
THE MINING LAW REVIEW

EDITOR
ERIK RICHER LA FLÈCHE

LAW BUSINESS RESEARCH

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EDITOR'S PREFACE

I am pleased to have participated in the preparation of the first edition of *The Mining Law Review*. The Review is designed to be a practical, business-focused 'year in review' analysis of recent changes and developments, their effects and a look forward at expected trends.

This book gathers the views of leading mining practitioners from around the world and I warmly thank all the authors for their work and insights.

The first part of the book is divided into 22 country chapters, each dealing with mining in a particular jurisdiction. Countries were selected because of the importance of mining to their economies and to ensure broad geographical representation. Mining is global but the business of financing mining exploration, development and – to a lesser extent – production is concentrated in a few countries, Canada and the United Kingdom being dominant. As a result, the second part of this book includes eight country chapters focused on financing.

The advantage of a comparative work is that knowledge of the law and developments and trends in one jurisdiction may assist those in other jurisdictions. Although the chapters are laid out uniformly for ease of comparison, each author had complete discretion as to content and emphasis.

After the lost decades of the 1980s and 1990s came the mining boom of the past decade and the beginning of the 'Commodities Super-Cycle'. During this time, the price of industrial minerals and other commodities rose sharply. Needless to say, the mining boom has resulted in the resurgence of mining and has been a boon to many emerging economies, particularly in Africa and South America.

Will the super-cycle continue? If one accepts that the root cause of the super-cycle is China, then the answer is yes and mining has a bright future: China needs minerals to continue its industrialisation and the rollout of modern cities and infrastructure. While its stated objective is to build a modern service-oriented economy, China is at best 10 to 15 years away from transiting out of its current intensive mineral consumption phase. As a result, continued strong demand should sustain prices for the next decade – this

is particularly true for metals little found in China. Thereafter, demand should remain strong as the world adds an estimated 2 billion to its population by 2050, most of whom will reside in emerging markets and – if the past is indicative of the future – will want greatly improved living standards.

The Commodities Super-Cycle has fuelled increased mining activity across the globe. It has also given rise to the most important trend facing mining: economic nationalism. Governments, under pressure from their exchequers and populations, want increased and – perhaps more problematically – immediate economic benefits from mining. This phenomenon can be observed in post-industrial economies as well as in emerging ones and across all political lines. No country is immune from this trend.

The long period of sustained high prices for minerals and metals has greatly increased expectations and mining companies and governments are struggling to achieve the right balance between competing interests. The question of the day is how predictably and fairly to share income among various stakeholders: governments, mining communities, mining companies, their shareholders and employees. This is a very difficult question and there is no ‘one-size-fits-all solution’.

Mining projects are endeavours of long gestation, which can take 10 years or more between discovery and commissioning. Mining projects are also very capital-intensive with a front-ended investment profile. In other words, mining companies invest large amount of money early but have multi-decade payback horizons and require stable legal and tax environments in order to attract project capital.

Governments, on the other hand, are subject to shorter-term pressures. Their budgets are yearly affairs, employees and local communities are impatient, and politicians are at the mercy of electoral cycles. The tax-receipt profile of mining projects, however, is predominantly back-ended; that is to say, governments receive the bulk of taxes and other charges many years after project commissioning and project debt repayment.

The long-term needs of projects for stable legal and tax environments and the short-term pressures placed on governments for more revenues has led to friction. While governments have considerable leverage thanks to supply constraints and high prices, they must nonetheless walk a fine line. They need to be careful not to ‘kill the golden goose’ while avoiding a ‘race to the bottom’. After all, governments compete with each other to attract mining projects and mining companies can jurisdiction shop.

Economic nationalism is not limited to raising taxes: it can take other forms, including governmental or local ownership, benchmark export pricing, minimum in-country transformation, and export restrictions to ensure supply to local industry.

How can mining companies mitigate risks posed by economic nationalism? One of the best mitigation strategies is for mining companies to have a strong ‘social licence’. A social licence may be defined as the acceptance or – better still – the approval of the community adjacent to a project. A strong social licence is not only effective against governmental overreach but can also serve as an effective anti-corruption mechanism.

A social licence has to be earned and maintained. This is best achieved through multi-stakeholder dialogues, local economic involvement, good environmental performance and social inclusion. Medical clinics, schools, roads, power plants, irrigation dams and water treatment plants are some of the types of projects carried out by mining companies as part of their social licence.

As you consult this book you will find more on economic nationalism and other topics apposite to jurisdictions of specific interest to you, and I hope that you will find this book useful and responsive.

Erik Richer La Flèche

Stikeman Elliott LLP

Montreal

November 2012

PART I

MINING LAW

Chapter 19

TANZANIA

Charles R B Rwechungura, Cyril Pesha and Pendo Marsha Shamte¹

I OVERVIEW

i The Tanzania Mineral Policy of 2009

The Tanzania Mineral Policy of 2009 was formulated as a result of an evaluation conducted during the 10 years of implementation of the Mineral Policy of 1997. The Mineral Policy of 2009 aims at:

- a* strengthening integration of the mineral sector with other sectors of the economy;
- b* improving the economic environment for investment;
- c* maximising benefits from mining;
- d* improving the legal environment;
- e* strengthening the capacity for administration of the mineral sector;
- f* developing small-scale mining operations;
- g* promoting and facilitating the addition of value to minerals; and
- h* strengthening environmental management.

The government remains the regulator and facilitator of the mineral sector, and will participate strategically in mining projects.

ii Ownership of mines, licences and projects

An individual or an entity can own mineral rights in Tanzania either:

- a* by conducting exploration or mining operations under a mineral right granted under the Mining Act 2010 ('the Mining Act') and the Mineral Rights Regulations. Mineral rights are in the form of primary mining licences, prospecting licences,

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- mining licences and special mining licences, all of which entitle the holder to ownership of the gold extracted from the relevant licence area; or
- b* buying minerals from a licensed broker or an authorised miner.

It is mandatory to apply for and obtain one of these licences from the Ministry of Energy and Minerals ('the MEM') in order to prospect for and mine gold. The nature of the various mineral rights granted under the licences is as follows:

- a* Primary mining licences are granted to Tanzanian small-scale mining operations. Primary mining licences for all minerals cannot be granted to an individual, partnership or body corporate unless the individual is a Tanzanian citizen or, in the case of a partnership, it is composed exclusively of Tanzanian citizens or, in the case of a company or body corporate, its members and directors are Tanzanian citizens and control over the company, both direct and indirect, is exercised from within Tanzania by persons who are all citizens of Tanzania. However, under a farm-in agreement, a non-Tanzanian person or a foreign-owned company can prospect for gold in a primary mining licence area.
- b* Under Tanzanian law, prospecting licences may be granted to eligible individual persons, groups of persons or corporate entities. Both Tanzanian and non-Tanzanian nationals and entities are eligible for the grant of prospecting licences. The Mining Act confers upon a prospecting licence holder the exclusive right to carry on prospecting operations in the prospecting area for minerals to which the licences apply.
- c* Under Tanzanian law, mining licences and special mining licences may be granted to eligible individual persons, groups of persons or corporate entities. Both Tanzanian and non-Tanzanian nationals and entities are eligible for the grant of mining licences. Once the mining licences and special mining licences have been issued to an individual or an entity, mining operations can commence, and the individual or entity becomes the owner of the minerals extracted (it should be noted that a royalty of 4 per cent of the gross value of mined gold is payable to the government).

iii Division of mineral rights

In Tanzania, mineral rights are divided as follows:

- a* Division A – prospecting licences and retention licences;
- b* Division B – special mining licences and mining licences;
- c* Division C – primary mining licences; and
- d* Division D – processing, smelting and refining licences.

iv Notable developments

To date, there have been no significant trading agreements regarding minerals in Tanzania.

Large-scale mining companies may enter into agreements with the government that guarantee the fiscal stability of a long-term mining project with respect to the range and applicable rates of royalties, taxes, duties, fees and other fiscal taxes, and the manner in which liability thereof is calculated ('development agreements'). Development agreements acquire legislative effect upon execution, and any tax concessions contained

therein will also acquire legislative effect without any further requirement. However, the government is currently seeking to renegotiate mining contracts, and in future this will no longer be the case.

It is not mandatory under the law that the government have shares in mining companies. However, the law does contemplate that the government, through the Minister for Energy and Minerals ('the Minister'), may enter into a mining development agreement with the holder of, or an applicant for, a special mining licence.

II LEGAL FRAMEWORK

i Legislation

The mining industry in Tanzania is principally governed by the Mining Act, as well as various regulations made under the Mining Act, as follows:

- a* the Mining (Mineral Rights) Regulations;
- b* the Mining (Mineral Trading) Regulations;
- c* the Mining (Mineral Beneficiation) Regulations;
- d* the Mining (Environmental Management and Protection) Regulations;
- e* the Mining (Radioactive Minerals) Regulations; and
- f* the Mining (Safety, Occupational Health and Environment Protection) Regulations.

Other laws that impact on the industry include the various tax laws, labour and industrial relations laws and environmental laws.

ii International treaties

Tanzania is a signatory to various international treaties and conventions, but none has direct relevance to the mining industry. The Convention on Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention of 1958) is relevant in respect of all foreign investors. Although Tanzania has not adopted any provisions based on the UNCITRAL Model Law, the Tanzania Investment Act 1997 allows investors to adopt, among others, the UNCITRAL rules and procedures.

iii Regulatory agencies

The mining industry is regulated at the national level.

The MEM is the overall supervisor of the minerals and energy sector in Tanzania. There is a Commissioner for Minerals ('the Commissioner') within the Ministry appointed by the President; the Commissioner supervises and regulates the proper and effectual carrying out of the provisions of the Mining Act. There is also a Mining Advisory Committee constituted pursuant to the Mining Act, which is responsible for advising the Minister on matters concerning the mining sector generally.

iv Mineral reporting requirements

The holders of any mineral rights have to submit quarterly and annual reports to the relevant authorities. Primary mining licence holders have to submit quarterly reports to

the Zonal Mines Officer. Prospecting licence holders are required to submit quarterly and annual financial reports to the Commissioner within three months of the end of each financial year. Mining licence and special mining licence holders are required to submit quarterly reports to the Minister.

III MINING RIGHTS AND REQUIRED LICENCES AND PERMITS

i Title

The government has the title to underground minerals, but the title to the minerals can be transferred to any individual or entity in Tanzania (see Section I.ii, *supra*, for further information). Mineral rights can also be transferred from one individual or entity to another by applying for the transfer to the Commissioner and paying a fee of US\$200 for transfer of a primary mining licence, US\$500 for a transfer of shares in a primary mining licence and US\$3,000 for transfer of mineral rights other than those granted under a primary mining licence.

ii Surface and mining rights

Private parties as prescribed in the Land Act 1999 may acquire surface rights. All land in Tanzania is public land vested in the President, who grants (via the Commissioner for Lands) rights of occupancy of specified periods of 33, 66 or 99 years, subject to renewal. There is a central land registry in which all title deeds for granted rights of occupancies are registered. One copy of the title deed is kept at the registry and the other remains in the possession of the owner. Any mortgages or charges, or similar third-party rights against the property, or transfers of the right of occupancy, are endorsed on the two copies of the title deeds and provide ready proof of the position. There are zonal land registries, which are administratively answerable to the central land registry. The Commissioner for Lands is the principal administrative officer and adviser to the government with respect to land matters, and he or she is a presidential appointee. Some land is also owned under customary rights, but it remains held for purposes of surface use only. Foreigners may hold land only for the purpose of investment.

Application for mineral rights

Mineral rights are applied at the relevant issuing authorities. Applications for primary mining licences have to be made to the Zonal Mines Officer at the Zonal Mines Office and a fee of US\$35 is applicable. There is no specific time on how long it takes for the primary mining licence to be granted. Primary mining licences are granted for a period of seven years.

Application for prospecting licences are made to the Commissioner for Minerals at the MEM and a fee of US\$300 is applicable. There is no specific time on how long it takes for prospecting licences to be granted. Prospecting licences are granted for four years for the initial period and can be renewed twice: three years for the second period and two years for the third period.

Applications for mining licences and special mining licences are made to the Minister at the MEM and a fee of US\$2,000 and US\$5,000 respectively. Again, the law does not specify the timetable for mining licences or special mining licences to be

granted. The maximum initial period for which mining licences and SMLs may be granted is 10 years. The Minister may renew mining licences or special mining licences for a period not exceeding 10 years.

iii Additional permits and licences

Further permits are required from the relevant authorities to export minerals and gemstones. Such permits include:

- a* export permits for minerals and samples of minerals;
- b* export permits for minerals from a gem trade fair;
- c* export permits for processed, smelted and refined minerals; and
- d* special export permits for minerals that are given to non-residents of Tanzania.

iv Closure and remediation of mining projects

The Mining (Safety, Occupational Health and Environment Protection) Regulations 2010, prior to a mine closure, requires every holder of a special mining licence or mining licence to prepare and submit a mine closure plan to the Chief Inspector of Mines, which must contain the following:

- a* a programme to reclaim and rehabilitate land and water courses to an acceptable use that considers previous and potential use;
- b* a programme to support socio-economic activities to provide an alternative livelihood to local communities beyond the mine life;
- c* comments of the district authorities and surrounding local communities or a district mine closure committee;
- d* the cost of providing statutory and any other benefits to employees beyond the mine life; and
- e* the cost of reclaiming and rehabilitating the mining area in the event that the mine is closed.

The Minister may require a licence holder to post rehabilitation bonds, in the form of escrow accounts, capital bonds, insurance or bank guarantee bonds, pledging and assets, or any other form of bond.

IV ENVIRONMENTAL AND SOCIAL CONSIDERATIONS

i Environmental, health and safety regulations

The principal environmental, health and safety laws are contained in the Mining (Safety, Occupational Health and Environment Protection) Regulations 2010. The Chief Inspector of Mines appointed pursuant to the Mining Act and working under the Commissioner administers the environmental, health and safety laws. The Environmental Management Act No. 20 of 2004 is also relevant. Schedule 3 to this Act lists mining as an investment sector activity that is subject to an environmental impact assessment prior to commencement of work. Section 232 of the Act elevates the Environmental Management Act above the provisions of the regulations issued pursuant to the Mining Act. It stipulates that if the provisions of the Environmental Management Act are in conflict or otherwise are inconsistent with the provisions of any other law relating to

environmental management, the provisions of the Environmental Management Act shall prevail to the extent of such inconsistency.

ii Environmental compliance

All applications for special mining licences, mining licences or gemstone mining licences must be accompanied by an environmental impact statement and an environmental management plan. The Minister may reject an application if the application for a licence is submitted without an environmental impact statement or environmental management plan if the applicant is not exempted. Within seven days of the date of submitting the application, applicants are obliged to publish their environmental impact statement in the prescribed manner. The licensing authority shall not issue a licence until the expiry of at least 60 days from the date of the application. The licence holder is obliged to submit a report reviewing the progress and status of the environmental management plan or amendment within two years of grant or renewals, and thereafter at intervals not exceeding five years.

iii Third-party rights and additional considerations

The rights conferred by a mineral right have to be exercised reasonably and may not be exercised so as to injure the interests of any owner or occupier of the land to which those rights extend.

The lawful occupier of land in a mining area may not erect any building or structure in the area without the consent of the registered holder of the mineral rights concerned, but if the Minister considers that the consent is being unreasonably withheld, he or she may give consent to the lawful occupier to do so.

Where, in the course of prospecting or mining operations, any disturbance of the rights of the lawful occupier of any land or damage to any crops, trees, buildings, stock or works thereon is caused, the registered holder of the mineral right by virtue of which the operations are carried out is liable to pay the lawful occupier fair and reasonable compensation.

Where the rights conferred by a mineral right cannot reasonably be exercised without injuring the interests of any owner or occupier of the land to which those rights extend, the mineral right holder has to:

- a* advise the owner or occupier of the land to vacate the area, and consult the relevant local government authority on an amendment of the land use plan; or
- b* submit a proposed plan on compensation, relocation and resettlement of the owner or occupier of the land as per the Land Act.

The procedures established under the Land Act and the Village Land Act with regard to establishing the market value of land shall apply in determining fair and reasonable compensation of land.

V OPERATIONS, PROCESSING AND SALE OF MINERALS

i Processing and operations

There are no restrictions on the importation of machinery and equipment required for mining activities. The Mining Act provides for the sale or processing of minerals outside Tanzania only by authorised dealers.

Foreign labour is restricted only in the sense that a foreigner can only be employed as an expatriate. A foreign employee has to apply for and obtain a Class B resident permit.

ii Sale, import and export of extracted or processed minerals

The Mining Act prohibits any person from selling or disposing of, or exporting, any raw gold or gemstone unless that person is an authorised dealer. However, the authorised dealer must obtain a permit from the Commissioner before it can export, sell or otherwise dispose of any minerals within or outside of Tanzania.

iii Foreign investment

There is no restriction on the importation of funds to finance mining activities, or on the use of the export proceeds from mining products. Tanzania enjoys a highly liberalised foreign exchange regime. There is complete market freedom, foreign exchange at market prices is available and domestic foreign currency accounts can be opened, and there is no restriction on current account transactions. However, the Bank of Tanzania still regulates the establishment of offshore bank accounts by residents. Locally incorporated companies wishing to establish offshore bank accounts for purposes of depositing export proceeds or foreign loan proceeds must apply to the Bank of Tanzania for its approval.

VI CHARGES

i Royalties

The law requires all authorised miners to pay a royalty to the government on the gross value of minerals produced under their licences at the rates shown below:

- a* uranium – 5 per cent;
- b* gemstones and diamonds – 5 per cent;
- c* metallic minerals such as copper, gold, silver and platinum group minerals – 4 per cent;
- d* gems – 1 per cent; and
- e* other minerals, including building materials, salt, all minerals within the industrial minerals group – 3 per cent.

ii Taxes

Withholding tax on dividends

Withholding tax on dividends is set at a rate of 10 per cent. Other sectors pay withholding tax on dividends at a rate of 20 per cent, except for companies holding certificates of incentives issued by the Tanzania Investment Centre, which pay the same rate as mining companies.

Withholding tax on interest

Withholding tax on the interest on foreign loans is set at a rate of 15 per cent and accrued interest is deemed a payment; therefore, withholding tax thereon is payable.

Withholding tax on payments for technical services and on management fees

The withholding tax on these is capped at the following rates:

- a* 3 per cent, where the technical service fee or the management fee does not exceed 2 per cent of the amount claimed as a deduction from income in respect of operating expenses incurred in mining operations; and
- b* 20 per cent for any excess amount.

Value added tax

Value added tax (VAT) special relief has recently been limited to cover only exploration and prospecting activities, while excise duty exemptions have been abolished following the 2009 proposed budget review. These amendments are due to be enacted into law shortly after being approved by parliament.

iii Duties

There is a special fiscal regime for mining companies as detailed below.

US dollars accounting

Mining companies may opt to maintain their accounts in US dollars, and their tax liability will be assessed and calculated in US dollars.

Customs duty on imports of mining equipment and supplies

Import duties under the terms of the Customs Tariff Act on a mining company or its subcontractors are at a zero per cent rate during exploration and in the first year of operation; thereafter, they will not exceed 5 per cent.

Corporate income tax

Corporate tax is payable under the Income Tax Act 2004 at a rate not exceeding 30 per cent. Income is computed in the manner set out in the Income Tax Act (as amended from time to time).

Depreciation allowance for capital expenditure

Depreciation shall be deducted at the rate of 100 per cent on capital expenditure for exploration and development.

Loss carry forward

Losses may be carried forward indefinitely until recovered against income.

Expenditure on another licence area

Expenditure on prospecting and mining operations in respect of another licence area may, for the purpose of ascertaining taxable income, be treated as though it were expenditure incurred in respect of the mining licences.

iv Other fees

Annual rents payable for all mineral rights other than minerals under Division D are as follows:

- a* for a prospecting licence for metallic minerals, energy minerals and kimberlitic diamonds for initial period – US\$100 per square kilometre;
- b* for a prospecting licence for building material – US\$100 per square kilometre;
- c* for a prospecting licence for gemstones excluding kimberlitic diamonds – US\$100 per square kilometre;
- d* for first renewal of a prospecting licence – US\$150 per square kilometre;
- e* for second renewal of a prospecting licence – US\$200 per square kilometre;
- f* for a retention licence – US\$2,000 per square kilometre;
- g* for a special mining licence – US\$5,000 per square kilometre;
- h* for a mining licence for metallic minerals, energy minerals, gemstones and kimberlitic diamonds – US\$3,000 per square kilometre; and
- i* for a mining licence for building materials and industrial minerals – US\$2,000 per square kilometre.

Annual rents for minerals under Division D are as follows:

- a* for a primary mining licence for all mineral rights other than gold, kimberlitic diamonds and gemstones (subject to a minimum of US\$25 for each licensed area having less than 2 hectares) – US\$7 per hectare; and
- b* for a primary mining licence for gold, kimberlitic diamonds or gemstones (subject to a minimum of US\$51 for each licensed area having less than 2 hectares) – US\$2,000 per hectare.

VII OUTLOOK AND TRENDS

Global leading companies in the mining industry are acquiring mineral rights in Tanzania. The conversion of primary mining licences to prospecting licences, mining licences and special mining licences also enables foreign-owned companies to hold mineral rights. There is more interest in the tailing processing industry and subsequent applications for processing licences.

There are new mining operations by Shanta Gold in Chunya, Mgusu, Songea and Singida areas in Tanzania. Canaco Resources also has a mining project in Handeni in the Tanga region of Tanzania. Many mergers and acquisitions of smaller mining companies and their mineral rights by leading global mining companies have also taken place.

There has also been a recent change on fee rates for annual rents and applications, which has previously been covered in this chapter.

ROBIN BEALE

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Robin Beale is a director at Tabacks. He is an admitted attorney and obtained his BA and LLB degrees from the University of Cape Town, his LLM (in tax) from the University of South Africa and his PhD degree from the University of the Witwatersrand.

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Batzaya Bodikhuu has experience in a variety of practice areas, including mining project, mergers and acquisitions, infrastructure and natural resources sectors, as well as general corporate transactional and dispute resolution. Mr Batzaya has been named by *Chambers Asia* since 2008, *Chambers Global* in 2009 as an expert in the field of M&A, natural resources and dispute resolution, and has been acknowledged in the *Asia-Pacific Legal 500* in the field of project finance. He has represented a number of major financial institutions, governments, and multinational corporations such as Credit Swiss HK Limited and Morgan Stanley, Mitsui & Co, and China Railway Resource Corporation, Russian Railway, EBRD, IFC, World Bank, Visa International Corporation (USA), Asia Pacific Breweries limited (Singapore) and the Mongolian European Business Council.

Mr Batzaya received his LLB from the West University of Timisoara School of Law in Romania in 2000 and his LLM in 2003 from the National University of Mongolia. He is a member of the Mongolian Bar Association.

SAFIYE ASLI BUDAK

Hergüner Bilgen Özeke Attorney Partnership

Safiye Aslı Budak is a partner specialising in Hergüner Bilgen Özeke's corporate practice at its Ankara office. She has been with the firm since 2007. Her previous experience includes being general counsel at MNG Group; internal auditor at MAN Türkiye AŞ; partner in Reisoğlu Ensari Budak law firm, Ankara; and associate at Reisoğlu Kuntalp Ensari law firm, Ankara.

She provides legal counselling and business advice in general corporate law, project financings, especially within the areas of mergers, acquisitions, joint ventures, securities transactions, and foreign investment. She also participated in extensive negotiations with government and private counterparties.

DAVID C BUXBAUM

Anderson & Anderson LLP

David C Buxbaum has been active in China since 1972 and Mongolia since 1992; his work in the energy field spans a spectrum that includes coal-fired power plants, mining, oil and gas, and nuclear power. He has been Honorary Counsel to the Independent Power Producers Forum since 2000.

Mr Buxbaum, who is active in the securities market in the United States and elsewhere, worked with attorneys at the Ulaanbaatar office to assist the Trade And Development Bank to offer their bonds on the Singapore Stock Exchange, and helped two Canadian corporations, with investments in Mongolia, to go public on one of the Canadian exchanges.

LUIS MOREIRA CORTEZ

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Luis Moreira Cortez has been a senior associate at Coelho Ribeiro e Associados since 2007. His main practice areas are commercial and corporate law, mining law, sports law and air law.

YANCY COTTRILL

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Yancy Cottrill, an attorney working in the Ulaanbaatar office of Anderson & Anderson LLP, is admitted to the New York Bar and is an LLM graduate from the Central European University in Budapest. He has published law review articles on topics ranging from human rights abuses to the applicability of UCC Article 6 in the emerging markets of post-communist countries.

Mr Cottrill has helped to draft a joint venture agreement for the first credit rating agency in Mongolia; helped to draft shareholders' agreements and share sale and transfer agreements for Mongolian mining companies; and edited a newsletter on the status of the Securities Market Law in Mongolia.

ENYONAM DEDEY-OKE

REM Law Consultancy

Enyonam Dedey-Oke holds an LLM in energy and environmental law from the Tulane University School of Law. She joined REM Law as an associate legal counsel in 2006. Prior to that, she had researched extensively with the Legal Resource Centre in Accra where she participated in field research and data gathering in tax and natural resources. Since joining REM Law Ms Dedey-Oke has been involved in providing legal advice on corporate transactions relating to the legal and regulatory framework of the mining industry in Ghana. She has extensive experience in corporate transactions and compliance work.

ENKHTSETSEG NERGUI

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Enkhtsetseg Nergui is senior associate at the firm and has extensive experience in a variety of practice areas, including natural resources, energy, M&A, lending and structured finance, as well as general corporate transactional and advisory work, and specialises in environmental law and policy, and resources transactions law and policy. She has been involved in a number of mining, energy, other natural resource sectors and development issues. In her work with and for governments, international organisations, NGOs, and industry, she has negotiated agreements, developed policies and projects, drafted regulations, conducted legal research, designed and managed projects, and developed manuals and guidebooks.

Ms Enkhtsetseg earned her master's degree in 2008 from the Graduate School of Law at Nagoya University. She received her undergraduate degree in 2001 from Ulaanbaatar-Erdem University.

MÁRCIO PAULO

CGA – Couto, Graça & Associados

Márcio Paulo has six years of experience in the corporate and banking practice. He has recently joined the energy, natural resources and infrastructure department and has been active in the areas of energy, mines and natural resources.

CYRIL PESHA

CRB Africa Legal

Cyril Pesho is an advocate, and banking and corporate law consultant, with specialisations extending through development banking, insurance, capital markets and securities, civil litigation and debt recovery competencies. He was exposed to mining law as head of department of mining in Tanzania Legal Corporation in the 1980s, before diversifying into development banking as in-house counsel in Tanzania and East Africa, including advising hands-on investments in mining, and structuring of securities for mining and other loans. He has given several opinions in oil and gas and mining law at the instance of financiers and foreign law firms and has, in the last three years, participated in the preparation of articles on mining and oil and gas in industry magazines. He has attended energy and mining conventions, including the Indaba in 2011 and Perth Commonwealth Business Forum in 2011. He is a graduate of the University of Dar es Salaam with postgraduate qualifications from the University of Amsterdam.

TARJA PIRINEN

Hammarström Puhakka Partners, Attorneys Ltd

Attorney-at-Law, partner, Tarja Pirinen joined Hammarström Puhakka Partners, Attorneys Ltd in November 2012. Prior to joining Hammarström Puhakka Partners she worked at another leading Finnish law firm and before that in a New York-based law firm in Helsinki. She has also worked at a law firm in New York. Ms Pirinen specialises in mining law and assists mining companies in all phases of their exploration and mining projects. She has assisted several international mining companies in acquisitions and transactions within the mining sector as well as in contractual arrangements and the legal questions relating to mining projects and the management of rights under mining law.

ERIK RICHER LA FLÈCHE

Stikeman Elliott LLP

Erik Richer La Flèche is a partner in the Montreal office of Stikeman Elliott specialising in commercial transactions in Canada and abroad, including capital and natural resource projects, mining, PPPs and project finance. He has led large projects in more than 25 countries. From 1981 to 1984 he was seconded to Anderson Mōri Tomotsune (Tokyo). He is currently involved in an aluminium smelter expansion (Quebec, Canada), a port (Africa), wind farms (Quebec, Canada), a hospital (Canada), a mine (Canada), a railroad (Asia Minor) and a high voltage transmission line (Canada–US). He is included in Legal Media Group's *Expert Guide to the World's Leading Banking Finance and Transactional Attorney* in the project finance sector; Legal Media Group's *Expert Guide to the World's Leading Energy Lawyers*; *The International Who's Who of Public Procurement Lawyers*; *Who's Who Legal Canada*; Chambers Global's *Guide to The World's Leading Lawyers for Business*; IFLR1000 *Guide*

to the *World's Leading Financial Law Firms*; and *The Best Lawyers in Canada*. He is a founding shareholder and director of Cordiant Capital Inc, and the adviser to the Canada Investment Fund for Africa and four loan funds that have raised in aggregate of more than US\$2 billion for investment in emerging markets. He is also the director of a number of start-ups and Canadian subsidiaries of Japanese and French multinationals. He regularly advises governments, and lectures on foreign investments, natural resources and infrastructure. He has been a member of the Quebec Bar since 1979 and of the Ontario Bar since 1986.

CHARLES R B RWECHUNGURA

CRB Africa Legal

Charles R B Rwechungura is an advocate and corporate law consultant in Tanzania, managing the law firm CRB Africa Legal.

Since late 2006, he has focused on the mining sector in addition to his specialisation in banking, project finance, capital markets and securities, insolvencies and selected commercial litigation. He has provided important services to mining companies, including conducting mineral rights due diligences and giving legal opinions, negotiating joint venture agreements, advising on acquisition of mineral rights and mining businesses, and acting for companies as retained counsel. He has vast experience in project finance and capital markets in the mining industry, especially in giving mineral rights opinions as Tanzanian counsel to several mining companies seeking to raise money on overseas exchanges and restructuring of loans.

Mr Rwechungura has been actively involved in the mining sector legal regulatory reforms. He was one of the consultants who wrote the Mining Policy and the resultant Mining Act of 1998, and participated in several stakeholders' conferences that preceded the passage of the new 2010 Act. He attends and often makes presentations at international mining conferences, such as the Indaba and annual mining summits in Toronto.

RODERICK R C SALAZAR III

Fortun Narvasa & Salazar

Roderick R C Salazar obtained his bachelor of arts in economics and bachelor of law degrees at the University of the Philippines, Diliman, and was admitted to the Philippine Bar in 1988. With a law practice spanning 25 years, he counsels foreign and domestic clients and specialises in corporate law, commercial law, mining law, taxation, real estate law, securities and alternative dispute resolution. He is a member of the Law Association for Asia and the Pacific, the International Bar Association, the Inter-Pacific Bar Association, the Philippine Bar Association, Intellectual Property Law Association of the Philippines, Canadian Chamber of Commerce. He serves as the corporate secretary of the Australian-New Zealand Chamber of Commerce (Phils.) and the chairman of the Legal Committee of the Chamber of Mines of the Philippines. He was also included in the 2010 edition of the *International Who's Who of Mining Lawyers* for the Philippines. He was ranked as a leading lawyer in natural resources and mining by *Chambers Global 2011* and is highly recommended as a leading lawyer in projects, energy and natural resources by *Chambers Asia-Pacific 2012*. He is a lecturer on corporation law, property law, partnership, agency and trust in three Philippine law schools.

DAOUDA SAMNA SOUMANA

SCPA Mandela

Daouda Samna Soumana is a partner and co-founder of SCPA Mandela. He has practised law for the past 13 years.

He has been involved in numerous major investment projects in Niger and west Africa and is also a member of several professional bodies, including the Association for the Fight against Corruption, the Nigérien section of Transparency International.

RUI BOTICA SANTOS

CRA – Coelho Ribeiro & Associados

Rui Botica Santos has been the senior partner at Coelho Ribeiro & Associados since 1998. He is also the founding partner of CRA Timor, a law firm that has operated in East Timor since 2006.

Mr Santos is admitted to the roll of advocates in three jurisdictions: Portugal, Brazil and East Timor.

He holds a law degree and a postgraduate degree in community studies, both from the University of Lisbon. He also has a certificate in a mining law short course – domestic and international issues – issued by the Rocky Mountain Mineral Law Foundation (US, May 2009).

Mr Santos is also a master *honoris causa* of the ISDE – Instituto Superior de Derecho y Economía (Spain), where he is also an invited lecturer at the masters LLM in international sports law, and has also lectured on negotiation, mediation and arbitration since 2007. In addition, he has lectured on insolvencies at the Nova Fórum – Instituto de Formação de Executivos, Faculty of Economics workshop at the Universidade Nova de Lisboa.

Mr Santos is an official arbitrator at the Court of Arbitration for Sport (headquarters in Lausanne) and at the Fédération Internationale de l'Automobile (headquarters in Paris).

His main practice areas are natural resources and dispute resolution.

PENDO MARSHA SHAMTE

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Pendo Marsha Shamte is an associate at CRB Africa Legal. She is an advocate and a corporate law consultant in Tanzania. She has worked on the firm's mining, environment, energy and gas portfolios since 2010. She also works on the banking, project finance and capital markets portfolios.

Ms Shamte has worked with the partners of the firm in helping investors to establish a corporate presence in Tanzania, conducting mineral rights due diligence reviews, giving binding opinions for various purposes, advising in the negotiation of joint venture agreements and acting as Tanzanian counsel.

ANNA SNEJKOVA

Avent Advokat

Anna Snejkova has been an associate with Avent Advokat since 2009. She is a graduate of Westminster International University in Tashkent (BA in commercial law) and specialises in commercial, labour and civil litigation.

Appendix 2

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