference to the event giving rise to the gift, since its value and nature are considered appropriate to the commemoration and the gifts remain the property of the Regulatory Authority.
3. Notwithstanding the preceding paragraphs, gifts and benefits which, by their nature and value, are likely to compromise the performance or honesty of the Regulatory Authority, or adversely affect the good image of the state are always prohibited.
 4. In no case can the personnel involved in inspection activities be allowed to receive gifts or benefits, and also gifts or benefits are always prohibited when decisions are pending on mining activities.
 5. Any offers or benefits received under paragraph 2 which are not displayed on the premises of the Regulatory Authority, may be:
 - a) Integrated the assets of the Regulatory Authority, for use in its activities;
 - b) Subject to a public lottery for allocation to employees of the Regulatory Authority at Christmas; or
 - c) Given to third parties to be used in social projects, educational activities or other activities of public interest of a similar nature.
 6. The Regulatory Authority should keep a separate book for records of deals in which are recorded all the offers and gifts of this article, as well as the final destination of same.
 7. Noncompliance with the provisions of this Article by the Regulatory Authority is considered a crime under Articles 292 to 299 of the Criminal Code and a disciplinary offense under the Civil Service Act.

Article 156

Disclosure of Receipts

The Government member responsible for the Mineral Resources sector, with the collaboration of the Regulatory Authority, shall prepare and publish, on an annual basis, reports on the revenues of the state and other direct and indirect economic benefits received by the State as a result of Mining Activities according to international best practices based on the Extractive Industries Transparency Initiative.

Article 157

Disclosure of Information on Mining Rights Holders

In the preparation of the reports referred to in the previous article, the Government member responsible for the Mineral Resources sector and the Regulatory Authority may require that Mining Rights Holders, at least once a year, make available information, including production, financial information and other direct and indirect economic benefits received and all sums paid by him under Mining Activities.

Chapter XIX

Final and transitional provisions

Article 158

Fees

1. The presentation and processing of allocation requests for Mining Rights, enlargement of Prospecting and Exploration Areas, extension of rights and other administrative acts under this Code are subject to the payment of administrative fees, the amounts of which are periodically established in Ministerial Diploma by the Government member responsible for the Mineral Resources sector.

2. The administrative fees referred to in the preceding paragraph shall be paid to the Central Bank of Timor-Leste or another bank chosen by the Ministry of Finance.
3. Notwithstanding the preceding paragraphs, there are fees required associated with environmental licensing provided for in applicable law.

Article 159
Marine Mining Activities

Until there are rules adopted specifically for this purpose, the provisions of this Code shall apply, *mutatis mutandis*, to Maritime Mining activities.

Article 160
Mineral Fund

1. The Mineral Fund, established under Article 139.2 of the Constitution of the Democratic Republic of Timor-Leste to hold and manage all revenues from Mining Activities, in accord with the principles of transparency and preservation revenue for future generations.
2. After the entry into force of this Act and until the creation of the account of the Mineral Fund all revenues from the conduct of Mining Activities in progress shall be kept in an account at the Central Bank of Timor-Leste (CBTL).
3. After creating the Mineral Fund account, all revenue referred to in the previous paragraph shall be transferred to the account of the Mineral Fund.

Article 161
Scientific Research

1. The Government of Timor-Leste can carry out scientific research including studies relating to the Mineral Resources of Timor-Leste.
2. The Government member responsible for the Mineral Resources sector should adopt complementary regulations on the administration of the research referred to in the preceding paragraph.
3. Complementary regulations referred to above are intended to:
 - a) Ensure the least possible impact on health, safety and environment;
 - b) Administer scientific research related to the mineral sector that is conducted by anyone other than the member of Government responsible for the Mineral Resources sector.

Article 162
Involving Other interested parties

1. In pursuit of its duties and functions under this Code, the regulatory authority may involve other interested parties, such as other government agencies, industry representatives, members of civil society and local authorities and communities.
2. The objectives of the participation of other interested parties are:
 - a) To analyze future changes to the mining law, which should take into account the different perspectives of the other interested parties referred to in the preceding paragraph;
 - b) To address issues related to the activities provided for in this Code in overlapping interest situations.
3. The terms and conditions for involving other interested parties provided for in paragraph 1 shall be defined by regulations approved by the Government member responsible for the Mineral Resources sector.

Article 163
Complementary Regulations

1. The Government shall regulate Mining activities as provided in this Code.
2. The Government member responsible for the Mineral Resources sector may delegate powers to the Regulatory Authority to adopt regulations in order to detail and complement the rules provided in this Code and the regulations will be binding on all natural and legal, public and private persons.

Article 164
Notifications

All notifications issued by the Government member responsible for the Mineral Resources sector, the regulatory authority or any other competent authority, under or pursuant to this Code and complementary regulations must be made within ten working days from the occurrence of the event to which they relate.

Article 165
Devolved regulation and supervision

1. Without prejudice to the provisions of Article 47 of this Code, the Government, by Decree-Law, and taking technical capabilities into account, can decentralize regulatory and supervisory functions, which should be restricted to those provided for in Article 5.1(d)(i) of this Code.
2. Decentralization in the preceding paragraph does not apply to Mining Activities with export objectives.

Article 166
Restrictions

1. The extraction of beach sand is strictly prohibited for reasons of environmental, maritime and coastal protection and preservation.
2. Notwithstanding the preceding paragraph, the Authority Regulatory can assign licenses for beach sand for the following purposes:
 - a) Beach engineering for the tourism industry;
 - b) For the purpose of Environmental rehabilitation of the beach;
 - c) Educational children's playground; and
 - d) Restricted sports activities.

Chapter XX
Dispute Resolution

Article 167
Dispute Resolution

Disputes concerning Mining Activities and other matters regulated by this Code shall be settled by appeal to the Timor-Leste judicial courts or to arbitration, as provided for in the Mining Contract.

Article 168
Arbitration

Disputes between the State of Timor-Leste and foreign investors are to be settled in accordance with the rules of the International Centre for the Settlement of Investment Disputes (ICSID), adopted in Washington on March 15, 1965, or the under the Convention on the Settlement of Disputes between States and Nationals of Other States.

Article 169
Transitional Provision

1. Holders of Mining Rights awarded before the entry into force of this Code, shall, during the twelve months following the date of its entry into force, adapt their operations to the rules and specifications provided in this Code.
2. If upon entry into force of this Code an environmental license under Article 71 will be valid for less than six months, the holder of such a license may apply for renewal of the same within six months, under this Code.

Annex I - Table of Mineral classification

(As referred to Article 5)

(a) Metallic minerals

(i) Precious Metals:	(ii) Base Metals:		
1. Iridium;	1. Aluminum;	11. Strontium;	21. Nickel;
2. Osmium;	2. Antimony;	12. Iron;	22. Potassium;
3. Gold;	3. Beryl	13. Gallium;	23. Sodium;
4. Palladium;	4. Bismuth;	14. Indium	24. Tantalum;
5. Platinum;	5. Cadmium;	15. Lithium;	25. Titanium;
6. Silver;	6. Lead;	16. Magnesium;	26. Tungsten;
7. Rhodium;	7. Cobalt;	17. Manganese	27. Vanadium;
8. Ruthenium;	8. Copper;	18. Mercury	28. Zinc
	9. Chromium;	19. Molybdenum;	29. Zirconium;
	10. Tin;	20. Niobium;	

(b) Gems

1. Aquamarine;	10. Garnet	19. Moonstone;	28. Sapphire;
2. Amber;	11. Jadeite;	20. Sunstone;	29. Sodalite;
3. Amethyst;	12. Jasper	21. Peridot;	30. Tanzanite;
4. Azurite;	13. Labradorite;	22. Pearl;	31. Topaz;
5. Citrine;	14. Lapis Lazuli;	23. Quartz crystal;	32. Tourmaline;
6. Chrysoberyl;	15. Malachite;	24. Smoked Quartz;	33. Turquoise;
7. Emerald;	16. Mahogany;	25. Rose Quartz;	34. Unakite;
8. erionite;	17. Black Onyx;	26. Rodonite	35. Zircon;
9. Spinel;	18. Opal;	27. Ruby;	

(c) Radioactive Minerals

1. Radium;
2. Thorium;
3. Uranium.

(d) Rocks and Industrial Minerals

(i) Construction Materials:

- | | | | |
|--------------|------------------|-------------------|------------------|
| 1. Andesite | 8. Gravel; | 15. Gneiss | 22. Peridotite, |
| 2. Slate | 9. Conglomerate; | 16. Granite | 23. Quartzite |
| 3. Sand | 10. Dacitus; | 17. Granodiorite; | 24. Rhyolite |
| 4. Sandstone | 11. Diabase; | 18. Degree; | 25. Serpentinite |
| 5. Basalt; | 12. Dolarito; | 19. Marble | 26. Syenite. |
| 6. Breccia; | 13. Dolomite; | 20. Obsidian | 27. Shale, |
| 7. Limestone | 14. Gabbro; | 21. Pumice Stone, | |

(ii) minerals for Processing

- | | | | |
|-----------------------|---------------|----------------|----------------|
| 1. Barite; | 7. Dolomite; | 13. Magnesite; | 19. Quartz; |
| 2. Bentonite; | 8. Feldspar; | 14. Mica; | 20. Rock salt; |
| 3. Calcite; | 9. Fluorite; | 15. Ochre; | 21. Sulfur; |
| 4. Celestite; | 10. Graphite; | 16. Perlite; | 22. Talc. |
| 5. Clays; | 11. Gypsum; | 17. Phosphate; | |
| 6. Diatomaceous earth | 12. Calcite; | 18. Pumice; | |

(iii) Ornamental stones:

- | | | | |
|---------------|------------------------|----------------|----------------|
| 1. Clays; | 7. Diatomaceous earth; | 13. Gypsum; | 19. Perlite; |
| 2. Barite; | 8. Dolomite; | 14. Graphite; | 20. Quartz; |
| 3. Bentonite; | 9. Sulphur; | 15. Magnesite; | 21. Rock salt; |
| 4. Limestone; | 10. Feldspar; | 16. Mica; | 22. Talc. |
| 5. Calcite; | 11. Fluorite; | 17. Ochre; | |
| 6. Celestite; | 12. Phosphates; | 18. Pumice; | |

(e) Coal

1. Anthracite
2. Coal;
3. Lignite;
4. Peat.

(f) Rare Earth Minerals

- | | | | |
|---------------------|---------------------|------------------------|-------------------|
| 1. Cerium (Ce); | 6. Gadolinium (Gd); | 11. Lutetium (Lu); | 16. Terbium (Tb); |
| 2. Dysprosium (Dy); | 7. Holmium (Ho); | 12. Neodymium (Nd); | 17. Thulium (Tm) |
| 3. Erbium (Er); | 8. Ytterbium (Yb); | 13. Praseodymium (Pr); | |
| 4. Scandium (Sc); | 9. Yttrium (Y); | 14. Promethium (Pm); | |
| 5. Europium (Eu); | 10. Lanthanum (La); | 15. Samarium (Sm); | |

Annex II - Mining royalty Fees

(As referred to Article 114)

No.	Mineral Classification	Unit	Value of Crude Minerals	Value of Processed Minerals
1	Needed Metals or Precious Minerals	%	8%	3.5%
2	Base metals	%	7%	2.5%
3	Gems	%	8%	3.5%
4	Radioactive minerals	%		8%
5	Coal	%	5%	n/a
6	Rare Earth minerals	%		15%
7	Industrial minerals			
i	Processing Materials			
	a. Processing materials except Stones	%	8%	2.5%
	b. Processing Materials in the form of stones	USD / t	7.00	1.00
ii	Ornamental stones	USD / t	10.00	1.00
iii	Construction materials			
	a. For domestic use	USD / t	1.00	n/a
	b. For export	USD / t	7.00	n/a

In which:

Units in percentage (%) refer to fees and royalties *ad valorem*

Unit USD / ton refers to units based on *royalty* rates

Annex - III Surface Rents

For the purposes of Article 118, the surface rents are:

1. During the periods of Prospecting and Exploration and Development should refer to the table below:

1. During the Prospecting and Exploration period and Development period		Minerals Classification - This refers to Annex I	
		(a), (c) & (f)	(b), (d) & (e)
Tier 1	USD / km ²	50	25
Tier 2	USD / km ²	100	50
Tier 3	USD / km ²	200	100

2. During the Exploration and Processing		Mineral classification	
		(a), (c) & (f)	(b), (d) & (e)
Tier 1	USD / km ²	50	50
Tier 2	USD / km ²	150	100
Tier 3	USD / km ²	250	150
Tier 4	USD / km ²	400	200

2. Payment of surface rents for the year in question during the period of exploration and processing shall be calculated as follows:

$$\text{Surface Rent} = \text{Tier Value} / \text{km}^2 * (1 + r)^{(Yn-Y)}$$

In which:

Surface Rent = annual rate based on the amount of Tier 1, equal to the value in USD per square kilometer

r = consumer price index (CPI) of 2.5%

yn = rent for the year in question

Y = the year of entry into force of the Mining Contract

VI CONSTITUTIONAL GOVERNMENT

PROPOSED LAW No. / 2016

Of _____

Mining code

(EXPLANATORY STATEMENT)

Countries blessed with natural resources in them are often a catalyst for the development of local economy and the attraction of foreign investment. Conducting Mining Activities necessarily leads to the creation of new jobs and business opportunities. The profits that come from these activities are also an important contribution to the National Treasury, allowing the government to reinvest them in the economic and social development strategies in accordance with the Strategic Development Plan for 2011-2030.

Recognizing the geological potential of the country, the United Nations published in 2003 Volume 17 of the *“Atlas of Mineral Resources of the ESCAP Region”* dedicated to *“Geology and Mineral Resources of Timor-Leste”*. This study was designed to provide to the Timor-Leste Government an initial set of tools and information for developing national geological and mineral potential, and served as the basis for initial studies conducted by the national Minerals Directorate to assess the feasibility of licensing mining activities in the country. After his initial findings, the then Secretary of State for Natural Resources, through the National Mineral Directorate, made a detailed mineral survey of the country, with the goal of creating cadastral geological maps indicating the verification of all minerals existing within the national territory.

Simultaneously, it was decided to start writing a new set of mining legislation in order to create a modern legal framework capable of attracting foreign and domestic investment in the sector of non-oil natural resources and develop the mining sector of the country.

The preparation of the new legislation is of utmost importance because, since independence, the country has been without an appropriate legal regime applicable to Mining Activities. In this regard, it is noted that the laws previously in force during the Indonesian occupation have not applied in Timor-Leste since 1999 and the only regulation of these matters was made by the Ministerial Decree No. 1/2008, of 30 July, His Excellency the Prime Minister and the Secretary of State for Natural Resources. However, that Ministerial Diploma contained only rules applicable to the extraction of minerals for construction, and its amendment by Ministerial Decree No. 1/2009 of 12 August, did not introduce any rules on the extraction of valuable minerals.

In view of the above, this draft law to be presented to the National Parliament has the goal of regulating all activities related to the realization of Mining Activities, namely the reconnaissance, the Prospecting and Exploration, Exploitation and Processing and Commercialization of minerals in the Territory of the Democratic Republic of Timor-Leste.

Recognizing that the existing legal regime is outdated and is clearly inappropriate to regulate conducting Mining activities and other forms of exploitation involving the use of industrial installations, as well as to regulate the sale of minerals in the domestic and international markets, it is expected that with the adoption of this Law, the Democratic Republic of Timor-Leste takes a step forward in establishing a modern legal framework, providing the Ministry of Petroleum and Mineral Resources and the regulatory Authority with an integrated system for the effective regulation of the allocation and exercise of mining rights.

The proposal not only includes rules for the conduct of mining activities, but also for the respective administrative procedures for the allocation of Mining rights to organizations and

individuals interested in carrying out these activities, rules on the definition of areas for exercising mining rights, the rights and obligations of the parties, and the rules relating to the inspection and supervision of Mining Activities, sanctions and penalties applicable in cases of Non-compliance with obligations under the Mining Code, and specific rules for environmental protection and payment of fees and taxes applicable to mining Activities.

In terms of methodology, in order to prepare the bill it was decided to study the legislation of various countries, which, due to their similarity of legal culture, state of social and economic development, geographic location or tradition in the mining industry They offer a wide range of solutions that could provide some guidelines for the Mining Code of the Democratic Republic of Timor-Leste: Angola, Australia, Brazil, Gabon, Guinea-Bissau, Indonesia, Equatorial Guinea, Mozambique and South Africa.

Despite these legal systems have been analyzed in order to verify that their solutions could be beneficial for Timor-Leste, the draft Mining Code law of the Democratic Republic of Timor-Leste was developed independently and its provisions and solutions were formulated exclusively for this country, since from the beginning of this project, it was established that the legislation of other countries should not be copied, otherwise a law that does not respond to the needs and specificities of Timor-Leste would be approved.

As a starting point for the preparation of the Draft Law, it identified a set of key policy issues that were discussed at a working meeting with representatives of the Government and other persons and entities involved in the Mining Code project, and the decisions taken were incorporated in text now submitted to the National Parliament. Other similar workshops were held throughout the drafting process to ensure that the final version of the new legislation is in line with the objectives and specifics of Timor-Leste.

The text of the Mining Code reflects the various options chosen by the Government for each of these key policy issues, as stated below.

The key element of developing the mining sector lies in the provision on the ownership of Mineral Resources. As regards the ownership of mineral resources, as is clear from the Constitution of the Democratic Republic of Timor-Leste and this Code, Timor-Leste is the rightful owner of all minerals. However, the minerals extracted under the Code are the property of the holder of the Mining Authorization and/or the Concessionaire who have been assigned the respective mining rights unless such extraction occurs illegally, in which case it will remain state property.

As part of the general policy for the development of the mining sector of the country regarding the rights of the Concessionaire, Mining Rights of the respective holders shall not be expropriated, except for reasons of public interest, after being verified under certain circumstances. It is an honor to state that ANPM clearly defined in this Code what constitutes public interest.

Any legislation must be strong enough in the way it deals with the issue of Non-compliance with the respective standards. The Code sets out the legal consequences of any defaults, classifying them as minor, serious or very serious offenses, which can be translated in particular into fines, suspension and revocation of Mining Rights. For this purpose, Inspectors Auditors shall be appointed with the power to reconnaissance Prospecting and Exploration and Concession areas. In turn, the offenses that take criminal relevance are addressed in the Criminal Code of Timor-Leste.

In terms of participation of the state in Mining Activities, the Code allows the State to participate in such activities through a National Mining Company, without affecting the interests of the holder of the concession.

The Code clearly regulates the allocation of Mining rights, through Artisanal mining permits (relating to Artisanal Mining Activities) of Mining Authorizations (relating to Industrial Minerals) of Mining Concessions and Prospecting and Exploration Licenses and Authorizations for Reconnaissance rights of small and medium-sized miners and local entrepreneurs are protected by local content rules and the holder of the mining concession and mining Authorization are also guaranteed the right of access to associated minerals and other mineral resources discovered in the course of mining Activities, upon recommendation of the Regulatory Authority and approved by the member responsible for the Mineral Resources sector. In addition, holders of Mining Rights granted by Mining Authorization and Mining Concession have an exclusive right over the occupied area.

The direct award processes and public tender are well articulated in the Code. The Code provides that the Mining Rights can be attributed, in certain circumstances, by direct award if they are assigned by order of arrival of the respective allocation requests as long as the legal requirements for the applicant have been verified.

Recognizing the importance of land rights in Timor-Leste, was given special care to enter to land subject to the achievement of Mining Activities, which typically raises several questions relating to the protection of land rights to the rights of local communities. Thus, the Mining Rights holders have the right to enter and occupy state land in the areas identified as areas of enter, Prospecting and Exploration Areas, Authorization Areas and Concession Areas. Expropriation, when required, will be conducted through a fair evaluation, negotiation and compensation to third parties (individuals or communities), according to the applicable law in Timor-Leste.

In terms of creating the rules necessary to ensure the economic feasibility of mining projects, were established some provisions in the Mining Code aimed at making mining the country attractive while at the same time, to ensure the rights and expectations of the State of Timor-Leste and its people. In terms of customs rules and procedures, the Mining Code allows the import of goods, materials and equipment for use in mining operations, unless they are already available at competitive conditions in Timor-Leste which should be preferred. The mining industry is cyclical and investment in research and development of mines following the same cycles. Companies often compare the different development options internationally and analyze them in order to identify the best balance between risk and return. One of the key factors balancing between risk and return are tax rates on mining production and stability of the tax system of the host country. The tax regime provided for in the code is simplified and follows international standards, in which the holders of Mining Rights are subject to a tax scheme on mining production (*Mining royalty*) and surface rents. Other Taxes and customs arrangements will be handled autonomously under the Tax Act.

Another matter of great importance to the development of Timor-Leste and for which was given some flexibility to the Government in the future management of the natural resources sector concerns minerals that due to their value or importance to the national or international economy, as well as security reasons, might be considered 'strategic' and therefore justify applying special rules, among other areas, to commercialization and the mandatory participation of the state in their operation. Considering that more certainty in relation to the mining potential of the country is necessary, it was decided to allow the Council of Ministers, on proposal of the Government member responsible for the Mineral Resources sector, to create special rules in the future for Strategic Minerals, through Decree-Law.

The Code also provides for the rules applicable to associated minerals and other mineral resources. It was decided that it will not revoke or change pre-existing Mining Rights, although the

exploration rights of associated minerals and other mineral resources may be granted, provided a summary report is submitted and approved with the technical and commercial evaluation. If the Concessionaire or the holder of the Mining Authorization chooses not to commercially produce Associated minerals and other mineral resources, must include measures for conservation or storage thereof. That is, storage or conservation is the option of last resort when the Concessionaire or the Mining Authorization Holder choose not to commercialize.

Finally, given that Article 139.2 of the Constitution states that *“The conditions for the exploitation of the natural resources referred to in item 1 above should lend themselves to the establishment of mandatory financial reserves, in accordance with the law”*, the code allows for creation of a Mineral Fund to receive and manage all revenues from carrying out Mining activities in accordance with the principles of transparency and allocation of revenues for use by future generations.

Dr. Rui Maria do Araújo

TIMOR-LESTE NATIONAL PARLIAMENT

Secretariat

FORWARDING NOTE

DE: SEC-GENERAL

TO: THE PRESIDENT OF NATIONAL PARLIAMENT

DATE: 20/10/2016

FOR OPINION

FOR CONSIDERATION

PRIME MINISTER

Dili, 19 October 2016

His Excellency

Sr. Adérito Hugo da Costa

President of Parliament

Excellency,

Next I have the honor to forward to Your Excellency under provided to in Article 115.2(a) of the Constitution of the Democratic Republic of Timor-Leste for consideration by the National Parliament,

- **Proposed Law: Mining Code**

Approved in Council of Ministers of August 9, 2016, under the provisions of Article 116(c) of the Constitution.

Please accept, Mr President, protest of my highest consideration.

Dr. Rui Maria de Araujo

Prime Minister

Attached: the mentioned document