

Addis Ababa 4<sup>th</sup> August, 2010

Proclamation No. 678/2010

**A PROCLAMATION TO PROMOTE SUSTAINABLE  
DEVELOPMENT OF MINERAL RESOURCES**

WHEREAS the Constitution of the Federal Democratic Republic of Ethiopia provides that the right to ownership of all natural resources of Ethiopia is exclusively vested in the Government and in the peoples of Ethiopia and that the Government is the custodian thereof;

WHEREAS minerals are non-renewable natural resources and that the Government shall ensure the conservation and development of these resources to the socio-economic progress of all Ethiopians;

WHEREAS it is the obligation of the Government to protect the environment for the benefit of present and future generations and to ensure ecologically sustainable development of minerals;

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

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

**PART ONE**

**GENERAL**

**1. Short Title**

This Proclamation may be cited as the "Mining Operations Proclamation No. 678/2010".

**2. Definitions**

In this Proclamation, unless the context otherwise requires:

- 1/ "arms length transaction" means the value of any mineral resource at a commercial price that would have been agreed to by unconnected persons for such a resource if those persons were freely negotiating on the open market under similar circumstances taking into account solely the characteristics of quality and quantity of the mineral resource transferred;
- 2/ "artisanal mining" means a mining operation carried out by individuals or cooperatives which is mostly of manual nature and that does not involve the engagement of employed workers;

- 3/ “construction mineral” means any mineral directly or indirectly used as input for construction purposes such as marble, granite, limestone, basalt, sand, aggregate, ignimbrite and clay and includes any other non-metallic mineral designated as such by directives of the Ministry;
- 4/ “consumables” means anything needed for mining operations that are expendable and replaced during service including chemicals and those the Ministry may, by directives, designate as consumables;
- 5/ “day” means a calendar day and when any particular number of days are prescribed for the doing of any thing in this Proclamation, regulations or directives, those days shall be determined by excluding the first and including the last day, unless the last day falls on a Saturday, a Sunday or any public holiday;
- 6/ “directives” means directives issued pursuant to this Proclamation;
- 7/ “domestic investor” means an Ethiopian or a foreign national permanently residing in Ethiopia having made an investment, and includes the government, public enterprises as well as a foreign national of Ethiopian origin and desiring to be considered as a domestic investor;
- 8/ “exploration” means searching for any mineral by means of photographs, images, geological, geochemical, geophysical and drilling methods which disturbs the surface or subsurface of the earth, including any portion of the earth that is under water, or in or on any residue stockpile or residue deposit, in order to establish the existence of any mineral and to determine the extent and economic value;
- 9/ “foreign investor” means a foreign national or an enterprise owned by foreign nationals, having invested foreign capital in Ethiopia, and includes an Ethiopian permanently residing abroad preferring treatment as a foreign investor;
- 10/ “government” means the Government of the Federal Democratic Republic of Ethiopia and includes states where appropriate;
- 11/ “industrial mineral” means any mineral directly or indirectly used as industrial input such as kaolin, bentonite, quartz, coal, limestone, gypsum, pumice, clay and graphite and includes any other mineral the Ministry may, by directives, designate as such, excluding metallic and precious and semi-precious minerals;
- 12/ “large scale mining” means any mining operation of which the annual run-of-mine ore exceeds the limit stated in sub-article (35) of this Article with the exception of precious and semi-precious stones;
- 13/ “license” means a reconnaissance license, an exploration license, a retention license or a mining license issued pursuant to this Proclamation;
- 14/ “license area” means any area which is the subject of a license;

- 15/ “licensee” means the holder of a reconnaissance license, an exploration license, a retention license or a mining license or any successor thereof;
- 16/ “licensing authority” means the Ministry of Mines and Energy or a state organ in charge of the mining sector as appropriate;
- 17/ “metallic mineral” means any mineral such as iron, copper, zinc, lead, chromites, nickel and manganese and includes any other mineral the Ministry may, by directives, designate as such excluding precious and semi-precious minerals;
- 18/ “mining” means any operation or activity directed at extracting minerals from a mineral deposit on or in the earth and water, any residue deposit or residue stockpile by any method, and any operation incidental thereto, such as storage, treatment, processing (excluding smelting and refining), transportation and disposal;
- 19/ “mineral” means any mineral substance of economic value, whether in solid, liquid or gaseous form, occurring naturally on or within the earth or in or under water and which was formed by or subjected to a geological process, and includes any mineral occurring in residue stockpiles or in residue deposits, but excludes:
- a) water, other than water used for the extraction of any mineral such as brine;
  - b) natural gas and petroleum as defined in the relevant petroleum law;
  - c) top soil and oil shale;
- 20/ “mining license” means large scale, small scale or artisanal mining license issued pursuant to this Proclamation;
- 21/ “mining operation” means any activity associated with or connected to reconnaissance, exploration, retention or mining;
- 22/ “mineral right” means any right associated with reconnaissance license, exploration license, retention license or mining license;
- 23/ “Ministry” means the Ministry of Mines and Energy or any successor thereof;
- 24/ “precious mineral” means precious metallic mineral such as platinum, gold and silver or precious stone such as diamond, ruby, emerald and sapphire and includes any other mineral the Ministry may, by directives, designate as such;
- 25/ “person” means any natural or juridical person;
- 26/ “processing” means winning, extracting, concentrating, calcining, classifying, crushing, screening, washing, reduction, or gasification of a mineral;
- 27/ “reconnaissance” means any operations carried on in a general search for any mineral;

- 28/ “register” means the register of mining rights or the electronic mining cadastre provided for in this Proclamation;
- 29/ “regulations” means regulations issued pursuant to this Proclamation;
- 30/ “residue deposit” means any residue stockpile remaining at the termination, revocation or expiry of any mining license;
- 31/ “residue stockpile” means any debris, discard, tailings, slimes, screening, slurry, waste rock, foundry sand, beneficiation plant waste, ash or any other product derived from or incidental to a mining operation and which is stockpiled, stored or accumulated for potential re-use, or which is disposed of, by the holder of a mining license;
- 32/ “Royalty” means the payment to the government and the peoples’, who are the sole owners of the mineral resources to be made by the licensee for producing minerals from the production site of minerals and the percentage rate of such payment is to be assessed from time to time excluding the price of production and risk expenditures.
- 33/ “sales price” means the commercial price of minerals at the point of export from Ethiopia (FOB) or, in the case of consumption within Ethiopia, at the point of delivery within Ethiopia, less:
- a) the cost of transportation, including insurance and handling charges, from the mining area to the point of export or delivery; and
  - b) the cost of smelting and refining or other processing costs unless such other processing costs relate to processing normally carried out in Ethiopia in the mining area;
- 34/ “semi-precious mineral” means gem stones that are used for jewellery such as opal, rhodolite, olivine, jadite and lazurite and includes any other mineral the Ministry may, by directives, designate as such, excluding precious minerals;
- 35/ “small scale mining” means any mining operation of which the annual run-off mine ore does not exceed:
- a) regarding gold, platinum, silver and other precious and semiprecious minerals:
    - (1) 100,000m<sup>3</sup> for placer operation;
    - (2) 75,000 tons for primary deposit mining;
  - b) regarding metallic minerals such as iron, lead, copper and nickel:
    - (1) 150,000 tons for open pit mining;
    - (2) 75,000 tons for under ground mining operation;
  - c) 120,000 tones for industrial minerals such as kaolin, bentonite, diatomite, dolomite, quartz and coal;

- d) regarding construction minerals:
    - (1) 80,000 m<sup>3</sup> for sand, gravel, pumice, ignimbrite, clay and the like;
    - (2) 10,000m<sup>3</sup> for dimension stones such as marble and granite;
  - e) regarding geothermal deposit:
    - (1) 2,000,000m<sup>3</sup> for bathing, recreational and medicinal purpose;
    - (2) 25 mega watt or geothermal steam capable of generating equivalent power for industrial and other purposes;
  - f) 14,000 tons for salts extracted from brines;
- 36/ “state” means any state specified under Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia, and includes the Addis Ababa and Dire Dawa city administrations;
- 37/ “strategic mineral” means any mineral the Ministry may, by directives, designate as such;
- 38/ “transfer” means a sale, encumbrance, inheritance, assignment or any other transfer;
- 39/ “work program” means the program of work for exploration or mining, as the case may be, that shows details of the work, the time schedule, the required budget, the organizational structure and its manning;
- 40/ any expression in the masculine gender includes the feminine.

### **3. Scope of Application**

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

## **PART TWO**

### **FUNDAMENTAL PRINCIPLES AND GENERAL PROVISIONS**

### **4. Objectives**

The objectives of this Proclamation are to:

- 1/ give effect to the principle of the custodianship of the country’s mineral resources by the Government;
- 2/ promote socio-economic growth of the country;

- 3/ promote employment and advance the social and economic welfare of all Ethiopians;
- 4/ provide for security of tenure for all investors in respect of exploration and mining operations; and
- 5/ ensure that the country's mineral resources are developed in an orderly and sustainable manner.

**5. Custodianship of Mineral Resources**

- 1/ Mineral resources existing in their natural condition on, in, and under the territory of Ethiopia are the property of the Government and all the peoples of Ethiopia.
- 2/ The Government shall have the duty to hold mineral resources, on behalf of the peoples, and deploy them for the benefit and development of all Ethiopians.
- 3/ The Government, acting through the Licensing Authority, shall control and administer mineral resources and grant, refuse and manage licenses.

**6. Reservation of Land**

- 1/ Subject to sub-articles (2) and (3) of this Article, any land in Ethiopia shall be available for mining operations.
- 2/ Where the Ministry considers it that it is in the best interests of the country, it may, by legal notice, reserve any land from mining operations.
- 3/ No person shall be granted an exploration license, a retention license or a mining license over an area:
  - a) reserved for cemeteries and religious sites;
  - b) containing archaeological remains or national monuments;
  - c) reserved for physical infrastructure;
  - d) within areas reserved for natural habitats or national parks;
  - e) within 500 metres from the boundary of a village, city or water reservoir or dam without the consent of the competent body; or
  - f) reserved by any other law of the country.
- 4/ A legal notice issued pursuant to sub-article (2) of this Article, may not affect land which, on the date of the notice is subject to a mineral right.
- 5/ The Government may, where it is in the national interest of the country, authorize the opening of any reserved area under sub-articles (2) or (3) of this Article for mining operations upon providing appropriate compensatory arrangements.

**7. Requirement of License**

- 1/ No person may undertake mining operations without having obtained the relevant license under this Proclamation.
- 2/ No person may hold, transport or sell any minerals in their natural state without having a valid license.
- 3/ A legitimate occupant of land may produce and use for non commercial purpose, free of charge and with out permission of the Licensing Authority, construction minerals from the area he occupies, provided that the area is not excluded or reserved pursuant to the provisions of this Proclamation and provided further that he does not disturb or damage the adjacent occupant's land or property.
- 4/ Any person may produce and use for non commercial purpose, without charge and with the permission of the Licensing Authority, construction minerals for the construction and maintenance of roads, dams, airports, schools, hospitals and other public works.
- 5/ Any Ethiopian may conduct reconnaissance without having license provided that he does not interfere with the rights of a licensee or any other person

**8. Government Mining Operations**

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

**9. Types of Licenses**

The following licenses may be issued under this Proclamation:

- 1/ a reconnaissance licence;
- 2/ an exploration licence;
- 3/ a retention licence;
- 4/ artisanal mining license;
- 5/ small scale mining licence; and
- 6/ large scale mining licence.

**10. Types of Certificates**

The following certificates may be issued under this Proclamation:

- 1/ a certificate of discovery;

- 2/ a certificate of professional competence.

## **11. Eligibility for License**

- 1/ A license may be granted to any person who satisfies the requirements of the relevant license set out in this Proclamation, regulations and directives provided that the applicant is qualified to carry on trade under the provisions of the relevant law and possess or has a confirmed access to financial resources and technical competence.
- 2/ No person is required to possess financial resources, technical and professional competence in order to acquire artisanal mining license.
- 3/ No License may be granted or held by:
  - a) Any person who is un-rehabilitated insolvent, or is under a scheme of arrangement with creditors;
  - b) a business organization which is in liquidation, other than a liquidation which forms a part of a scheme for the reconstruction of the business organization or for its amalgamation with another business organization;
  - c) a non-citizen of Ethiopia or a group of people who are not registered as a cooperative society in accordance with the relevant law where it is for artisanal mining license.
- 4/ A licensee whose license is revoked due to fraudulent misrepresentation or the presentation of a false statement may not be granted another license for five years starting from the date of revocation of the previous license.

## **12. Applications for License**

- 1/ An application to be submitted to the Licensing Authority for the issuance, renewal or transfer of license in accordance with the relevant provisions of this Proclamation shall be in the form prescribed and:
  - a) be accompanied by the documentation required by this Proclamation, regulations and directives and with the payment of the prescribed application fee; and
  - b) in the case where the applicant is a business organization, be accompanied with a documentary proof that it is registered as a business organization in accordance with the relevant law and with other relevant legal documents.
- 2/ Where the Licensing Authority is satisfied with the application, it shall forthwith register same and give receipt to the applicant.



### **13. Order of Processing of Applications**

- 1/ Unless the Licensing Authority determines otherwise on the basis of the economic benefit of the minerals or other appropriate investment objectives:
  - a) an application submitted for a large scale mining license shall take precedence over applications for small scale and artisanal mining licensees, and an application for small scale mining license shall take precedence over an application for artisanal mining license;
  - b) if the Licensing Authority receives more than one applications for licenses of the same status covering the same mineral and area, the applications shall be dealt with in the order of receipt;
  - c) where two or more applicants lodge applications for licenses of the same status at the same time covering the same mineral and area, the Licensing Authority shall constitute a technical team to evaluate the applications and the priority shall be determined on the basis of the evaluation of the technical work plan, the financial proposal, and the technical competency of the applicants;
- 2/ If two or more applicants submit applications to the Ministry and the licensing authority of a state for licenses covering the same area, the Ministry and the concerned state licensing authority shall appoint a joint technical team to evaluate the applications and the priority shall be determined on the basis of the evaluation of the technical work plan, the financial proposal, and the technical competency of the applicants.
- 3/ A woman applicant, if any, shall have priority provided that the results of the evaluation conducted pursuant to sub-article (1) or (2) of this Article are equal.
- 4/ Notwithstanding with the provisions of sub-articles (1), (2) and (3) of this Article, the Licensing Authority may, where it deems appropriate, disregard the applications and opt for bidding for the area in question.

### **14. Notification of Interested Parties**

- 1/ The Licensing Authority shall, after registering the application, publicise it to third parties through widely accessible mass media.
- 2/ If any person objects to the granting of the license within seven days from the date of publicity under sub-article (1) of this Article, the Licensing Authority shall initiate negotiations between the concerned parties to resolve the objection.
- 3/ If the parties fail to resolve the objection, the Licensing Authority shall hear the presentations of both parties and decide on the upholding or rejection of the objection within 15 working days.

**15. Registry of Licenses and Leases**

- 1/ The Licensing Authority shall establish and maintain a Registry of Licenses and Leases.
- 2/ The Registry shall contain details of all registered applications for licenses and all details of their granting or refusal, and any other particulars as may be required by the relevant provisions of this Proclamation, regulations and directives.
- 3/ Every license, lease and instrument under which mining right is transferred, assigned, surrendered, suspended, revoked, encumbered inherited or otherwise treated shall be registered in the Registry. Each instrument relating to such rights must be presented for registration within 90 days after the date thereof or it shall otherwise be null and void.
- 4/ The Registry shall be open to the public for inspection.
- 5/ A copy of every instrument required to be filed with the Licensing Authority for registration, together with the map or other plan necessary for identification of the area concerned, shall be filed with the register of immovable property of the Government pursuant to the applicable laws.

**PART THREE**

**LICENSES**

**16. Granting Reconnaissance license**

The Licensing Authority shall grant a non-exclusive reconnaissance license where the work program does not involve any geological work that would result in the disturbance of the surface of the earth.

**17. Duration of Reconnaissance License**

- 1/ A reconnaissance license shall be valid for the period specified in the license; provided however, that such period shall not exceed 18 months.
- 2/ A reconnaissance license shall not be renewable.

**18. Granting Exploration License**

- 1/ The Licensing Authority shall grant an exclusive Exploration License where:
  - a) the applicant has demonstrated that it has acquired or has access to the financial resources and the technical ability to conduct the proposed exploration operation in accordance with the work programme;

- b) the estimated exploration expenditure is in accordance with the prescribed minimum exploration expenditure and the exploration work program;
  - c) the environmental impact plan is approved; and
  - d) the applicant is not in breach of any obligation of his reconnaissance license, if any.
- 2/ Where the Licensing Authority refuses to grant an exploration license, it shall notify, in writing, the applicant of the decision and the reasons thereof.

**19. Duration of Exploration License and Renewal**

- 1/ an exploration license shall be valid for an initial period specified in the license; provided however, that such period shall not exceed three years.
- 2/ an exploration license may be renewed twice for a period not exceeding one year each. The Licensing Authority may further allow extension of renewal to be made on each year where the licensee proves the necessity to undertake exploration activity beyond the initial work programme. Provided however, that such period shall not exceed five years.
- 3/ The licensee shall have the right to renew the license provided that he has fulfilled the obligations specified in the license, meets all the requirements in connection with the application for the renewal and is not in breach of any provision of this Proclamation, regulations or directives which constitute grounds for suspension or revocation of the license.

**20. Rights and Obligations of the Holder of an Exploration License**

- 1/ Without prejudice to the appropriate provisions of this proclamation, the holder of an exploration license shall have the rights to:
  - a) apply for and be granted a retention license;
  - b) apply for and be granted a mining license;
  - c) remove and transport minerals or bulk samples found during the course of exploration in such quantities as may be required to conduct tests or other analysis with the prior written permission of the Licensing Authority; provided however that, such minerals shall remain the property of government and the licensee may not sell them without the prior written approval of the Licensing Authority.
- 2/ Without prejudice to the appropriate provisions of this proclamation, the holder of an exploration license shall have the obligations to:

- a) commence with exploration activities within 60 days from the date on which the exploration license becomes effective;
- b) comply with the terms and conditions of the license;
- c) keep duplicates of samples removed and transported for tests or any other analysis.

**21. Variation of Work Program**

- 1/ The holder of an exploration license may at any time apply to vary the approved work program.
- 2/ Any application for variation shall:
  - a) demonstrate the events that prevent the licensee from carrying out the approved work program; and
  - b) be accompanied with the intended amendments of the work program.
- 3/ The Licensing Authority shall, after examining the application for variation:
  - a) approve the variation if it finds it acceptable; or
  - b) if it rejects the application, it shall notify, in writing, the applicant the reasons for refusal.

**22. Relinquishment of Portion of License Area**

- 1/ In applying for each renewal of an exploration license, the licensee shall indicate the portion of the license area, to be relinquished which shall not be less than one fourth of the license area.
- 2/ The form, orientation and other details regarding relinquishment shall be specified by directives.

**23. Granting Retention License**

- 1/ The Licensing Authority shall grant an exclusive retention license to the applicant where:
  - a) the applicant has demonstrated that the discovery of a mineral deposit within the exploration area which is potentially of commercial significance; and
  - b) the mineral deposit cannot be developed immediately because of adverse market conditions, other economic factors, or unavailable processing technologies, which are of a temporary character.

- 2/ The Licensing Authority may refuse to grant a retention license if it is established that:
  - a) the required processing technology is available and the mineral deposit can be mined profitably;
  - b) it may prevent fair competition; or
  - c) it may result in the concentration of mineral resources in the hands of the applicant.
- 3/ Where the Licensing Authority refuse to grant a retention license, it shall notify, in writing, the applicant of the decision and the reasons for refusal.

**24. Duration and Renewal of Retention License**

- 1/ A Retention License shall be valid for the period specified in the License, however, that such period shall not exceed three years.
- 2/ The retention license may be renewed once for a period not exceeding three years where the licensee demonstrates that the conditions specified under sub-article (1) of Article 23 of this Proclamation still prevails.

**25. Rights and Obligations of the Holder of Retention License**

- 1/ The holder of a retention license shall, subject to sub-article (2) of this Article, have the right to be granted a mining license, in respect of the retention area and mineral in question prior to expiry of the license.
- 2/ The holder of a retention license shall submit an annual progress report to the Licensing Authority indicating:
  - a) the prevailing market conditions and technical factors, the effect thereof and the need to hold such retention license over the mineral and land in question; and
  - b) efforts undertaken by it to ensure that mining operations commence before expiry of the duration of the license.

**26. Granting Large Scale Mining License**

- 1/ The Licensing Authority shall grant an exclusive mining license to an applicant where:
  - a) the proposed work program is approved;
  - b) the applicant has access to financial resources and technical ability to conduct the proposed mining operations optimally and in a safe manner;
  - c) the environmental impact assessment has been approved; and

- d) the applicant is not in contravention of any obligations of the exploration license, if any.
- 2/ If the Licensing Authority refuses to grant a mining license, it shall notify, in writing, the applicant of the decision and the reasons for refusal.

**27. Duration of Large scale Mining License and Renewal**

- 1/ A large scale mining license shall be valid for the period specified in the license; provided however, that such period shall not exceed 20 years.
- 2/ A large scale mining license may be renewed for a period not exceeding 10 years each subject to sub-article (3) of this Article.
- 3/ The licensee shall have the right to renew the license provided that he can demonstrate the continued economic viability of mining the deposit, has fulfilled the obligations specified in the license, and is not in breach of any provision of this Proclamation, regulations or directives which constitute grounds for suspension or revocation of the license.

**28. Granting Small Scale Mining License**

- 1/ The Licensing Authority shall grant an exclusive small scale mining license to an applicant where:
  - a) the proposed work program is approved;
  - b) the applicant has access to financial resources and technical ability to conduct the proposed mining operations optimally and in a safe manner;
  - c) the environmental impact assessment has been approved; and
  - d) the applicant is not in contravention of any obligations of the exploration license, if any.
- 2/ If the Licensing Authority refuses to grant a mining license, it shall notify, in writing, the applicant of the decision and the reasons for refusal.

**29. Duration of Small scale Mining License and Renewal**

- 1/ A small scale mining license shall be valid for the period specified in the license; provided however, that such period shall not exceed 10 years.
- 2/ A small scale mining license may be renewed for a period not exceeding five years each subject to sub-article (3) of this Article.
- 3/ The licensee shall have the right to renew the license provided that he can demonstrate the continued economic viability of mining the deposit, has fulfilled the obligations specified in the license, and is not in breach of any

provision of this Proclamation, regulations or directives which constitute grounds for suspension or revocation of the license.

**30. Rights and Obligations of Holders of Small and Large Scale Mining Licenses**

- 1/ The holder of a small scale or large scale mining license shall have the rights to market and sell minerals produced.
- 2/ The holder of a small scale or large scale mining license shall:
  - a) commence mining operations within one year from the date on which the license becomes effective; and
  - b) comply with the terms and conditions of the license.

**31. Variation of Work Program**

- 1/ The holder of a small scale or large scale mining license may at any time apply to vary the approved work program.
- 2/ Any application for variation shall:
  - a) demonstrate the events that prevent the licensee from carrying out the approved work program; and
  - b) be accompanied with the intended amendments of the work program.
- 3/ The Licensing Authority shall, after examining the application for variation:
  - a) approve the variation if it finds it acceptable; or
  - b) if it rejects the application, it shall notify, in writing, the applicant the reasons for refusal.

**32. Artisanal Mining License**

- 1/ The Licensing Authority shall grant an exclusive artisanal mining license where the applicant is eligible for such license.
- 2/ The holder of an artisanal mining license shall:
  - a) be obliged to undertake the mining operations in accordance with the environment, health and safety standards prescribed for artisanal mining in the relevant laws;
  - b) comply with the terms and obligations of the license.

- 3/ An artisanal mining license shall be valid for the period specified in the license; provided however, that such period shall not exceed three years.
- 4/ The license may be renewed twice for three years each.
- 5/ The Licensing Authority may, after giving 90 days prior written notice, revoke an artisanal mining license where it is considered that the deposit requires more advanced exploration and mining method for the best development of its economic potential.
- 6/ The Licensing Authority shall give preferential treatment to the licensee where the latter shows that he has the necessary technical and financial resources to engage in the advanced exploration and mining as prescribed by the Licensing Authority.
- 7/ Where preferential treatment is not accorded to the licensee, the Licensing Authority shall at the option of the licensee grant him another area of mining operation or determine the amount of compensation which shall be paid to the licensee for the loss incurred due to the revocation of the license. Such compensation shall be paid to the licensee promptly.

**33. General Rights of Licensees**

- 1/ In addition to the rights under other provisions of this Proclamation, a licensee shall, as appropriate, have the rights to:
  - a) enter the license area and bring to that license area any plant, machinery and equipment, and build and construct any surface or underground infrastructure required for the purposes of his mining operations;
  - b) use, subject to the relevant water laws, water from any water body, situated on, or flowing through, such land or sink a well or borehole required for mining operations;
  - c) use construction minerals from within the license area and an area adjacent to the license area as required for erecting essential physical infrastructure within the license area;
  - d) request the appropriate authority for a lease of land outside of the license area which is required for mining operations; provided however, that the terms and conditions of such lease shall be determined by the appropriate authority and its duration may not in any event exceed the term of the license including any renewal thereof;
  - e) subject to the applicable laws regarding the cutting of timber and reforestation, cut and use, within the license area and the area of lease, timber which is necessary for mining operations;
  - f) use the existing infrastructure if such use shall not impair the use thereof by other persons;



- g) cut such timber as is strictly necessary for access to the license area;
  - h) relinquish all or part of the license area by giving prior written notice to the Licensing Authority and upon fulfilment of all obligations of the license;
  - i) modify his license to include other minerals not specified in the license or to include other areas outside his license area where he believes that the license area does not include the entire deposit of minerals.
- 2/ Except in the case of fraud, no irregularity in the application for or in the proceedings previous to the grant or extension of term of a license shall affect the rights of the licensee.

**34. General Obligations of Licensees**

- 1/ In addition to the obligations under other relevant provisions of this Proclamation, a licensee shall have the obligations to:
- a) carry out mining operations in a prudent, diligent, and efficient manner, in accordance with the appropriate laws, technology and good mining operation practices generally accepted in the mineral industry;
  - b) conduct mining operations in such a manner as to ensure the health and safety of his agents, employees and other persons, and comply with the applicable laws pertaining to environmental protection;
  - c) ensure that employees get the training and education necessary for mining operations;
  - d) take proper precautions not to interfere with other legitimate occupants of the license area, the land covered by a lease and adjacent land;
  - e) cooperate and contribute financially in the construction and maintenance of infrastructure to be used jointly with other licensees or other persons within the license area or lease area;
  - f) permit other persons to use his infrastructure freely or, when the use is for commercial purpose, upon the payment of the appropriate fee, provided however, that such use does not impair his mining operations;
  - g) permit other persons or the Government to use temporarily his infrastructure in circumstances of emergency, subject only to the payment of compensation in the event of damage thereto;

- h) give preference to the employment of Ethiopian nationals, provided that such persons have the required qualifications;
  - i) give preference to domestic goods and services, where they are readily available at a competitive price and are of a comparable quality;
  - j) effect timely all payments required under this Proclamation, regulations and directives;
  - k) make available all books and records for inspection by the Licensing Authority and other duly authorized officials under the relevant laws;
  - l) remove constructions in the license area and lease area upon termination of the license or relinquishment of the license area.
- 2/ The allocation of the cost of construction and maintenance of infrastructure under sub-article 1(e) of this Article shall be determined by the Licensing Authority on the basis of proportional use of the infrastructure.
- 3/ The Government may takeover, free of charge, the constructions not removed by a license under sub-article 1(l) of this Article.

**35. Boundaries of License Area**

A license area shall comprise of:

- 1/ the land within the boundaries and all sub-soil there under to an indefinite depth within the vertical planes passing through each boundary where the mining involves a primary or placer mining operations;
- 2/ the depth of the deposit compiled where the mining involves mining operations from stockpile or residue.

**36. Superimposition of Licenses**

The Licensing Authority may, subject to Article 37(1) of this Proclamation, grant licenses for different minerals within the same license area subject to notification of the holder of any existing license in the same area upon assessment of the impact of the superimposed license on existing mining operation.

**37. Precedence of Licenses**

- 1/ Unless the Licensing Authority determines otherwise on the basis of the economic benefit of the minerals or other appropriate investment objectives:
  - a) a large scale mining operations shall take precedence over small scale and artisanal mining operations, and small scale mining

operations shall take precedence over that of artisanal mining operations;

- b) if more than one licenses of the same status have been issued covering the same area but for different minerals, the first issued license shall take precedence over mining operations of the other license.
- 2/ If any area subject to a license is found to be superimposed upon that of another such license for the same minerals, the area in dispute shall be considered to be within the area of the first-issued license.

**38. Transfer of License**

- 1/ Any license, other than a reconnaissance or retention licenses, may be transferred with the prior consent of the Licensing Authority.
- 2/ No license may be transferred to a person specified under sub-article (3) of Article 11 of this Proclamation.
- 3/ Any transfer of license shall have no effect unless registered by the Licensing Authority.

**39. Surrender**

- 1/ The holder of a small-scale or large-scale mining license or a lease may, without prejudice to the rights of persons claiming under the license, surrender any such license or lease by giving to the Licensing Authority, unless otherwise agreed, at least 12 months advance written notice.
- 2/ Any person who surrenders his license or lease right, pursuant to sub-article (1) of this Article, shall not be released from the liability of performing the duties imposed upon him and due to be performed during the term of the license or lease.

**40. Disclosure of Information**

- 1/ No information, reports, documents or data submitted to the Licensing Authority or any other government agency under this Proclamation by the licensee shall, for as long as the license remains in effect, be disclosed, except with the consent of the licensee.
- 2/ Nothing in sub-article (1) of this Article shall operate to prevent the disclosure of information where the disclosure is made:
  - a) for the purpose of legal proceedings, an inquiry or investigation conducted by an organ of justice administration;

- b) to any person being a consultant to the government or officer who is authorized by the Licensing Authority to receive such information;
- c) for the preparation by or on behalf of the government of statistics in respect of mining operations, provided such disclosure is no more specific in detail than is necessary for the purpose of the statistics concerned.

**41. Records and Reports**

- 1/ Any licensee shall maintain, in the country, proper records containing the following information and submit reports to the Licensing Authority:
  - a) information pertaining to his mining operations and the results connected therewith, including borehole core and core-log data;
  - b) employment, financial, commercial and other relevant information.
- 2/ The licensee may not dispose of or destroy any record, borehole core or core-log data specified in sub-article (1) of this Article, without the prior written consent of the Licensing Authority.

**42. Title to, sale and export of Minerals**

- 1/ The holder of an exploration license shall have the right to remove, transport, analyze and, with the prior consent of the Ministry, export samples of minerals for testing; provided however, that such minerals shall remain the property of the Government, and the licensee shall not dispose of them without the prior consent of the Ministry.
- 2/ The holder of a mining license shall obtain title to the minerals specified in the license upon their extraction.
- 3/ The holder of a mining license shall have the right to sell locally or export the minerals referred to in sub-article (2) of this Article.

**43. Technology Transfer**

- 1/ Where any licensee concludes a technology transfer agreement in connection with his mining operations, he shall submit same to the Ministry for approval and registration.
- 2/ Where the Ministry receives a technology transfer agreement pursuant to sub-article (1) of this Article, it shall give its decision thereon subsequent to the necessary evaluation in accordance with the Technology Transfer Council of Ministers Regulations No 121/1993.

**44. Suspension and Revocation of Mineral Rights**

- 1/ Subject to sub-articles (3) and (4) of this Article, the Licensing Authority may suspend mineral rights partially or fully where it believes that the activity of the Licensee is likely to become an imminent danger to the local community, the environment or its employees provided that such suspension is the only remedy under the prevailing circumstances. The Licensing Authority shall inform the licensee the date by which the suspension lapses and it may resume operation.
- 2/ Subject to sub-articles (3) and (4) of this Article, the Licensing Authority may revoke any license if the licensee:
  - a) fails to comply with the financial obligations prescribed in this Proclamation, regulations or directives;
  - b) conducts mining operations in a grossly negligent or wilfully improper manner;
  - c) breaches any material term or condition of his License;
  - d) is not conducting his mining operations in accordance with the work programme;
  - e) is in breach of the approved environmental impact assessment, and safety and health standards;
  - f) has submitted false or fraudulent information in connection with any matter required to be submitted under this Proclamation, regulations or directives;
  - g) fails to maintain complete, accurate and current books and records or other documents or materials required or fails to file reports or other documents or fail to give notices required; or
  - h) fails to grant a duly authorized official of the Licensing Authority access into the license area, the area covered by a lease or to any other site or premises of the mining operations or to his books, records, other documents or materials, or fails to carry out a lawful order or instruction of such official.
- 3/ Before acting under sub-article (1) or (2) of this Article, the Licensing Authority shall give notice in writing to the Licensee:
  - a) setting out the grounds for considering the suspension or revocation of the license;
  - b) directing the licensee to take specified measures to remedy any contravention, breach or failure; and
  - c) specifying a reasonable date of not less than 5 working days, before which the licensee may, in writing, submit any matter for the Licensing Authority to consider.

- 4/ The Licensing Authority may lift the notice for suspension or revocation of a mineral right where:
- a) the licensee complies with the notice contemplated in sub-article 3(b) of this Article by rectifying, removing, or as appropriate by mitigating the grounds for suspension or revocation, or by preventing the recurrence of such grounds within the time specified in the notice; or
  - b) where it accepts the reasons supplied by the licensee in accordance with sub-article 3(c) of this Article for the lifting of the suspension or revocation.

## **PART FOUR**

### **CERTIFICATES**

#### **45. Application for Certificate of Discovery**

- 1/ Any person who discovers indications or existence of minerals may, free of any charge, apply, in the prescribed form, to the Licensing Authority for a certificate of discovery.
- 2/ The Licensing Authority shall accept and register the application for a certificate of discovery if the requirements specified in sub-article (1) of this Article are met.

#### **46. Issuance of a Certificate of Discovery**

The Licensing Authority shall issue a certificate of discovery to the discoverer within fifteen days from the date of registration of the application if the minerals were not previously discovered in the area in question, the minerals and the area in question are not subject to an exclusive license or an application thereof or have not been reserved.

#### **47. Duration and Renewal of a Certificate of Discovery**

- 1/ A certificate of discovery shall be valid for 18 months.
- 2/ A certificate of discovery shall not be renewed.
- 3/ The Maximum area for a certificate of discovery shall not exceed 10 km<sup>2</sup>

**48. Rights and Obligations of the Holder of a Certificate of Discovery**

- 1/ The holder of a certificate of discovery shall, prior to the expiry period of the certificate, have the right to apply for an exploration license or a mining license provided that he meets all the requirements pertaining to the relevant application, or transfer his right to another person with the approval of the Licensing Authority.
- 2/ Without prejudice to the provisions of sub-article (1) of this Article, where the holder of a discovery certificate is a licensee, he shall, alternately, have the right to be granted an amendment to the license to include the discovered minerals or area adjacent to his existing license, provided that the amended license area does not exceed the maximum allowable area.

**49. Application for Certificate of Professional Competence**

- 1/ Any Ethiopian who wishes to engage in consultancy services in the mining sector may apply for a certificate of professional competence to the Ministry in the prescribed form and with payment of the prescribed application fee.
- 2/ The Ministry shall accept and register the application for a certificate of professional competence if the requirements specified in sub-article (1) of this Article are met.

**50. Issuance of a Certificate of Professional Competence**

- 1/ The Ministry shall issue a certificate of professional competence to the applicant, provided however, that the applicant has the necessary qualification and experience in the discipline he wishes to consult.
- 2/ The validity period, renewal and revocation of a certificate of professional competence shall be prescribed by regulations.

**51. Rights and Obligations of the Holder of a Certificate of Professional Competence**

- 1/ The holder of a certificate of professional competence shall have the right to provide consultancy services to any person engaged in the mining sector in the discipline he is certified for.
- 2/ The holder of a certificate of professional competence shall be required to obtain the necessary business license from the appropriate government office in order to engage in the consultancy services.

**PART FIVE**  
**ADMINISTRATION**

**52. Powers and Duties of the Licensing Authority**

- 1/ The licensing authority of a state shall have the powers and duties to:
  - a) issue artisanal mining license,
  - b) issue to domestic investors:
    - (1) reconnaissance, exploration and retention licenses with respect to construction and industrial minerals;
    - (2) small scale mining licenses for industrial minerals and small and large scale mining licenses for construction minerals;
  - c) issue certificate of discovery for minerals other than those specified in sub-article (2)(b) of this Article.
- 2/ The Ministry shall have the powers and duties to:
  - a) issue reconnaissance, exploration, retention and mining licenses other than those to be issued by a state licensing authority under sub-article 1 of this Article;
  - b) issue a certificate of discovery for strategic minerals;
  - c) issue a certificate of professional competence for professionals who wish to engage in consultancy services in the mining sector;
  - d) conduct testing and give permission for the export of samples of minerals;

provided however, that it shall obtain the approval of the Council of Ministers in respect of issuing any mining license.
- 3/ When the ownership of any license issued in accordance with the requirements of sub-article (1) or (2) of this Article changes, the Licensing Authority that issued the license shall transfer the documents relating to the license to appropriate Licensing Authority.
- 4/ Any Licensing Authority shall have the powers and duties to:
  - a) receive, process and reject or approve any application for mining operations submitted in accordance with this Proclamation;
  - b) ensure that any licensee has the necessary financial resources and technical competence to fulfil the obligations under the license;
  - c) enter into mining agreements on behalf of government either by competitive bidding or direct negotiation;



- d) issue, renew, suspend and revoke a license in accordance with this Proclamation, regulations and directives;
- e) receive, subject to the provisions of Article 40 of this Proclamation, all information and records specified in Article 41 of this Proclamation;
- f) inspect and ensure that mining operations are carried out in accordance with this Proclamation, regulations, directives and the applicable agreements;
- g) without prejudice to prior commitments of the licensee, require that the licensee sell locally all or a portion of his minerals to government, public enterprise or any other person subject to the payment of the international market price prevailing at the time of the sales transaction;
- h) explore and declare by legal notice areas reserved for conducting artisanal mining;
- i) collect and audit royalties, rentals, and other fees payable pursuant to this Proclamations, regulations and directives;
- j) ensure that mining operations carried out by licensees take into account the environment and are beneficial to the community in the mining areas.

**53. Mining Operations Advisory Council**

- 1/ A Mining Operations Council shall be established to advise the Ministry.
- 2/ The composition, responsibilities and other particulars of the Mining Operations Advisory Council shall be determined by regulations.

**54. Inspections**

- 1/ Any authorized inspector of the Licensing Authority may enter, during office hours, any license area and may:
  - a) inspect any activity or process carried out in or upon the area in question;
  - b) inspect any book, record, statement or other document and make copies or extracts thereof;
  - c) examine any material or appliance found in the area;
  - d) take samples of any material and test, examine, analyse and classify such samples;
  - e) seize any material, appliance, book, record, statement or other document which might be relevant to a legal proceeding involving

- the violation of this Proclamation, regulations or directives and keep it in the custody of the Licensing Authority; and
- f) require support necessary for the accomplishment of his inspection in accordance with this sub-article.
- 2/ Where any material, appliance, book, record, statement or other document is put under the custody of the Licensing Authority in accordance with sub-article (1)(e) of this Article:
- a) the person from whose possession or control any document is taken shall be allowed, under the supervision of the inspector, to make copies or extracts thereof;
  - b) if no legal proceedings are instituted in connection with any of the items seized, or if it appears that such item is not required at any trial for the purpose of evidence or upon an order of court, that item shall be returned immediately to the person from whom it was seized.
- 3/ The inspector shall show his letter of authorization to the appropriate officer of the licensee for conducting inspection under sub-article (1) of this Article.

**55. Prohibition of Occupational Detriment against Employees**

The holder of any license may not subject any of his employees to any occupational detriment on account of any such employee disclosing information to the Licensing Authority or any authorised person regarding the failure by such holder to comply with any provision of this Proclamation, regulations, directives or his license.

**56. Reduction of Profitability and Curtailment of Mining Operations**

- 1/ The holder of a small scale or large scale mining license shall notify the Licensing Authority if:
- a) the prevailing economic conditions cause the profit to revenue ratio of the relevant mine to be less than six per cent on average for a continuous period of 12 months; or
  - b) if any mining operation is to be scaled down or to cease with the possible effect that 10 per cent or more of the labour force are likely to be retrenched in any 12 months period.
- 2/ The Licensing Authority may, after consultation with the Ministry of Labour and Social Affairs, direct in writing that the holder of the small scale or large scale mining license in question take appropriate corrective measures.

- 3/ The holder of the small scale or large scale mining license shall comply with the directive and confirm in writing that the corrective measures have been taken.

## **PART SIX**

### **COMPENSATION**

#### **57. Principles of Compensation**

- 1/ Where it is necessary for the achievement of the objectives of this Proclamation, the Licensing Authority may expropriate any immoveable property on any land and shall cause the payment of fair compensation by the Licensee in accordance with the relevant laws. In this connection, Mining operations shall be deemed public purpose within the meaning of Article 1460 of the Civil Code.
- 2/ Without prejudice to the provisions of sub-article (1) of this Article, any license holder shall be liable for any damage caused to property in connection with its mining operations.

#### **58. Compensation Agreements**

- 1/ Any licensee shall negotiate and reach an agreement with respect to the amount of compensation payable to the owner of the property in accordance with the provisions of the relevant laws.
- 2/ As soon as the terms and conditions have been agreed between the licensee and the property owner, the licensee shall provide a copy of the compensation agreement to the Licensing Authority.
- 3/ Upon receipt of the copy of the concluded compensation agreement, the Licensing Authority shall forthwith register same.

#### **59. Determination of Compensation by the Licensing Authority**

- 1/ Either the licensee or the property owner may, where they are unable to reach an agreement on compensation to be paid, request in writing the Licensing Authority to determine the compensation.
- 2/ In the process of determining compensation, the Licensing Authority shall allow both parties to present their evidences and arguments after which it shall:
  - a) fix a place and date for conducting a determination of compensation and notify the parties of same;

- b) make a determination on the basis of the evidences and arguments submitted;
- c) record its decision in writing; and
- d) give a copy of its decision to each party.

## **PART SEVEN**

### **ENVIRONMENT**

#### **60. Environmental Impact Assessment, Rehabilitation Fund and Community Development**

- 1/ Except for reconnaissance license, retention license or artisanal mining license, any applicant for a license shall submit an environmental impact assessment and obtain all the necessary approvals from the competent authority required by the relevant environmental laws of the country.
- 2/ Except the holder of reconnaissance license, retention license or artisanal mining license, any licensee shall allocate funds to cover the costs of rehabilitation of environmental impact.
- 3/ To be determined by the license area and by agreement, mineral licensee and, as appropriate, exploration license shall participate in community development plan of the peoples within the license area, and shall allocate money for such expenses.
- 4/ Particulars shall be determined by regulation to be issued for the implementation of this Article.

#### **61. Mine Closure**

- 1/ The holder of a small scale or large scale mining license shall apply to the Licensing Authority for a mine closure certificate upon:
  - a) revocation of the license;
  - b) termination of the mining operations;
  - c) relinquishment of the whole or any portion of the license area; or
  - d) abandonment of the mine.
- 2/ The application shall be made within 180 days from the occurrence of any of the events specified under sub-article (1) of this Article.
- 3/ No closure certificate shall be issued until the provisions pertaining to health, safety and the environment have been addressed.

- 4/ The grant of mine closure certificate in no way relieves the licensee from the responsibility to monitor environmental effects after closure of the mine as required in the environmental impact assessment and shall not release the licensee from the liability of performing the duties imposed upon him and due to be performed during the term of the license.

**62. Remedial Powers of the Licensing Authority**

- 1/ In the event the holder of a license is deceased, cannot be traced, or in the case a company ceases to exist or has been liquidated, the Licensing Authority may take the necessary measures to prevent further pollution or to make the area safe.
- 2/ The measures contemplated in sub-article (1) of this Article shall be funded from the financial provision established by the holder of the license or, if there is no such provision or it is inadequate, from money appropriated by government treasury for that purpose.

**PART EIGHT**

**ROYALTY, INCOME TAX AND OTHER FINANCIAL REGIME**

**63. Royalty**

- 1/ The holder of a mining license shall pay royalty based on the sales price of the commercial transactions of the minerals produced in accordance with sub-article (2) and (3) of this Article.
- 2/ The amount of royalty payable by holders of large scale mining licenses shall be at the following rate:
- |    |                        |    |
|----|------------------------|----|
| a) | precious minerals      | 8% |
| b) | semi-precious minerals | 6% |
| c) | metallic minerals      | 5% |
| d) | industrial minerals    | 4% |
| e) | construction minerals  | 3% |
| f) | salt                   | 4% |
| g) | geothermal             | 2% |

- 3/ The amount of royalty payable by the holders of artisanal and small scale mining licenses shall be at the rate fixed by the laws of the states.

**64. Provisional Assessment of Royalty**

- 1/ In the event that it is impractical to assess the amount of any royalty, the licensee shall make a provisional payment of the royalty.
- 2/ When the amount of the royalty is ascertained, the licensee shall pay any balance or shall be repaid any excess sum paid on such provisional assessment.
- 3/ The Licensing Authority may, in circumstances it deems appropriate, cause the reduction, suspension or waiver of the payment of royalty by requesting the appropriate government body.

**65. Income Tax**

- 1/ Any holder of a large scale mining license shall pay income tax in accordance with the Mining Income Tax Proclamation No. 53/1993 (as amended).
- 2/ Income tax to be paid by holders of artisanal and small scale mining licenses shall be determined by the laws of the states.

**66. Collection of Information**

- 1/ The Licensing Authority may, by notice in writing, require any licensee to produce or make available any oral, written or electronic information as may be required to ensure the proper adherence to the provisions of this Proclamation with respect to royalty.
- 2/ The Licensing Authority may issue an order for conducting investigation in accordance with Article 54 of this Proclamation where it believes that information required under sub-article (1) of this Article is being withheld or destroyed.

**67. Failure to Pay Royalty and Income Tax**

If a licensee fails to pay royalty, income tax or any other payment on the due date, the Licensing Authority may by order prohibit the disposal of any mineral from the mining area concerned, or from any other mining area held by the licensee until all outstanding payments have been paid or until an arrangement has been accepted by the Licensing Authority for the payment thereof.

**68. Rentals**

- 1/ Any licensee shall pay annually in advance surface rentals for the license area. The rate of rentals shall be specified by laws to be issued by states and any amendment thereto shall only apply to licenses issued after the date of amendment.
- 2/ Any licensee shall also pay annually in advance a rental for the area covered by a lease. Such rental shall be fixed in the instrument granting the lease and shall remain fixed during its term, unless the instrument provides otherwise.

**69. License Fees**

License fees shall be paid for the issuance and renewal of licenses in accordance with this Proclamation. The amount and manner of payment of such fees shall be determined by regulations and the laws of states as appropriate.

**70. Government Participation**

Without prejudice to its right to undertake mining operations under Article 8 of this Proclamation, the government may acquire without cost a participation interest of five percent of any large scale or small scale mining investment. An additional equity participation of the government may also be provided by agreement, which shall specify the percentage, timing, financing, resulting rights and obligation and other details of such participation.

**71. Guarantee**

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

**72. Exchange Control**

- 1/ A holder of large-scale or small-scale mining license producing exportable minerals may retain a portion of foreign currency earning as may be determined by directives of the National Bank of Ethiopia and use it for settlement of transactions in foreign currencies.
- 2/ A foreign investor holding a large-scale or small-scale mining license may make the following remittances out of Ethiopia in the currency of investment or in an approved currency at the prevailing rate of exchange on the date of remittance:
  - a) profits and dividends accruing from mining investment;

- b) principal and interest on a foreign loan;
  - c) fees, royalties or other payments accruing pursuant to technology or management agreement relating to the mining investment;
  - d) proceeds from the liquidation of a mining business enterprise;
  - e) payment from the sale or transfer of shares of a mining investment or acquisition in part or in whole of a mining operation by a domestic investor.
- 3/ Expatriates employed in mining operations may remit salaries and other payments in accordance with the relevant exchange regulations.

**73. Exemption from Customs Duties and Taxes**

- 1/ Any consumables, equipment, machinery and vehicles that any holder of an exploration license or his contractor may import into Ethiopia and required for its operations in accordance with the approved work program shall be exempted from customs duties and taxes.
- 2/ Any equipment, machinery and vehicles that any holder of a small scale or large scale mining license or his contractor may import into Ethiopia and required to start the mining operation in accordance with the approved work program shall be exempted from customs duties and taxes.
- 3/ The holder of a small scale or large scale mining license may import free of customs duties consumables required to start and sustain commercial production for the first three months.
- 4/ The holder of a small scale or large scale mining license who wishes to embark on a major mine production expansion shall have the right to import free of customs duties and taxes equipment and machinery needed for the expansion provided that the Licensing Authority has approved the expansion program.
- 5/ The holder of artisanal mining license, small scale mining license or large scale mining license shall be entitled to export free of customs duties and taxes minerals produced according to the license.
- 6/ The holder of artisanal mining license or the holder of any construction minerals mining license issued for the mining of sand or selected materials shall not be entitled to exemptions from customs duties and taxes under sub-articles (1) to (4) of this Article.
- 7/ Any item imported free of customs duties and taxes into Ethiopia pursuant to the provisions of this Article may not be sold in Ethiopia without having obtained permission from the Licensing Authority and paid the required duties and taxes; provided however, that such item may be re-exported free of customs duties and taxes.



**74. Registration and Representation**

- 1/ Any licensee shall be registered in the Registry of Trade with the appropriate authority and shall maintain an office in Ethiopia during the entire term of the license.
- 2/ A Licensee shall not be required to obtain any other authorization or permission from any other government office in order to produce, sell or export minerals covered by the license or to import any goods or enter into contract for the acquisition of license of any intellectual property required for mining operations.
- 3/ The provisions of sub-article (2) of this Article shall not relive a licensee from complying with obligations with customs and bank formalities.

**75. Government Assistance**

- 1/ The government may provide incentives and assistance to:
  - a) mining operations that deemed to be vitally important in addressing the immediate socio economic problems of the country;
  - b) mining operations that promote the domestic utilizations of the resource produced through processing or beneficiation; and
  - c) artisanal mining carried out by cooperatives.
- 2/ The type and mode of incentives and assistance shall depend on the nature of the mining operations and shall be prescribed by regulations.

**76. Settlement of Dispute**

- 1/ Any dispute, controversy or claim between the Licensing Authority and a licensee arising out of, or relating to an agreement for reconnaissance, exploration, retention or mining, or the interpretation breach or termination thereof shall, to the extent possible, be resolved through negotiation.
- 2/ In the event that agreement can not be reached through negotiations, the case shall be settled by arbitration in accordance with the procedures specified in the agreement. An arbitral award shall be final and binding upon the parties.
- 3/ Any party aggrieved by the decision of the arbitration may lodge an appeal to the concerned court.

**77. Termination of Mining Rights**

- 1/ Mining rights shall terminate if:
  - a) a licensee relinquishes the whole area or surrenders the license;

- b) a license is revoked by the Licensing Authority pursuant to the provisions of this Proclamation, regulations and directives;
  - c) a license expires without being renewed; or
  - d) without prejudice to the rights of heirs, a licensee dies, or where the licensee is a juridical person, it is liquidated or declared bankrupt.
- 2/ Upon termination of mining rights of the holder of a small scale or large scale mining license, the government may, unless an agreement specifies otherwise, acquire all of the immovable and movable property used in the mining operations at a price equal to the then unamortized value of such assets, as shown in the financial book of accounts of the licensee. If the government does not exercise such right, the licensee shall be free to dispose such assets to another person in accordance with the applicable laws, or otherwise he shall be obliged to remove them as required by his environmental obligations.
- 3/ The licensee shall be required on termination of a small scale or large scale mining license, to fence and safeguard to the satisfaction of the Licensing Authority, any pits and such other works in the license or lease area so that the health, life and property of persons may not be endangered.

## **PART NINE**

### **MISCELLANEOUS PROVISIONS**

#### **78. Penalty**

Any person who:

- 1/ contravenes or fails to comply with an order given under Article 67 of this Proclamation or, while being aware of such order, receives a mineral the disposal of which is prohibited by the order;
- 2/ contravenes or fails to comply with any provision of this Proclamation, regulations, directives or the terms and conditions of a license;or
- 3/ submits inaccurate or misleading information in connection with any matter required to be submitted under this Proclamation, regulations or directives; shall be punished with a fine up to Birr 200,000 or an imprisonment up to five years or both.
- 4/ Notwithstanding with the provisions of sub article (3) of this article, the degree of offence and the extent of penalty to each offence shall be determined by regulation to be issued for the implementation of this proclamation.

**79. Appeal Procedures**

- 1/ Any person who is aggrieved by any administrative decision of the Licensing Authority pursuant to this Proclamation may apply to the officials of the Licensing Authority hierarchically.
- 2/ No person may apply to the competent court for the review of an administrative decision contemplated in sub-article (1) of this Article until he has exhausted the administrative remedies with the Licensing Authority.

**80. Implementation of the Proclamation**

- 1/ The Council of Ministers may issue regulations necessary for the proper implementation of this Proclamation.
- 2/ The Ministry may issue directives necessary for the proper implementation of this Proclamation and regulations issued pursuant to sub-article (1) of this Article.
- 3/ The Licensing Authority may prepare model mining agreements to serve as basis for negotiation.
- 4/ The Licensing Authority shall have the power to follow up and ensure the proper implementation of the provisions of this Proclamation, regulations and directives.

**81. Transitory Provisions**

- 1/ Any license or mining agreement issued or concluded prior to the coming into force of this Proclamation shall, in so far as it is consistent with this Proclamation, continue in force for the remaining period of its validity; and thereafter, it may be renewed in accordance with the provisions of this Proclamation.
- 2/ Notwithstanding with the provisions of sub-article (1) of this article, according to the appropriate agreement where a party undertaking a mineral activity the benefit of which sustains damage due to this proclamation, upon the request of the other party under damage, both parties may agree to make the necessary correction in good faith mutual discussions.
- 3/ Any cause of action created or legal proceeding started before the coming into force of this Proclamation shall be dealt with in accordance with the laws in force prior to the effective date of this Proclamation.

**82. Repeal and Savings**

- 1/ The Mining Proclamation No. 52/1993 (as amended) is hereby repealed.
- 2/ No law, regulation, directive or practice shall, in so far as they are inconsistent with this Proclamation, be applicable with respect to matters provided for in this Proclamation.
- 3/ The provisions of the Mining Operations Council of Ministers Regulation No. 182/1994 shall, in so far as they are consistent with this Proclamation, remain in force until replaced by regulations issued pursuant to this Proclamation.

**83. Effective Date**

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

Done at Addis Ababa, this 4<sup>th</sup> day of August, 2010.

GIRMA WOLDEGIORGIS  
PRESIDENT OF THE FEDERAL DEMOCRATIC  
REPUBLIC OF ETHIOPIA