REPOBLIKAN'I MADAGASIKARA
Fitiavana - Tanindrazana - Fandrosoana

MINISTRY OF MINES

MINING CODE

LAW N° 2023 - 007

27 july 2023

ACRONYMS

AERP	Exclusive Perimeter Reservation Authorization
AIEA/IAEA	International Atomic Energy Agency
AMEA	Artisanal Mining Authorization
BCMM	Madagascar Mining Cadastral Office
CCM	Mining Specification Book
CMRM	Minimum Mine Exploration Cost
CNM	National Mining Committee
COM	Madagascar Gold Centre
CREDOC	Documentary Credit
CTD	Decentralized Local Authority
DTSPM	Duties and Taxes on Mining Products
EFB	Bankable Feasibility Study
EIE/EIA	Environmental Impact Assessment
FAM	Mining Administration Fees
FMISC	Social and Community Investment Mining Fund
GUE	One-Stop Export points
ITIE/EITI	Extractive Industries Transparency Initiative
LMM	Madagascar Mining Laboratory
PE	Mining Permit
PEE	Environmental Commitment Program
PR	Exploration Permit
PREA	Permit Reserved for Artisanal Miners
PRSE	Corporate Social Responsibility Plan
RSE/CSR	Corporate Social Responsibility
SMS	Strategic Mineral Substances
ZE	Protected Area

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LAW No. 2023 – 007
RELATING TO THE OVERHAUL OF THE MINING CODE

STATEMENT OF REASONS

The Law No. 99-022 of August 19, 1999, establishing the Mining Code, as amended by the Law No. 2005-021 of October 17, 2005, was characterized by measures to ensure transparency in the management of mining activities and to encourage new investors.

However, the results achieved to date fall short of the expectations of the State, local authorities, the population and mining operators. The numerous incentives that were promoted to make the mining sector attractive, have predominantly led to speculative behavior, to the detriment of the development of countless potentially mineral rich zones. Furthermore, eighteen years after the 2005 reform, the current Mining Code has become obsolete in certain respects, as it no longer aligns with current realities and cannot optimally support the State's visions and objectives.

The Velirano No. 10 of His Excellency the President of the Republic of Madagascar advocates for the sustainable management and conservation of our natural resources. As far as development of mineral resources is concerned, which are non-renewable natural resources, the objective is to optimize their value while preserving the environment and safeguarding the interests of future generations.

In order to achieve emerging and nuanced objectives, the General State Policy sets out the following guidelines and trajectories:

- promotion of the Large-scale mining;
- the professionalization of artisanal miners;
- the promotion, marketing and certification of gold and precious and semi-precious stones, through the establishment of dedicated structures, including a Central Gold Authority;
- the establishment of a mining laboratory that meets international standards;
- increasing the contribution of the mining sector to the national GDP;
- the extensive review of the Mining Code.

The State intends to equip itself with the necessary legal instruments to carry out actions aimed at achieving set objectives, with the goal of making the mining sector a pillar of Madagascar's development.

Thus, the review of the Code, which forms part of the efforts undertaken by the Malagasy Government, stands as a balanced response to the multiple issues and new challenges facing the sector.

While the mining law continues to seek to establish mutually beneficial solutions while optimizing the benefits of mining activities for the majority, the focus areas of the review are as follows:

1- the strengthening of the role of the State and Decentralized Local Authorities in the governance of the sector;
2- the consideration of Strategic Mineral Substances;
3- securing mining rights and investments;
4- the harmonization of mining projects with local communities;
5- redefining the regime for mining permits and quarrying;
6- the reorganization and formalization of the gold sector through a responsible gold supply chain;
7- the restructuring of the precious and semi-precious stones sector;
8- the establishment of a fair mining tax system;
9- the professionalization of artisanal mining by nationals;
10- financially enhancing the operations related to granting of mining rights;
11- the reformulation of the link between mining law and environmental and social standards;
12- the promotion of mining exploration, which forms the foundation of future large-scale mining development;
13- disincentivizing negative speculative behavior in the mining sector;
14- the management of mining rushes through Artisanal Mining Exploitation Authorization;
15- the promotion of local content;
16- the establishment of a Mining Social and Community Investment Fund;
17- outlining sanctions and penalties for mining offenses in accordance with the strategic value and significance of the resources concerned.
18- the restructuring of the institutional framework.

This Code, while considering local realities, introduces new provisions to bring Malagasy legislation in line with international best practices. The innovations introduced concern the following aspects:

I. THE MINING PERMIT REGIME (TITLE II : Articles 34 to 157)

- Strengthening of the conditions for granting (Articles 79 and 83), converting (Articles 96 and 97), and renewal (Articles 87 to 91) of mining permits, in accordance with the Mining Specifications applicable to each type of permit;
- Redefinition of Permits Reserved for Small-Scale Operators, now designated as Permits Reserved for Artisanal (and small scale) Miners (PREA) (Article 70);

- Reducing the number of squares grantable for Exploration Permits, Exploitation Permits, Permits Reserved for Artisanal Miners (Article 39), and Exclusive Perimeter Reservation Authorizations (Article 20);
- Revising the validity period of the Exploitation Permit (PE) (Article 61);
- Conditional renewal (Article 87) of the Exploration Permit (PR)(Article 89), the Mining Permit (PE) (Article 87, 88) and the PREA (Article 70);
- Gradual reduction of the surface area of the PR at each renewal (Article 91 and subsequent);
- Introducing the Minimum Mine Exploration Cost (CMRM), whereby the holder of an Exploration Permit must demonstrate the availability of a minimum amount to be invested in exploration activities. This is in response to the need to reduce the negative speculator behavior observed in relation to several mining permits that have been granted (Art. 51 and 52)
- Requirement for a prefeasibility Study report for any application for a Mining Permit (Articles 87, 88);
- Limiting the number of authorized mining substances per Permit (Articles 41, 42);
- Administration provides reasons for any refusal of mining Permit applications, to ensure transparency (Article 85);
- Clarifying the procedures for competitive bidding as an additional mode for awarding mining Permits, to promote the development of economically significant areas (Articles 137, 138, and 139).

II. STRATEGIC MINING SUBSTANCES (Articles 72 to 74)

The State is required to define these strategic mining substances and to provide a percentage for local sales according to national needs and the fact that they are of geostrategic and capital importance for the Nation.

III. THE GOLD SECTOR (TITLE III : Articles 158 to 209)

There is primacy to establish a specific regime for gold under the Mining Code.

Emphasis is placed on the traceability of gold production (Articles 206 to 209), through the reorganization of the gold circuit, the monitoring of the entire value chain, the establishment of local smelters, the introduction of a national hallmarking system, and strengthening mechanisms for monitoring commercial gold exports (Articles 198 to 203).

Concerning the mining of primary gold deposits, this Code provides the delimitation of artisanal mining corridors within mining perimeters (Articles 28, 29, 142).

In addition, the prohibition on the use of Mercury is expressly stipulated (Article 178).

Finally, the promotion of “responsible gold” aligns with international ethics and meets the need to standardize domestic gold production.

IV. STATE PARTICIPATION
(TITLE II: Article 138)

The State is entitled to a free and non-dilutable equity participation in the capital of any mining company holding a Mining Permit through a competitive bidding process, following the reservation of areas for geological exploration (Article 138).

This aims to ensure responsible mining resources management and protect national interests.

V. THE MINING SOCIAL AND COMMUNITY INVESTMENT FUND
(TITLE VI - Chapter VIII : Articles 280 to 282)

This Code introduces a fund constituted by the contribution of mining companies and dedicated to social and community development.

This Fund is financed through:

- a contribution paid upon obtaining a mining Permit; (Article 281)
- a share of the mining royalties (Article 291);
- a share from mining transactions. (Article 402)

VI. MINING TAXATION
(TITLE VI - Chapter IX : Articles 283 to 293)

Mining royalty combined with the mining rebate constitutes the Special Duties and Taxes on Mining Products. The rebate is allocated to Decentralized Local Authorities, while the Mining Royalty is allocated to the State and its sectoral branches.

This law proposes an increase in the rates of Special Duties and Taxes on Mining Products. The desire for revenue optimization has also led to the redefinition of their bases.

It should be noted that mining companies governed by this Code are subject to the general tax regime provided by the General Tax Code.

VII. STABILITY GUARANTEES
(TITLE IX : Articles 339 to 346)

The safeguarding of mining investments is reflected, in part, in this law, by the strengthening of the stability regime in terms of parafiscal, fiscal and customs matters, for the benefit of mining operators. In addition, the stability regime is now extended to gold trading exchanges and gemstones and semi-precious stones trading exchanges.

VIII. ENVIRONMENTAL, HEALTH AND SAFETY STANDARDS
(TITLE VI - Chapter II : Articles 252 to 258 and Chapter III : Articles 259 to 262)

An entire chapter is devoted to environmental protection, aiming to better categorize the various obligations depending on the mining activity.

Improvements in health and safety emphasize the importance of people and the environment and support a more responsible mining sector.

IX. STRENGTHENING INSTITUTIONAL GOVERNANCE

This Code aims to strengthen institutional governance to improve the efficiency and credibility of institutions. Thus, greater details are provided regarding the Supporting Bodies of the Ministry in charge of Mines.

In this regard, new provisions redefine the structure, organization and missions of the National Committee of Mines (Art. 404 to 409) and the Madagascar Gold Centre (COM) (Art. 159).

In addition, COM, EITI-Madagascar and the entity responsible for Geology and Mining Promotion will benefit from shares and parafiscal revenues. (Article 275 for FAM, and Article 291 for mining royalties)

X. DISPUTE RESOLUTION
(TITLE XII : Articles 410 to 419)

Emphasis is placed on the use of non-contentious dispute resolution methods while maintaining the possibility of recourse to Malagasy courts. The aim is to improve the clarity and structure of the rules governing the disputes settlement, to promote amicable settlement procedures as far as possible (Articles 410 to 412), and to provide the parties with a range of options deemed appropriate by them.

XI. QUARRIES REGIME
(TITLE IV: Articles 218 to 232)

The beneficiation of quarry products, which include mineral substances of significant economic interest, led to the establishment of two distinct quarry regimes based on the methods of exploitation: artisanal or industrial.

XII. WASTE AND BY-PRODUCTS REGIME
(TITLE II - Chapter IX : Articles 150 to 157)

In order to promote extensive beneficiation of mineral resources, a new provision is introduced concerning mining waste and by-products, which includes the conditions and procedures for their recovery, utilization, and management.

XIII. PRECIOUS AND FINE STONES TRADING POSTS
(TITLE VIII - Chapter III : Articles 325 to 327)

The establishment of trading exchanges for precious and semi-precious stones aims to promote the Madagascar label and create added value, as the exportation of these stones is required to pass through them.

XIV. CORPORATE SOCIAL RESPONSIBILITY
(TITLE VI - Chapter I : Articles 241 to 244)

One of the major advances of the Code is based on the improved consideration of socio-economic and environmental issues, with the introduction of provisions on Corporate Social Responsibility (”RSE”), particularly regarding local content.

This initiative reflects the desire to adopt an ethical and responsible approach and to integrate social and environmental dimensions.

XV. PROTECTION OF HUMAN RIGHTS
(TITLE VI – Chapter IV : Articles 263 to 265)

The inclusion of provisions relating to the protection of human rights, particularly those concerning the promotion of gender equality and the prohibition of child labor in the mining sector, is based on the growing importance attached to socio-economic considerations in mining activities.

XVI. VIOLATIONS OF OBLIGATIONS AND MINING OFFENSES
(TITLE X: Articles 347 to 403)

This chapter has been revised to modernize the legal framework for offenses, to rationally categorize types of mining infractions, and to ensure consistency between infractions and the applicable penalties. Furthermore, the preservation of national mineral wealth justifies the rigorous approach through the definition of new infractions and new sanctions and penalties related to the illicit export of mining products.

In view of these various innovations, this law consists of **four hundred thirty-five (435)** articles, divided into fourteen (14) Titles:

- Title I covers general provisions;
- Title II deals with the mining permit regime;
- Title III is devoted to the gold regime;
- Title IV concerns the quarries regime;
- Title V sets out the regime for fossils and resources whose deposits are rare;
- Title VI stipulates the obligations related to mining activities;
- Title VII governs the relations between permit holders and landowners, and relations between permit holders;
- Title VIII relates to the possession, transport, processing, and marketing of mining products;
- Title IX addresses guarantees of stability;
- Title X enumerates breaches of obligations and mining offenses;
- Title XI is devoted to the national mining committee;
- Title XII deals with the dispute resolution mechanisms related to mining activities;
- Title XIII provides for transitional provisions;
- Title XIV is dedicated to final provisions.

This is the purpose of this law.

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RELATING TO THE OVERHAUL OF THE MINING CODE

The National Assembly and the Senate have adopted, during their respective plenary sessions on 19 May 2023 and 7 June 2023, the law whose contents are as follows:

TITLE I
GENERAL PROVISIONS

CHAPTER I
SCOPE AND DEFINITIONS

Article 1. Within the National Territory, the provisions of this Code and its implementing regulations apply to the prospecting, exploration, exploitation, possession, transportation, processing, marketing, and export of mineral substances, with the exception of water resources and liquid or gaseous hydrocarbons, which are governed by specific provisions.

Article 2. For the purposes of this Code, the following definitions apply:

"Mining activity": Any short- or long-term operation undertaken for the purposes of prospecting, exploration, exploitation, processing, transportation, marketing, and export of mining products, quarry materials, and non-prohibited fossils ;

"Mining Administration" : The Ministry responsible for Mines, including all its central and deconcentrated services, as well as the bodies attached to it ;

"Affiliation" : The relationship established between two private operators, whereby one ensures the administrative formalization of the other's activity, and in return, receives exclusive rights over the distribution of the latter's production ;

"Lease" : The agreement by which the holder of a Permit Reserved for Artisanal Miners or a Mining Permit transfers to a third party the right to exploit the mining area attached to their Mining Permit, in accordance with the rights granted under it and the associated obligations, in exchange for recompense agreed upon by the parties ;

"Exclusive Perimeter Reservation Authorization" : The Exclusive Perimeter Reservation Authorization granted for a specific perimeter in accordance with the provisions of this Code ;

"Artisanal Mining Authorization" : The act, other than the mining permit, granting its holder the right to carry out activities related to the extraction or collection of mineral substances ;

"Mining Terms of Reference" : The document resulting from the work program submitted by the holder of the mining permit, outlining all the commitments to which they are subject, and the non-compliance with which exposes them to the penalties provided by this Code ;

"Square" : The geometric configuration on the Earth's surface, in the shape of a square with sides measuring six hundred twenty-five meters (625m), which represents the basic unit of space within which rights are granted by mining permits. Each square forms the base of a solid volume in the shape of an inverted pyramid, with the apex at the center of the Earth, oriented South-North and West-East, parallel to the Laborde coordinate axes or any other grid system that may be adopted by the Mining Administration at a later date. The geographic location of each square is determined by the coordinates of its center ;

"Artisanal quarry" : Any deposit of quarry substances exploited using manual methods and processes, occasionally utilizing explosives, and not employing mechanized equipment ;

"Industrial quarry" : Any deposit of quarry substances exploited using industrial methods and processes, which may involve the use of mechanized equipment and explosives ;

"Mining Map" : The map on which all valid mining permits, available squares, temporary reserves, Perimeter Reservation Authorizations, artisanal mining corridors, gold panning corridors, protected areas, and reserved zones are recorded;

"Indirect Transfer" : The indirect transfer of shares by the parent company of a legal person governed by Malagasy law holding a mining permit ;

"Gold Collection" : The activity of directly purchasing gold derived from artisanal gold mining operations ;

"Personal Collection" : A set of objects gathered and kept by an individual for personal reasons, out of interest, passion, or for commemorative purposes ;

"Decentralized Local Authorities" : The Province, the Region, and the Municipality, as the case may be ;

"Local Content" : A set of activities focused on the development of local capacities, the use of local human and material resources, the transfer of technologies, the

subcontracting of local businesses, services, and products, and the creation of measurable added value to the local economy ;

"Gold Panning Corridor" : The active riverbed and recent alluvial deposits constituting a legal and permanent easement for gold panners, automatically applicable to all mining areas ;

"Artisanal Mining Corridor" : An area located within a mining perimeter and dedicated to the artisanal mining activities of groups, with the agreement of the holder of the relevant mining permit ;

"Minimum Mining Exploration Cost" : A minimum amount that must be allocated by the holder of an Exploration Permit to carry out all exploration work, and which is outlined in their Mining Terms of Reference ;

"Mining Waste" : All types of residues directly or indirectly resulting from mining exploration and extraction operations, either within the mine itself or outside of it, as well as from ore processing ;

"Mine Development" : The preparatory phase including the Bankable Feasibility Study, engineering studies, and the mine construction ;

"Mining" : Any operation involving the extraction or separation of natural deposits or water, and mineral substances for utility or aesthetic purposes, including preparatory work, extraction, and, if applicable, the installation and use of facilities for processing and disposal of the production ;

"Artisanal Miners" : All operators of open-pit or underground mines, up to a depth to be determined by regulation, using artisanal techniques and light mechanical equipment, including groups of artisanal mining operators and groups of artisanal gold miners, regardless of the number of their respective members; without mineral processing at the extraction site ;

"Mining Social and Community Investment Fund": A fund established by contributions from the mining sector and dedicated to social and community development ;

"Fossils" : The remains or traces of animal or plant species preserved in terrestrial or marine sedimentary rocks ;

"Annual Mining Administration Fees per Square" : The fees payable by the holder, covering the costs of services and the management of rights attached to the Mining Permit, the amount of which varies depending on the type and the age of the Permit, as well as the number of mining squares composing it ;

"Grouping" : An entity composed exclusively of Malagasy national artisanal miners from the same locality, sharing a common interest ;

"Deposit" : Any natural occurrence of mineral substances that is economically exploitable under current or future conditions ;

"Occurrence" : Any abnormal concentration of minerals useful to humans found underground, regardless of its size or significance ;

"Fossil-bearing occurrence" : Any concentration of terrestrial or submarine fossils;

"Investition" : The concrete barrier constructed in an underground mine to separate two adjacent mines belonging to different Permit holders ;

"Investment" : A capital contribution in the form of assets, such as property, rights, and interests of any kind, allocated on a long-term basis to a company ;

"Mine" : Any occurrence of mineral substances that is neither classified as a quarry nor as fossils ;

"Radioactive ore" : Any rock containing one or more radioactive minerals, possessing one or more chemical elements such as uranium and thorium ;

"Gold panning" : The exploitation of alluvial gold deposits using artisanal techniques, excluding underground works ;

"Mining perimeter" : The square or the set of several contiguous and adjacent squares by their sides, which are the subject of a mining permit or a mining permit application ;

"Project perimeter" : The area consisting of the mining exploitation perimeter, as well as the lands occupied or reserved by the holder as part of their project ;

"Mining Licence" : The legal instrument granting its holder the right to undertake exploration and/or extraction activities within a defined mining area ;

"Work Programme" : The set of documents outlining the exploration and/or mining operations programme, as well as the investment plan of the holder or applicant of a Mining Permit ;

"Prospecting" : The set of operations entailing superficial and non-destructive investigations aimed at detecting indications of mineral substances ;

"Exploration" : All geological, geophysical, or geochemical works carried out at the surface or at depth, for the purpose of assessing mineral indications or deposits in order to determine their nature, shape, quality, continuity, and volume, as well as the conditions of their extraction, concentration, processing, and commercialization, and to conclude on the existence or absence of economically exploitable deposits ;

"Mining royalty" : A portion of the special duties and taxes on mineral products levied for the benefit of the State and its sectoral subdivisions, due on the value of sales of mining, quarrying, or fossil products ;

"Corporate Social Responsibility" : The contribution of companies to socio-economic and environmental matters in the communities where they operate ;

"Mining Rebate" : A portion of special duties and taxes on mineral products allocated to Decentralized Territorial Authorities ;

"By-products": All mineral substances extracted, geologically coexisting with the main mineral substances, within a mining perimeter relating to a given mining permit, and which may be economically viable at a given time;

"Quarry substances" : All minerals extracted, processed, or transformed and used in sectors such as construction, industry, infrastructure, and agriculture, as listed by regulation ;

“Strategic Mineral Substances” : All mineral substances which, depending on the prevailing national and international economic situation, are of particular interest to the Nation in light of their critical nature and the geostrategic context ;

“Artisanal Techniques” : Traditional methods which primarily involve the use of manual tools for the extraction and processing of mineral substances from the soil or subsoil. This category includes the use of Labour Intensive Systems (HIMO systems) ;

“National Territory” : The land and maritime area under the sovereignty of the Republic of Madagascar, as defined by national and international law ;

“Holder” : The natural or legal person in whose name the mining permit is issued ;

"Processing of mineral substances" : All operations aimed at giving mineral substances an appearance other than their original one, or altering their chemical or mineralogical composition, with the objective of adding value to them ;

"Transport" : The physical act of moving mineral substances from one location to another, such as the transfer of mining products from the place of production to that of transformation, to storage, and to the export point ;

“Prohibited Areas” : An area of land where any mining activity is prohibited, including mining perimeters, quarries, or zones involving artisanal gold extraction activities ;

“Protected Areas” : Areas designated as protected in accordance with the provisions of the specific legislation governing the matter ;

“Reserved Areas” : Any portion of the national territory designated as reserved for specific purposes by the Mining Administration ;

CHAPTER II
GENERAL PROVISIONS

SECTION 1. MINING, FOSSIL-RELATED AND QUARRYING ACTIVITIES

Article 3. Mineral deposits are classified as :

- Quarries ;
- Mines and
- Fossil-bearing deposits.

Article 4. This Code primarily establishes the following regimes:

- the mining permits regime ;
- the gold regime ;
- the regime for the exploitation of fossils ;
- the quarries regime.

Article 5. All mineral, fossil-bearing, and quarry deposits on the surface, in the subsurface, waters, and seabed of the Territory of Madagascar, as national wealth, are the property of the State.

The Ministry in charge of Mines is the public Entity representing the State for their administration and governance.

The State shall ensure the promotion of such activities by making use of specialized State bodies and public participation companies and private initiatives in accordance with the provisions of this Code.

Article 6. In order to determine the geographical location of mining areas and protected areas, the National Territory is divided into squares.

Article 7. Mining, fossil-bearing, and quarry activities authorized, as applicable, under a mining permit, approval, or authorization, are governed by this Code.

Article 8. The activities of exploration and/or mining of radioactive minerals are authorized exclusively under an Exploration Permit or a Mining Permit.

In addition to the Mining Terms of Reference provided in Article 38 to which the holder is subject, the holder is also subject to the following specific agreements:

- a tripartite agreement between the holder, the specialized technical body in the field of radioactive mineral substances, and the State body representing the IAEA. The said agreement provides for the measures and instructions relating to radiation protection and the management of radioactive waste, in accordance with the applicable legal and regulatory provisions on radiological and environmental protection

- an agreement with a specialized State body with technical competence in the field of radioactive mining substances, which shall be designated by regulation to represent the State.

The model agreement templates shall be established by regulation.

SECTION 2. ELIGIBILITY

Article 9. Subject to the provisions of Articles 10 to 13 below, any natural person of Malagasy nationality and any legal person governed by Malagasy law may acquire and hold Mining permits, approvals, and authorizations.

The following may also directly acquire and hold mining permits and mining authorizations :

- specialized State bodies whose mandate is related to mining operations, particularly those involving the radioactive substances referred to in Article 8 of this Code and the strategic mineral substances referred to in Articles 72 and subsequent of this Code;
- public-sector companies.

In carrying out the aforementioned mining activities, the specialized State bodies and public-sector companies referred to above shall be subject to the provisions of this Code and shall not benefit from any privileges or priority treatment related to their status as State entities.

Article 10. The State and its subdivisions, local authorities or public bodies are not eligible to acquire and hold mining permits and mining authorizations directly, subject to the provisions of Article 9 of this Code.

Article 11. Public officials working within the Mining Administration, as well as personnel of public bodies attached to or under the supervision of the Ministry in charge of Mines, are not authorized to engage in mining activities.

Furthermore, any person involved in the monitoring and supervision of mining activities shall not engage in such activities within the jurisdiction where they hold competence, for the duration of their term of office.

The same applies to individuals or the directors of legal entities whose permits have been revoked, for a period of three (03) years from the date of the revocation of said permit.

Article 12. These disqualifications or prohibitions extend, for legal entities, to their subsidiaries and branches.

Article 13. In order to be eligible to acquire and hold mining permits, legal entities must have at least one legal representative residing in Madagascar.

Article 14. The authorization for the extraction of fossils for scientific purposes, from secondary fossil-bearing deposits as provided in Article 235 of this Code, is granted to any scientific entity, which may appoint individuals.

For international entities, a partnership with national research entities is required.

The terms and conditions of such partnership are established by regulation.

CHAPTER III
EXCLUSIVE AUTHORIZATION FOR PERIMETER RESERVATION

Article 15. The Exclusive Perimeter Reservation Authorization (AERP) grants the holder the right to conduct mineral prospecting.

Article 16. An AERP is granted by the Madagascar Mining Cadastral Office (BCMM) upon request from the interested party, in exchange for the payment of a fee per square, the amount of which is determined by regulation.

The AERP applies to squares located outside protected areas, temporarily reserved areas, areas covered by mining permits, and areas that are not subject to an ongoing mining permit application or an AERP application submitted prior to the request for the AERP in question.

Article 17. The validity period of the AERP is three (03) months, non-renewable.

The same person may not be granted another AERP for one or more squares covered by the first authorization until three (03) years after the expiration date of the latter.

Article 18. The AERP is neither transferable nor assignable.

Article 19. Before the expiration of the validity of its Authorization, the holder wishing to obtain a Research Permit or a Permit Reserved for Artisanal Miners, for all or part of the explored areas, shall submit the relevant application to the BCMM.

Article 20. The area to be granted by an AERP cannot exceed 2,500 km², equivalent to 6,400 squares.

CHAPTER IV
GROUPINGS

Article 21. Artisanal mining operators may come together and form groupings of artisanal miners.

These groupings constitute voluntary associations of individuals operating within the same Commune.

Article 22. Any duly constituted grouping must be declared by its founders to the corresponding Commune. A receipt shall be issued accordingly.

Article 23. Any grouping may apply for an Artisanal Mining Authorization covering a maximum of four (04) mining squares.

Article 24. Such legally established groupings may benefit from the necessary technical support provided by the mining administration.

Article 25. An Order of the Minister responsible for Mines lays down the model statutes for these groups.

Article 26. Natural persons of Malagasy nationality, except that ineligible under Article 11 of this Code, may be members of a grouping.

Any change in the members of the group as well as any modification to the statutes must immediately be declared, as provided in Article 22 of this Code.

Article 27. Relations between the members of a grouping shall be governed by an internal regulation agreed upon by them.

Article 28. In addition, artisanal mining groups planning to work within a mining perimeter are required to seek the approval of the holder of the relevant Mining Permit.

Otherwise, artisanal miners are subject to the penalties provided for in Article 368 of this Code.

Article 29. The approval of the concerned permit holder opens the way for a request for an Artisanal Mining Authorization to be submitted to the Ministry in charge of Mines.

To this end, an Artisanal Mining Corridor is delineated jointly by the mining administration and the concerned permit holder.

The coordinates of the said corridor, once demarcated, shall be communicated to the BCMM, which shall record them on the Mining Map.

CHAPTER V
ARTISANAL MINING AUTHORIZATION

Article 30. The Artisanal Mining Authorization (AMEA) grants its holder the right to carry out mineral extraction or collection activities, subject to the payment of a fee per square to the BCMM, the amount of which is set by regulation.

The AMEA is reserved for groupings as defined in this Code.

Article 31. An AMEA is granted by Decision of the Minister in charge of Mines, based on the recommendation of a local Committee chaired by the District Chief of the mining area, or by the Madagascar Gold Central, as the case may be.

The members of this local Committee are appointed by decision of the Minister in charge of Mines.

Article 32. The AMEA is granted in the areas defined in the artisanal mining corridors if the perimeter is initially covered by a permit, or in the protected areas (ZE) meant for artisanal miners if the perimeter was initially free.

Article 33. The AMEA has a validity period of six (06) months, renewable only once for the same duration, and is granted for a maximum of four (04) mining squares.

The AMEA is neither transferable nor leasable.

TITLE II
MINING PERMITS REGIME

CHAPTER I
GENERAL PROVISIONS

Article 34. Mining permits are classified as follows:

- Exploration Permit (PR), which grants its holder the exclusive right to carry out prospecting and exploration within the designated area ;

- Mining Permit (PE), which grants its holder the exclusive right to undertake mining, prospecting, and exploration within the designated area ;

- Permit Reserved for Artisanal Miners (PREA), which grants its holder the right to carry out prospecting, exploration, and mining within the designated area.

Article 35. A mining permit covers a perimeter made up of one or more contiguous and adjoining squares.

Article 36. It is up to the applicant to choose a suitable perimeter, provided that no Mining Permit may be granted over a protected area, a temporarily reserved classified area as defined by this Code, or a perimeter already covered by a Mining Permit or an AERP held by another person.

Article 37. The physical demarcation of each perimeter, after the granting of the Mining Permit, is optional.

It is subject to the written consent of the landowners and, if necessary, is carried out by sworn surveyors.

Article 38. All Mining Permits, depending on their type, shall include a Mining Specification Book (CCM), the model for which shall be established by regulation.

Article 39. The maximum area covered by all Mining Permits that an individual or legal entity can hold is :

- for the PR (Exploration Permit) : 5,000 km², or 12,800 squares ;

- for the PE (Mining Permit): 500 km², or 1,280 squares ;

- for the PREA (Reserved Permit for Artisanal Miners) : 50 km², or 128 squares.

Article 40. The files related to Mining Permits are managed, from the date of submission of applications until the expiration of the said Mining Permits, by the BCMM, according to a national mining cadastral that it keeps up to date.

The mining cadastral is available for public consultation.

Article 41. The PR covers the substance(s) subject to research.

The PREA and PE cover a maximum of five (05) substances.

Article 42. By way of derogation from the provisions of Article 41 above, in the event of the discovery of other substances, as justified by the relevant technical report, the holder of the concerned Mining Permit may request an extension, provided that the total number of mining substances covered by the permit does not exceed ten (10), excluding the PR.

To this end, he must submit a request along with a work program to the BCMM, followed by the adjustment of the corresponding Mining Terms of Reference.

Article 43. Before any operation concerning these new substances, an adjustment of the Environmental Terms of Reference or the Environmental and Social Management Plan is required, as the case may be.

Article 44. The request for an extension of substances under the Mining Permit follows the same procedures as those established for the initial request.

However, when the new discovery involves radioactive substances or ores, the procedure set out in Article 8 of this Code must be followed, even if the initial Permit is valid for other radioactive substances or ores.

Article 45. The granting of any Mining Permit and any movement or modification of Mining Permits shall be communicated by the Mining Administration to the relevant competent local authorities.

Article 46. The Decentralized Local Authorities (CTD) are empowered, within the scope of their administrative police powers, to oversee mining activities carried out within their respective jurisdictions.

Accordingly, they shall periodically, or as needed, submit relevant written information to the Mining Administration.

Article 47. Reports, statements, and studies submitted by permit holders shall remain confidential for the duration of the validity of the Mining Permits.

However, officers of the Mining Administration may incorporate information from said reports or records into the compiled statistics they publish, while ensuring the anonymity of the data used.

When the permits are relinquished, all research results must be submitted to the Mining Administration.

CHAPTER II
EXPLORATION PERMIT

Article 48. The Exploration Permit (PR) grants its holder, within the limits of its perimeter and for the duration of its validity, the exclusive right to carry out prospecting and exploration of the substance(s) for which the Mining Permit was granted, in accordance with the commitments set out in the Work Program and its accompanying Financial Plan submitted with the application.

The PR also grants the holder, as part of their exploration activities, the right to establish a pilot plant within their mining perimeter.

The model of the aforementioned Work Program and its Financing Plan, as well as the procedures for setting up a pilot plant, shall be established by regulation.

Article 49. The Exploration Permit (PR) is valid for five (05) years and may be renewed twice, each time for a period of three (03) years.

Article 50. Subject to the prior agreement of the landowner, the right conferred by the PR includes the right to build temporary or permanent infrastructure and to use timber and water found within the perimeter, in accordance with applicable laws and regulations.

Article 51. A Minimum Mining Exploration Cost (CMRM) is established for holders of Exploration Permits (PR), which represents the equivalent of the mandatory minimum expenses to be incurred during their exploration activities.

Article 52. The CMRM consists of a fixed lump sum amount plus a progressive surface-based amount, both of which are determined by regulation.

Article 53. In its annual activity report, the holder of the PR includes an Expense Report, based on which the Mining Administration evaluates the actual use of the allocated CMRM.

Article 54. The Minister in charge of Mines, upon the proposal of the National Mining Committee (CNM), defines by Order, the list of expenses eligible for the calculation of the amount actually allocated to exploration activities.

Article 55. Upon the renewal of the PR, if it is found that the allocation of the CMRM has not been effectively used, the area granted to the holder of the PR, after the gradual reduction provided for in Article 89, will be reduced by 25% compared to the initial perimeter.

Article 56. The holder of a PR also has the right to use the mineral substances extracted during exploration for laboratory analysis, as samples for market prospecting, or for industrial testing purposes.

The quantities authorized for export for the purposes of analysis, sampling, or industrial testing are defined by regulation.

Article 57. The Exploration Permit (PR) also grants the holder, within the limits of its perimeter and for the duration of its validity, the right to apply, in accordance with the provisions of this Code:

- a PE ;

- a PREA provided that the holder of the relevant Exploration Permit is of Malagasy nationality.

Article 58. As long as a perimeter is covered by a PR, no other AERP may be granted within it.

CHAPTER III
EXPLOITATION PERMIT

Article 59. The Mining Permit (PE) grants its holder, within the limits of its perimeter and for the duration of its validity, the exclusive right to extract the substance(s) covered by the Permit, as well as to continue prospecting and exploration of said substances in accordance with the commitments set out in the Mining Terms of Reference.

Article 60. The PE may be granted to the holder of a PR or a PREA who applies for its conversion.

Article 61. The PE is valid for twenty-five (25) years. It may be renewed once for a period of fifteen (15) years. Beyond this period, further renewal must be justified in accordance with the conditions set out in Articles 87 and 88.

Article 62. The PE includes the right to construct the necessary infrastructures and to use the timber and water found within the mining perimeter, in accordance with applicable laws and regulations, subject to the prior consent of the landowner.

Article 63. The holder of a PE may also dispose of quarry substances, the extraction of which is necessarily entailed by mining activities and related industries, subject to the payment of fair compensation to the landowner.

Article 64. Mining companies holding a PE that intend to carry out integrated mining activities are required to declare this to the Mining Administration.

The PE therefore grants the right to transport or have transported, from the project perimeter to the place of storage, processing, or loading, the mineral substances covered by the Mining Permit that are extracted, their concentrates, as well as the metals and alloys derived from these substances, and to dispose of them on both national and international markets.

Article 65. For these same companies, the PE also allows the establishment, within the National Territory, of facilities for the concentration, packaging, processing, refining, and transformation of the mineral substances covered by the Mining Permit, provided that they comply with the applicable legal and regulatory provisions.

Article 66. The registers of those companies shall be maintained separately for each activity, whether extraction, processing, or marketing.

CHAPTER IV
THE PERMIT RESERVED FOR ARTISANAL MINERS

Article 67. The Permit Reserved for Artisanal Miners (PREA) grants its holder, within the designated perimeter and for the duration of its validity, the exclusive right to carry out prospecting, exploration, and mining of the substance(s) for which the mining permit was issued, using artisanal techniques and potentially light mechanical equipment, the list of which is established by regulation.

The activities under the PREA are carried out in accordance with the commitments set out in the Work Program and its accompanying Financial Plan submitted with the application.

The model of the Work Program and its Financial Plan mentioned above are set by regulation.

Article 68. Only natural persons of Malagasy nationality and legally established groups of individuals of Malagasy nationality may acquire and hold PREAs.

Article 69. Any group of artisanal miners holding a valid AMEA may request its conversion into a PREA.

Each grouping is entitled to a maximum of four (04) mining squares for which an AMEA is granted, with a validity of six (06) months, renewable only once for the same duration.

During this period, the grouping submits a request for a PREA to the BCMM.

Article 70. The validity period of the PREA is eight (08) years, renewable twice for a duration of four (04) years at each renewal.

Beyond this period, renewal is conditioned upon the approval of a report justifying the exploitable deposit.

Article 71. The right granted by the PREA includes the right to build the necessary infrastructure and to use the timber and water found within the perimeter, in accordance with applicable laws and regulations, subject to the prior agreement of the landowner.

CHAPTER V
STRATEGIC MINERAL SUBSTANCES

Article 72. Strategic Mineral Substances (SMS) are defined as all mineral substances that, depending on the national and international economic situation at the time, present particular importance for the Nation in light of their critical nature and the geostrategic context.

Article 73. The list of strategic substances is determined by regulation, after consultation with the CNM or, if unavailable, with Mining Operators' Associations.

Article 74. The holder of a Permit covering strategic mineral substances is authorized to sell their production on the national market or to export it at market prices, subject to the State's right to determine the share of production that must be sold to the national industry, based on actual needs.

The implementation procedures for this provision are established by regulation.

CHAPTER VI
GRANTING AND MODIFICATION OF MINING PERMITS

SECTION 1. GRANTING

Article 75. The right to conduct exploration and/or mining operations may only be acquired through a Mining Permit issued by the BCMM, in accordance with the provisions of this Code.

Article 76. The Mining Permit is granted by Order of the Minister in charge of Mines:

- either following an application submitted to the BCMM ;
- or through a competitive tender process as provided for in Articles 136 to 140 of this Code.

Article 77. Mining Permits, other than those granted through competitive tender, are processed and reviewed on a "first come, first served" basis.

In this regard, applications for mining permits are processed by the BCMM in the chronological order in which they are registered.

Article 78. The mining permit application is to be completed on a form available at the BCMM, the template of which is set by Order of the Minister in charge of Mines.

If the applicant is acting following an AERP, the said Authorization must be attached to the application.

Article 79. When applying for a Mining Permit, the applicant must attach a Work Program along with a Financing Plan, based on which the Mining Administration will assess their technical and financial capabilities.

Article 80. Mining Permits, excluding those granted through a competitive process, are issued by an Order of the Minister in charge of Mines within a period not exceeding sixty (60) working days from the date of submission of the Mining Permit application, to the first eligible person meeting the requirements outlined in Article 79 above.

Article 81. The BCMM examines all Mining Permit applications and forwards them to the Administration, along with its decision on administrative and cadastral admissibility.

If applicable, the BCMM notifies the applicant of the inadmissibility of their application.

Article 82. During the evaluation of the proposed work program and financing plan by the applicant, the Mining Administration may request additional essential information from the applicant by notifying them.

Article 83. Following a satisfactory technical and financial evaluation by the Mining Administration, it informs the BCMM, which, for this purpose, prepares and submits to the Minister responsible for Mines the draft Order granting the Mining Permit, accompanied by the Mining Terms of Reference.

The Mining Terms of Reference includes the technical and financial commitments to which the holder of the Mining Permit is subject.

Article 84. The initial Mining Permit is issued by the BCMM after the holder has paid the annual Mining Administration Fees per square for the first year, which must be paid within the timeframe specified in Article 276 of this Code, and after the contribution to the Mining Social and Community Investment Fund, as stipulated in Article 281 of this Code, has been paid.

Article 85. Any refusal to grant a Mining Permit must be justified and notified to the applicant within a period of sixty (60) working days from the date of submission of the application.

Article 86. Any application for a Mining Permit must comply with the applicable environmental protection regulations, in accordance with Chapter II of Title VI of this Code.

SECTION 2. RENEWAL

Article 87. The renewal of a Mining Permit, upon request by the holder, is granted if the holder complies with the following legal and regulatory obligations :

1. the payment of the previous year's Mining Administration Fees ;

2. the payment of the Special Duties and Taxes on mineral products for the year preceding the renewal request, in the case of PREAs and Exploitation Permits ;

3. the compliance with the terms of the Mining Terms of Reference, particularly regarding technical and financial Reports;

4. the compliance with tax obligations;

5. the validity of the Environmental Permit or environmental authorization;

6. in the case of PE, justification of the renewal request through the submission of an updated feasibility study, along with a commitment to carry out the planned mining operations.

Article 88. The renewal of a Mining Permit is granted under the same conditions as its initial granting.

The holder is no longer required to submit, in support of their renewal application, an Environmental Commitment Program (PEE) or an Environmental Impact Assessment (EIE), as applicable, unless there is a significant change in the initial operation plan.

The cases for which the submission of a new environmental document is required are specified by regulation.

However, for the renewal of a PE, the holder must submit an updated feasibility study.

Article 89. The holder of a PR is required to carry out a gradual reduction of the surface area of their permit perimeter.

This gradual reduction is carried out in accordance with the following terms:

- the surface area of the PR perimeter must be reduced by at least 25% of its initial area at the time of the first renewal;

- the surface area of the PR perimeter must be reduced by at least 25% of the remaining area at the time of the second renewal.

Article 90. It is the responsibility of the PR holder to select the squares to be relinquished, provided that the selection does not result in enclosure of any future mining areas.

The gradual reduction does not exempt the holder from environmental obligations related to the relinquished squares.

The remaining squares must remain contiguous and connected by their sides.

Article 91. The gradual reduction takes effect as soon as the PR holder submits the renewal application.

The holder of a Permit must therefore attach to their application the coordinates of the squares to be relinquished, in accordance with the provisions of Article 90 above.

The BCMM then proceeds with the adjustment of the mining perimeter covered by the renewal application.

Article 92. The renewal application must be submitted to the BCMM within forty-five (45) working days prior to the expiration date of the Permits' validity.

Article 93. Any Permit that is the subject of a renewal application remains valid until a decision has been made regarding its status.

Accordingly, and while awaiting renewal, the holder is required to comply with all obligations under their Mining Permit.

Article 94. The renewal application is registered by the BCMM upon payment of the corresponding renewal fee, the amount and collection procedures of which are set by regulation.

SECTION 3. CONVERSION

Article 95. The holder of a PREA or a PR may, at any time, request the conversion of their Mining Permit into a PE.

Article 96. For the conversion of a PR into an PE, the following documents are required:

1. the application form, to be submitted before the expiration of the validity period of the said Mining Permit;

2. the prefeasibility study report ;

3. the periodic activity report.

The format of these reports is defined by regulation.

Article 97. To convert a PR into a PREA, the following documents are required:

1. the application form, to be submitted before the expiration of the validity of the mining permit;

2. the documents outlining the progress of the research work already conducted ;

3. the technical research report ;

4. the periodic activity report.

Article 98. The size of the mine perimeter, the duration of the Mining Permit, the means of exploitation and the amount of the Mining Administration Fees are adjusted accordingly.

Article 99. The converted Permit now follows the regime of the type of Permit to which it belongs, and the holder is required to implement any necessary compliance resulting from this change.

CHAPTER VII
NEGOTIABILITY, TRANSFER AND RELINQUISHMENT OF MINING PERMITS

Article 100. The PR constitutes a transferable, assignable right and is subject to pledge.

It can only be divided into whole squares.

Article 101. The PE constitutes a transferable, assignable, leasable right and is subject to pledge.

It can only be divided into whole squares.

Article 103. The deed of assignment, lease, transfer, pledge or mortgage, or any change affecting the Mining Permit shall be established in accordance with the legal and regulatory provisions in force, based on a declaration made by the holder of the Permit, and must be recorded in the BCMM register, failing which it shall be unenforceable against the Administration.

Copies of the documents so recorded shall be deposited by the holder at the BCMM for safekeeping.

Article 104. In case of disputes brought before the courts concerning such transfer or security acts, only final court decisions, against which all avenues of appeal have been exhausted, shall be enforceable against the BCMM, which shall then proceed with the registration of the resulting mining rights, subject to compliance with the procedures applicable to such registration.

Article 105. The BCMM shall refuse to proceed with the registration or transfer when the conditions of registration or eligibility are not met by the beneficiaries of the mining rights.

SECTION 1. THE TRANSFER OF MINING PERMITS

Article 106. The assignment and transfer of Mining Permits, excluding those held by groupings, are free to any eligible person who can acquire and hold Mining Permits, in accordance with the provisions of Article 9 of this Code.

Article 107. A new Mining Permit shall be issued, and the rights and obligations attached to the initial Mining Permit are transferred to the new holder, subject to the provisions of Article 108 below.

The transfer is granted under the same conditions as the initial granting.

Article 108. Any act of assignment or transfer, or pledge contract affecting the Mining Permits, cannot be invoked against the Administration until they have been registered with the BCMM.

Copies of the documents registered shall be deposited by the holder at the BCMM for safekeeping.

Article 109. The transferor shall be released from all obligations arising from the Mining Permit transferred to the transferee, including those to the Ministry in charge of Mines, once the transfer deed is registered in the Mining Cadastral Register.

However, the environmental obligations which are the subject of the environmental discharge referred to in Article 124 of this Code and which have already been fulfilled by the transferor, must be claimed by the transferee at the time of the transfer. Otherwise, the parties shall remain jointly and severally liable for the commitments entered into by the transferor up to the amount of the work carried out by the latter.

SECTION 2. LEASING AND PARTNERSHIP

Article 110. The lease agreement and the partnership agreement must be recorded in the Mining Cadastral Register, otherwise, they will not be enforceable against the Administration.

Article 111. Upon registration, a note of the lease or partnership, along with the name of the beneficiary, must be entered on the back of the Mining Permit document.

Article 112. The lease agreement transfers to the lessee the rights and obligations arising from the Mining Permit subject to the lease.

In this regard, the lease grants the lessee the right to use the Pass relating to the Mining Permit subject to the lease, for the duration of the lease.

Article 113. However, both the lessor and the lessee remain jointly responsible to the Mining Administration for the obligations attached to the Mining Permit subject to the lease.

Article 114. Subleasing is prohibited in the case of leasing agreements.

Article 115. The holder of a Mining Permit may work within their perimeter in partnership with a natural or legal person eligible to acquire and hold Mining Permits, in accordance with the provisions of Article 9 of this Code.

Article 116. In the event of disputes brought before the courts, only those court decisions that have become final and for which all avenues of appeal have been exhausted shall be enforceable against the BCMM, for the registration or transfer of mining rights, subject to compliance with the related procedures.

The BCMM shall refuse to proceed with the registration or transfer when the conditions for registration or eligibility are not met by the beneficiaries of the mining rights.

SECTION 3. RELINQUISHMENT

Article 117. The holder of a Mining Permit may, at any time, relinquish all or a portion of the area covered by their Permit.

In the case of partial relinquishment, it must cover one or more entire squares.

Article 118. Total relinquishment is subject to the completion of the closure of the exploration or mining site, in accordance with the provisions specified by regulation.

Article 119. The relinquishment shall be declared and registered with the BCMM, with the precise indication of the entire square or squares so relinquished.

Article 120. The partial relinquishment of mining areas must always be carried out in such a way as to ensure that the remaining squares are contiguous and adjoining by their sides, and that no land-locked zones for future mining areas are created.

The holder shall submit the Mining Permit for adjustment.

Article 121. Relinquishment, whether total or partial, is irrevocable.

Article 122. The relinquishment registered by the BCMM releases the holder from his responsibility to pay the Mining Administration Fees for the following years relating to the renounced squares.

Article 123. Relinquishment does not entitle the holder to a refund of Mining Administration Fees already paid.

Article 124. In order to be released from the obligation of environmental rehabilitation, the Mining Permit holder must obtain clearance from the authority that issued the initial environmental authorization, following an on-site verification of the completion of rehabilitation works.

Article 125. In the case of partial relinquishment, the Mining Permit is adjusted and then issued by the BCMM.

The modified Mining Permit is entered into the register of granted Mining Permits.

CHAPTER VIII
PROTECTED AREAS, RESERVED AREAS, AND PROHIBITED AREAS

SECTION 1. PROTECTED AREAS

Article 126. Any temporary protection established for the purpose of delineating new protected areas by the Ministry in charge of the Environment must be communicated to the Ministry in charge of Mines for prior study and consultation.

The coordinates of the new protected areas, along with the related technical documents, shall be communicated to it for the purpose of inclusion on the Mining Map.

Article 127. In any case, any established mining area can no longer be defined as a protected area.

Article 128. In the event of encroachment on protected areas with the intention of conducting prospecting, research, or mining activities, the administrative units of the local authorities (CTD) shall take action, even in the absence of any complaint from third parties.

They may request the intervention of law enforcement authorities, if necessary, or, if they do not have one, refer the matter to the closest representatives of the State.

They shall inform the Administration in charge of the protected areas concerned and the Mining Administration.

Article 129. In cases where protected areas are devoid of ecological and/or ecosystemic value, the Minister responsible for Mines may initiate a request for the declassification of the area to the Ministry in charge of the Environment

SECTION 2. PROHIBITED AREAS

Article 130. Without prejudice to any potential specific restrictions, no mining exploration or exploitation work may be carried out on the surface within an area of one hundred (100) meters, referred to as the prohibited zone, unless it is justified that the mining permit and/or authorization was granted previously:

1. Around properties enclosed by walls or an equivalent structure, or any delimitation commonly used in the relevant area, villages, clusters of buildings, wells and springs, religious buildings, burial sites, and places considered sacred or taboo, without the written consent of either the owner or the concerned local authorities (CTD);

2. on either side of communication routes, water pipelines, and generally around all public utility works, archaeological sites, religious sites, classified cultural and tourist sites, and civil engineering structures, without authorization from the Minister in charge of Mines, after obtaining the binding opinion of the competent authorities.

Article 131. Additional protected zones may be prescribed by Order of the Minister in charge of Mines for the protection of buildings and settlements, water sources, communication routes, civil engineering structures, and public utility works, at any location deemed necessary in the public interest, at the request of concerned parties and following an investigation.

Inside these zones, exploration and mining may be subject to conditions specified in the aforementioned Order.

SECTION 3. RESERVED AREAS

Article 132. Reserved areas are temporarily designated areas for public works, geological studies, mining promotion, or support for artisanal miners, subject to the availability of the concerned perimeter.

Article 133. Reserved areas are established by an Order of the Minister in charge of Mines.

The Order must include:

- the identification of the squares forming the reserved area;

- the duration required for the reservation;

- the reasons for establishing the reserved area.

SUBSECTION 1. RESERVED AREAS FOR PUBLIC WORKS

Article 134. For the completion of public works, the Minister in charge of Mines, after reviewing the related justification file, upon request from the relevant authority that defines the precise boundaries, may issue an Order declaring an area reserved for the duration of the works.

Article 135. The initial duration of classification as a reserved area for public works may not exceed twelve (12) months, with the possibility of being extended twice for the same duration.

SUBSECTION 2. RESERVED AREAS FOR GEOLOGICAL STUDIES

Article 136. For geological studies and/or mining promotion purposes, the Minister in charge of Mines may issue an Order declaring the area as reserved, subject to the condition outlined in Article 132 above.

These areas may be allocated to specialized State Agencies, according to Article 9 of this Code, so that they can carry out the aforementioned studies.

Article 137. Upon completion of the geological studies or in the context of mining promotion, the Minister in charge of Mines may, by Order, launch a call for tenders for the granting of Mining Permits in the areas concerned.

Article 138. The State, through one or more specialized bodies referred to in Article 9 of this Code, is entitled to an allocation of 10% of the share capital of the legal entity awarded the contract, which holds the mining permit.

This non-dilutable participation cannot be considered as granting any special privilege to the said bodies. No financial contribution may be required from the State for these contributed shares, even in the case of a capital increase.

Article 139. The terms and conditions for this call for tenders shall be laid down by regulating and shall comply with transparency rules.

Article 140. The Minister in charge of Mines may, for this purpose, restrict the granting of Mining Permits in the relinquished areas referred to in Article 136 to new applicants.

Article 141. The initial duration of the classification as a reserved area may not exceed twenty-four (24) months in this case and may be renewed only once for the same duration, under the same terms as the initial reservation.

SUB-SECTION 3. RESERVED AREAS FOR THE SUPERVISION OF ARTISANAL MINERS

Article 142. For the supervision of artisanal miners, the Minister in charge of Mines, upon the proposal of the Central, Regional, or Interregional Directorate in charge of Mines, or the Madagascar Gold Centre, as the case may be, may issue an Order declaring the area as a reserved area, referred to as a Protected Area (ZE).

Article 143. The initial duration of classification as a reserved area for the supervision of artisanal miners cannot exceed six (06) months and may be extended only once for a maximum duration of six (06) months.

Article 144. During the said period, the Mining Administration shall supervise the artisanal miners, who must organize themselves into a cooperative.

Article 145. Pending the receipt of the PREA, the Cooperative shall be granted an Artisanal Mining Authorization with a duration of six (06) months, renewable once for the same period.

Article 146. The cooperative holding an Artisanal Mining Authorization is required to prepare an Environmental Commitment Plan document to be submitted to the Environmental Department of the Ministry in charge of Mines.

Article 147. For the sale of its mining products, a Regulatory Pass is issued by the Mining Authority to the cooperative.

To this end, the cooperative maintains an up-to-date production register, which must be paginated and initialed in advance by the Mining Administration.

It is also required to submit a quarterly report to the Regional or Inter-Regional Directorate of Mines in the area of operation.

Article 148. The PREA granted to the cooperative is neither transferable nor subject to leasing.

Article 149. After confirming that the reasons for the classification as a reserved area are no longer justified, the Minister responsible for Mines shall release the areas so reserved by means of an Order.

CHAPTER IX
MINING WASTE AND BY-PRODUCTS

SECTION 1. MINING WASTE

Article 150. Mining waste, as defined in this Code, is classified as follows:

- tailings waste from stripping and/or tunnel tracing, as well as mining residues, for which reuse or storage, if necessary, does not require any specific conditions or authorization ;
- processing residues or selective tailings waste, and residues containing chemical additives, including sludge from a washing plant, roasting or smelting slag from the ore ;
- waste resulting from ore washing or processing ;
- materials that are not sufficiently mineable under current economic and technical conditions.

Article 151. The management and/or reuse of mining waste shall follow the Mining Waste Management Plan previously outlined in the Mining Terms of Reference of the Permit holder.

The reuse of waste containing chemical additives or waste containing radioactive elements also requires prior authorization from the State entity representing the IAEA and/or other competent authorities.

The conditions and procedures for the storage of mining waste are stipulated in the Mining Terms of Reference.

Article 152. Subject to the provisions of this Code, the holder of a PE may, without any additional administrative formalities, exploit the mining waste resulting from their own activity.

However, the recovery of mining waste by a person other than the holder of the Mining Permit is subject to the signing of an agreement between the holder of the PE and the interested party.

The said agreement shall be unenforceable unless registered with the BCMM.

Article 153. If the mining waste to be recovered constitutes by-products of the primary mineral substances listed in the Mining Permit, the holder of the Mining Permit is required to declare them for the purpose of extending the list of substances covered by their Mining Permit.

Article 154. In any case, the Administration reserves the right to carry out, at any time, inspections and/or analyses of the mineral substances as well as the mining waste extracted by the holder of the Mining Permit.

SECTION 2. BY-PRODUCTS

Article 155. By-products, as defined in Article 2 of this Code, are mining products and are subject to the same regime.

Article 156. By-products not declared in the Mining Permit may be subject to being mined when the holder of the relevant Mining Permit submits a request for such, in accordance with the conditions and procedures for the extension of substances as outlined in Article 42 of this Code.

Article 157. The exploitation of by-products may be carried out by an operator other than the permit holder, provided that an agreement is established between the two parties.

Such an agreement must be registered with the BCMM.

TITLE III
THE REGIME FOR GOLD

CHAPTER ONE

GENERAL PROVISIONS

Article 158. The activities of extraction, collection, analysis, processing, refining, commercialization, transportation, importation, and exportation of gold are governed by the provisions of this Title.

Article 159. The formalization, monitoring, management of the gold database, and regulation of gold activities, as well as the melting and affixing of the official hallmark on gold, fall under the responsibility of a National Public Establishment placed under the supervision of the Ministry in Charge of Mines, called the Madagascar Gold Central (COM). Its duties and operational procedures will be defined by regulatory means. The Madagascar Gold Centre is a continuation of the National Gold Sector Agency (ANOR) with an extension of its responsibilities

CHAPTER II
ARTISANAL GOLD MINING ACTIVITIES

Article 160. All artisanal gold mining activities shall be carried out within a gold panning corridor or an artisanal gold mining corridor, the coordinates of which are recorded on the Mining Map.

Article 161. Child labor is prohibited in all artisanal gold mining activities, except under the conditions set by labor legislation that allow children over the age of fifteen (15) to perform light work.

Penalties are provided for in the relevant specific texts.

SECTION 1. GOLD PANNING

Article 162. The gold panning activity is carried out under a Kara-bolamena or collector card issued by the relevant community, after being endorsed by the COM, to any individual of Malagasy nationality.

Article 163. Any individual of Malagasy nationality is eligible to acquire and hold a Kara-bolamena, accompanied by a production logbook.

Article 164. The Kara-bolamena is valid within the jurisdiction of the Commune that issued it, and only outside areas designated as protected areas, prohibited areas, or reserved areas under this Code.

Article 165. Gold panning activities within active riverbeds and recent alluvial deposits are unrestricted.

When gold panning is carried out within a Mining Perimeter, a gold panning corridor, constituting a legal easement zone in favor of the gold panners is delineated in accordance with the procedures defined in the Implementing Decree of this Code.

Article 166. The Kara-bolamena entitles its holder, without granting any form of exclusivity, to carry out gold panning activities for a period of one (01) year from the date of issuance.

Article 167. The Kara-bolamena may be renewed multiple times for the same duration and under the same conditions as the initial issuance, by the relevant local authority, subject to compliance with hygiene, safety, and environmental requirements established at the Commune level.

The Kara-bolamena does not constitute a Mining Permit.

Article 168. The procedures for issuing the Kara-bolamena are established by Order of the Minister in charge of Mines, upon proposal by the COM.

Article 169. The Kara-bolamena is issued upon payment of a fee, the amount of which is set by the local authority, within a range established by Order of the Minister in charge of Mines.

The revenue from the Kara-bolamena issuance fee shall be fully allocated to the relevant Commune

Article 170. The Kara-bolamena is personal and may not be transferred, assigned, or subleased.

Article 171. The holder of PREA or PE for gold has a right of first refusal on the products extracted from its mining area.

However, the holder of a Mining Permit for substances other than gold, or of a PR, may not purchase the products resulting from artisanal gold mining conducted within their mining perimeter, unless they are registered as a Gold Collector or a Gold Trader.

SECTION 2. ARTISANAL GOLD MINING ACTIVITIES ON PRIMARY DEPOSITS

Article 172. Artisanal gold mining on primary deposits outside areas designated as mining permits is governed by the provisions of Article 142 of this Code.

Article 173. Artisanal gold mining within a mining permit area shall comply with the provisions of Article 28 and subsequent provisions of this Code.

SECTION 3. ADMINISTRATIVE MONITORING OF ARTISANAL GOLD ACTIVITIES

Article 174. Information about the beneficiaries of the Kara-bolamena are recorded in a Register maintained and updated by each issuing local authority.

The Local Authority sends, every quarter, the stub of the said Register to the local COM office or, failing that, to the local Mines office, which will then forward it.

Article 175. Gold panners and groups of panners must keep an up-to-date production log, which they present periodically to the local authority.

Article 176. The Kara-bolamena, following a dematerialization study, may be converted into an electronic device, implemented and controlled by the COM.

SECTION 4. TECHNICAL, ENVIRONMENTAL, SAFETY AND HEALTH STANDARDS

Article 177. The equipment authorized for gold panning activities, as well as that permitted for artisanal gold mining on primary deposits are defined by regulation.

Article 178. The use of mercury, cyanide, and any chemical process is strictly prohibited in the context of artisanal gold mining activities.

Article 179. The standards relating to hygiene, safety, and environmental rehabilitation applicable to said activities are established by Decree adopted by the Council of Government.

CHAPTER III
GOLD COLLECTION

SECTION 1. COLLECTOR CARD

Article 180. The activity of gold collection is conditional upon obtaining the card called the Collector Card, issued by the COM and valid for a duration of one (01) year from the date of issuance.

It can be renewed one (01) or more times, subject to the applicant’s compliance with the obligations related to their activity, as well as payment of the related fee, in accordance with Article 184 of this Chapter.

Article 181. Any individual of Malagasy nationality as well as any jeweler is eligible to acquire and hold a gold collector’s card.

Article 182. The applicant may be issued a maximum of five (05) collector’s cards, corresponding to five (05) different local authority collection points, provided that the applicable fees are paid.

Article 183. The Collector's Card is personal. It is neither transferable nor subleasable.

Article 184. The Gold Collector must pay a fee for obtaining the Collector's Card, the amount of which is set by regulation.

The beneficiaries of the fee mentioned in the previous paragraph are the concerned Region and local authority, as well as the COM, and the distribution rates are set by regulation.

Article 185. The gold collector card grants its holder the right to engage in the purchase and sale of gold.

Article 186. The Gold Collector maintains an Entry/Exit Register and a Pass Register, both numbered and initialed in advance by the COM.

Article 187. The modalities and conditions for the issuance of the collector's card are determined by regulation.

SECTION 2. AFFILIATION

Article 188. Artisanal gold miners may affiliate themselves with Gold Collectors.

Article 189. Groupings of artisanal gold miners and Gold Collectors may be affiliated with Gold Trading Centres.

Article 190. Gold Trading Centres may affiliate with one another.

Article 191. Affiliation entails an obligation for the affiliating party to complete the administrative formalities and to bear the various costs arising from the formalization of the affiliated party.

Kara-bolamena or Collector Cards issued for the purposes of affiliation benefit from a 20 to 25% discount on the applicable fees set by the Local Authority.

Affiliation establishes an exclusivity and loyalty agreement between the parties for the sale of the gold produced.

CHAPTER IV
GOLD TRADING CENTRES

Article 192. Gold Trading Centres are legal entities under Malagasy law that operate in the processing, import, sale, and export of gold under an Approval granted by Order of the Minister in charge of Mines, following assessment by the COM.

Article 193. The Gold Trading Centre Approval grants its holder the right to purchase gold throughout the entire national territory from holders of Gold PE and Gold PREA, gold collectors, and cooperatives of artisanal gold miners.

The trading centre may also source gold from any individual selling their gold, provided that the latter can prove legal ownership of the product.

Article 194. Jewellers, holders of Gold PE and Gold PREA, gold collectors, and all gold buyer-resellers who export their gold must establish themselves as Gold Trading Centres.

Article 195. Gold Trading Centres are subject to the obligations set out in this chapter as well as to the legal provisions on money laundering and the financing of terrorism.

Article 196. Gold Trading Centres are subject to a specific Terms of Reference.

Article 197. The terms and conditions for obtaining an Approval, the amount of the Approval fee, as well as the model of the Terms of Reference, are set by Decree adopted by the Council of Government.

CHAPTER V
GOLD EXPORTATION

Article 198. Gold export procedures are carried out at the Single Window for Gold Exports.

The list of Services comprising the Single Window for Gold Export, as well as its establishment, are determined by regulation.

Article 199. Only Gold Trading Centres with valid Approval are authorized to export gold for commercial purposes.

Article 200. The export of gold can only be done in the form of jewellery, works, and/or bars, duly hallmarked by the Mining Administration.

Article 201. The export of gold for commercial purposes follows the same procedures as those provided for any other mineral substance.

Article 202. However, only gold accompanied by its Pass and its Identification Sheet issued by the COM can be subject to export procedures for commercial purposes.

Article 203. The conditions and procedures for the export of gold for commercial and non-commercial purposes are set by Decree adopted by the Council of Government.

CHAPTER VI
GOLD IMPORTATION

Article 204. Only the Gold Trading centres and jewelers are authorized to import gold for commercial purposes. The gold importer must, in addition to the fiscal and customs obligations prescribed by applicable laws, submit a prior declaration to the COM, using a form provided by them.

Article 205. The procedures and conditions for importing gold are defined by a Decree adopted by the Council of Government.

CHAPTER VII
TRACEABILITY OF GOLD

Article 206. Marketed gold is subject to weighing, analysis, refining, and official hallmarking by the Madagascar Gold Centre.

For gold derived from artisanal gold mining, it is the responsibility of the collector and the Gold Trading centre to present it to the local COM branch at the extraction site or, if unavailable, to the nearest one, for the operations mentioned in the previous paragraph, upon payment of fees, the amounts and payment modalities of which are set by regulation.

The same applies to gold originating from activities carried out under a PREA or a PE.

For activities integrated with gold within the framework of a PREA or a PE, the final product, before being deposited at the storage location, must be submitted to the COM for registration, certification, and hallmarking.

Article 207. The melting of gold, which must be carried out in a single operation, takes place at the COM branch.

However, holders of mining permits for integrated activities and jewellers for gold crafting are authorised to melt gold outside the COM.

Article 208. At the end of these operations, an Identification Sheet and a Registration Certificate are issued to them.

Article 209. The circulation of gold without the corresponding Pass and Identification Sheet is considered equivalent to the circulation of mining products without supporting documents, punishable under Article 371 (1) of this Code.

CHAPTER VIII
OBLIGATIONS RELATING TO THE TRADE OF GOLD

Article 210. Any commercial exportation of gold is subject to the obligation of repatriating foreign currency and selling it on the Interbank Currency Market, in accordance with the provisions of the relevant specific texts.

Article 211. With the exception of sales at international fairs and exhibitions, all transactions between the exporter and their client regarding the export sale of gold must be conducted through documentary delivery or letter of credit.

No transaction in the form of free remittance is authorized.

The next shipment is subject to the full repatriation of the amount corresponding to the previous invoiced amount.

Article 212. The gold exporter who fails to comply with this obligation will be suspended from all exports until regularization, regardless of any other criminal penalties incurred under the law and regulations.

Article 213. Regardless of master's hallmark affixed by jewelers and goldsmiths, all gold jewelry and articles intended for sale must undergo a fineness check and testing at the Madagascar Mines Laboratory (LMM), followed by the affixing of the official hallmark by the COM.

Article 214. Any holder of gold for commercial purposes, excluding the artisanal gold miner, is subject to the payment of special duties and taxes on mineral products related to it, in accordance with the provisions of Article 283 of this law, unless a receipt is presented attesting to prior payment.

Article 215. The principles governing the collection of Special Duties and Taxes on mineral products are defined in Article 283 of this Code.

Article 216. In the context of monitoring gold-related activities, the COM is authorized to take measures sanctioning any irregularities it observes.

Article 217. The COM is authorized to carry out any operation aimed at collecting the information necessary for effective oversight of gold-related activities.

TITLE IV
REGIME OF QUARRIES

Article 218. Quarries are classified as artisanal quarries and industrial quarries.

The list of quarry substances is established by Order of the Minister in charge of Mines.

Article 219. The exploitation of quarry substances by any individual, whether or not they are the landowner, is authorized in accordance with the provisions of this Title.

Article 220. Any person other than the landowner, for such exploitation, must also obtain the landowner's consent and compensate them fairly.

CHAPTER I
ARTISANAL QUARRIES

Article 221. The mining of artisanal quarries is carried out under an Authorization issued by the relevant local authority.

Article 222. The artisanal quarry mining Authorization grants its holder, within the limits of the quarry subject to the authorization and during its validity period :

1. the exclusive right to mine the substances for which the Authorization was granted ;
2. the right to transport or have the extracted substances transported to the storage or loading site ;
3. the right to market the extracted substances on domestic markets.

Article 223. The validity period of the Authorization for artisanal quarry mining is one (01) year, renewable multiple times.

Article 224. Any application for a quarry mining Authorization is communicated by the relevant Commune to the Mining Administration for technical advice.

The Mining Administration, after reviewing the file, issues its technical opinion and returns the file to the local authority in question if it pertains to artisanal quarry exploitation.

Otherwise, the applicant is directed to file a mining permit application.

Article 225. The renewal of the Authorization for the opening of an artisanal quarry is granted under the same conditions as the initial issuance, by the local authority concerned.

Article 226. An environmental Authorization is issued by the Competent Authority of the Ministry in charge of Mines regarding environmental matters prior to the commencement of any exploitation and upon each renewal of the local authority.

Article 227. The concerned local authority is responsible for the management and administrative oversight of artisanal quarry activities within its jurisdiction.

CHAPTER II
INDUSTRIAL QUARRIES

Article 229. The mining of industrial quarries is carried out under a PE issued by the BCMM, and follows the applicable regime.

Article 230. However, the mining of borrowed deposits is carried out under an Authorization issued by the relevant local authority.

Article 231. Products resulting from industrial quarry activities are authorized for export, on the same basis as other mineral products from Exploration Permits.

Article 232. The export of industrial quarry substances is subject to compliance with the administrative procedures of declaration and conformity control with the Ministry in charge of Mines.

TITLE V
REGIME GOVERNING FOSSILS AND SUBSTANCES WITH RARE DEPOSITS

CHAPTER I

REGIME GOVERNING FOSSILS

Article 233. Due to their scientific value, particularly for dating sedimentary layers or determining the geological specificity of a region, fossil-bearing deposits are subject to a special regime.

Fossil-bearing deposits are classified into three categories:

- first-order fossil-bearing deposits;
- second-order fossil-bearing deposits; and
- third-order fossil-bearing deposits.
  The list of first-, second-, and third-order fossil-bearing deposits is established by regulation.

Article 234. First-order fossil-bearing deposits are part of the national heritage.

They contain rare species or species whose stratigraphic location is unique within the geological formation.

Article 235. Second-order fossil-bearing deposits contain rare species that are, however, common to several geological strata.

They may be subject to authorizations for scientific studies and sample collection.

Upon completion of the studies, authorization holders are required to submit technical reports on the work carried out to the authority that issued the authorization.

Article 236. Third-order fossil-bearing sites may be subject to collection under a Collection Authorization issued by the Regional or Inter-Regional Directorate in charge of Mines, in accordance with the procedure established by regulation.

It is valid for a period of one (01) year, renewable multiple times for the same duration, and for the pre-specified quantity of production.

Article 237. Notwithstanding the foregoing provisions, certain fossils may be prohibited from exploitation and trade due to their major scientific importance.

Their list is established by Decree adopted by the Council of Government.

CHAPTER II
SUBSTANCES WITH RARE DEPOSITS

Article 238. The exploitation of substances with rare deposits, notably aragonite, celestite, and septaria, is carried out under a PREA, granted to the group in accordance with the provisions of Article 142 and subsequent articles, of this Code.

For the mining of these substances within a mining perimeter, an AMEA is issued, subject to the agreement of the holder of the concerned Mining Permit, in accordance with the provisions of Articles 28 and 29 of this Code.

Article 239. The list of substances with rare deposits is established by Decree adopted by the Council of Government.

TITLE VI
OBLIGATIONS RELATED TO MINING ACTIVITIES

CHAPTER ONE
GENERAL PROVISIONS

Article 240. After obtaining their Mining Permit or Mining Authorization, as the case may be, and before beginning their activities, the holder is required to submit a certified copy of their Mining Permit or Mining Authorization to the BCMM against acknowledgment of receipt, as well as a copy of their Environmental Permit or Environmental Authorization, as applicable, to the local authority, also against acknowledgment of receipt.

Article 241. The Mining Terms of Reference of the Mining Permit holder include a "Corporate Social Responsibility Plan" (PRSE), established according to the type of Mining Permit, the size, and the phasing of the mining project, and subject to revision based on the project's development.

Article 242. The PRSE, materialized through tripartite agreements between the Promoter, the host communities, and the local authorities, includes :

- social investments;
- basic infrastructure, particularly related to health, education, energy, transportation, and hydro-agriculture;
- local content.

Article 243. Local content includes, among others :

- prioritization of local suppliers and enhancement of the local supply chain;
- local skills development and capacity-building programs;
- for equal qualifications, priority in local hiring. In any case, the percentage of Nationals employed in the operation must be at least 80%;
- development of income-generating activities.

Article 244. Without prejudice to the obligations set out in the Mining Terms of Reference, each holder of a mining permit is free to adopt additional measures aimed at making Corporate Social Responsibility (RSE) effective.

Article 245. The Mining Permit holder takes measures to protect and effectively secure its perimeter or deposit.

The terms and standards are set by regulation.

Article 246. The land subject to an expired, non-renewed, non-converted, revoked, or relinquished mining permit are released from all obligations only after the completion of the safety and environmental protection work, as per the commitment of the Permit holder, and any additional work that may be prescribed by the Mining Administration, in accordance with the application of this Code.

Article 247. The Mining Administration, as well as the CTD (local authorities), each within their respective responsibilities, ensures the monitoring of the execution of obligations incumbent upon Mining Permit holders, based on the review of reports provided by the Permit holders and on field visits to research and/or mining sites.

Article 248. Any operation affecting the rights granted by the mining permit must be recorded with the BCMM, upon payment of a flat fee, the amount of which is set by an Order of the Minister in charge of Mines, without prejudice to any other legal or regulatory fees that may be due.

Article 249. Any legal entity holding a Mining Permit is required to register with the BCMM any changes affecting the company's articles of association, no later than thirty (30) days from the date of the change.

Failure to comply with the previous paragraph is considered a breach of the terms of the Mining Terms of Reference.

Article 250. The indirect transfer of shares by the parent company of a legal entity holding a Mining Permit is subject to a declaration to the tax administration and the BCMM, which informs the mining administration thereof.

The duties and taxes applicable to indirect transfers are governed by the laws and regulations in force.

Article 251. Failure by the holder to comply with their obligations is sanctioned in accordance with the provisions of Chapters I and II of Title X of this Code.

CHAPTER II
ENVIRONMENTAL PROTECTION

Article 252. Holders of Mining Permits and artisanal mining authorizations are required to comply with regulations aimed at environmental protection.

Article 253. No holder of a Mining Permit may start mining activities without obtaining an environmental authorization or an environmental permit, as applicable.

To this end, the start of exploitation activities and, where applicable, further exploration under a PE requires an Environmental Impact Assessment (EIA) report, which must be submitted to the environmental service of the Ministry in charge of Mines and approved by the competent environmental authority.

The start of exploration or exploitation activities, as the case may be, under a PR or a PREA, must be preceded by the approval of the commitments contained in the Environmental Commitment Program (PEE) document by the environmental service of the Ministry in charge of Mines.

However, in the case of a PR, an EIA may be required once exploration activities reach a certain threshold, which is set by regulation.

Article 254. Any natural or legal person engaged in mining activities within a given mining area is required to take the necessary protective measures to minimize and remedy any damage that may result from the operations carried out as part of their activity.

The said person is liable for any environmental degradation resulting from their operations.

Article 255. All execution of works related to mining activities within a given mining perimeter, including the construction and maintenance of the necessary infrastructure, must be carried out in accordance with the previously prepared and adjusted PEE or EIA, in accordance with the procedures set forth by the applicable legal and regulatory provisions.

The template for PEE documents shall be specified by regulation.

Article 256. Every holder of a Mining Permit shall provide for the establishment of an environmental provision intended for the rehabilitation and protection of the environment, as well as for reforestation.

The description and modalities of this provision shall be established by a Decree issued by the Council of Government.

Article 257. In order to be released from the obligation of environmental rehabilitation, the holder of the Permit must obtain a discharge certificate (quitus) from the Authority that granted the environmental authorization, following an on-site verification of the completion of the rehabilitation works.

The environmental liability of the holder and any potential successors shall remain in full force until they can provide evidence of having obtained the corresponding environmental discharge certificate.

Article 258. Beneficiaries of Artisanal Mining Authorizations, Artisanal Gold Mining Authorizations, and Collection Authorizations must carry out their activities in compliance with specific environmental obligations, as defined by Decree issued by the Council of Government.

CHAPTER III
SAFETY AND HEALTH, HYGIENE, AND OCCUPATIONAL ACCIDENTS

Article 259. The holder is required to make optimal use of the deposits and to comply with any general or specific measures that may be ordered for a better utilization of the resources.

For the conduct of mining or quarrying operations, in order to ensure surface safety and environmental protection, as well as the safety, health, and hygiene of employed personnel, and the preservation of the mine or neighboring mines, the applicable rules are established, as necessary, by regulation.

In the event of non-compliance by the holder of a Mining Permit with the provisions of this article, the Mining Administration may order new corrective measures.

Article 260. The holder of a Mining Permit, in all mining and quarrying operations, must comply with the rules on hygiene, sanitation, public health, occupational safety

and health, radiological protection, the rights of individual or collective landowners, and the protection of religious and cultural buildings, in accordance with the applicable laws and regulations.

Article 261. For safety reasons, any opening or closure of a research or mining/quarrying operation, any execution of underground works, and all geological and mining exploration activities, regardless of their purpose, must be declared in advance to the Ministry in charge of Mines.

Article 262. Any accident or occupational disease occurring in a mine, a quarry, or their facilities must be reported as soon as possible by the holder of the Mining Permit to the Ministry in charge of Mines, the Ministry in charge of Labor, and the Ministry in charge of Public Health, as well as to the territorially competent unit of the National Police or the Gendarmerie.

CHAPTER IV
PROMOTION OF HUMAN RIGHTS, CHILDREN'S RIGHTS, AND GENDER EQUALITY IN THE MINING SECTOR

Article 263. The granting of any Mining Permit or other mining Authorization provided for under this Code shall not result from any discriminatory practice based on gender.

Article 264. Holders of Mining Permits or Mining Authorizations, subcontractors, and other actors in the value chain of a mining operation are required to integrate the gender dimension into the conduct of their activities.

To that end, they are required to:

- promote diversity and gender equality in the workplace;
- avoid any discrimination based on race, sex, origin, religion, trade union affiliation, political affiliation and opinions in matters of employment, occupation, and the appointment of corporate officers and other stakeholders;
- ensure equal treatment of all personnel—employees, corporate officers, and other stakeholders—in the spirit of "equal pay for equal work," regardless of physical ability, disability status, age, or gender;
- ensure respect for human rights throughout the entire value chain.

Article 265. The following are prohibited throughout the entire value chain of a mining operation:

- human trafficking;
- child labour, except under the conditions set forth in labour legislation that permits children over the age of fifteen (15) to perform light work;
- sexual exploitation of children;
- all forms of abuse against vulnerable groups and persons with disabilities;
- the encouragement or concealment of cases of Gender-Based Violence.

Penalties are provided under the specific laws governing these matters.

CHAPTER V
CONSTRUCTION AND INFRATRUCTURE MAINTENANCE

Article 266. Mining permit holders are allowed to construct and maintain all infrastructure necessary for activities related to the permits or the related environmental authorization, under the clauses of this chapter.

Article 267. Any infrastructure constructed by the holder of a Mining Permit must first be the subject of a plan, submitted to the competent authority for approval, after receiving approval from the CTD authorities.

Article 268. The communication routes created by the Mining Permit holder within their mining perimeter can be used for the needs of other mining establishments,

industrial, and commercial establishments, at their request, when this does not cause any problem to the Mining Permit holder, subject to the latter's agreement, for compensation agreed upon by the parties.

Article 269. Any public utility infrastructure built by the holder of a Mining Permit, remains in place upon the expiration of the Mining Permit's validity, automatically becomes public property.

CHAPTER VI
REGISTERS AND ACTIVITY REPORTS

Article 270. The Mining Permit holder maintains the documents update required by the Administration and defined by the implementing regulations of this Code.

Those include:
- documents on any mining exploration or exploitation center;
- accounting documents relating to the various phases of the holder's activity;
- reports that mining permit holders are required to provide periodically to the Mining Administration;
- documents on the terms and conditions of sale, transportation, trade, and processing of mining substances.

Article 271. The reports required from mining permit holders, in the previous article, consist of:

- the Periodic Activity Report;
- the expense Report, the technical Report, and the progress Report on the exploration work executed, at the end of the exploration phases;

- The Pre-Feasibility Study Report, when requesting the conversion of the PR into a PE or PREA.

The frameworks for these reports is defined by regulation.

Article 272. Those documents, following the study, can be transformed into an electronic system implemented and controlled by the Mining Administration.

CHAPTER VII
ANNUAL MINING ADMINISTRATION FEES PER MINING SQUARES

Article 273. Any holder of a mining permit occupying one or more mining squares listed on the cadastral mining fallout map is required to pay the annual Mining Administration Fees (FAM) per square.

Article 274. Mining permits that are being cancelled or have been cancelled are no longer subject to the payment of FAM.

Article 275. The annual FAM revenue per square on each permit issued is distributed to:

- the General Budget;
- the Province concerned;
- the Regions concerned;
- the Local authorities concerned;
- the Madagascar Mining Cadastral Registry Office (BCMM);
- the Madagascar Gold Centre (COM);
- the National Mining Committee (CNM);
- the Extractive Industries Transparency Initiative (EITI);
- the Entity responsible for geological studies and mining promotion;
- the Entity responsible for the analysis and certification of mining products;

The distribution rates for those fees are set out in a Government Decree issued in Council of the Government.

Article 276. Mining permit holders pay the FAM per square at the latest at the end of the first half of the calendar year in question.

In the case of non-payment beyond the due date specified in the preceding paragraph, the Mining Permit will be canceled, according to the clauses of Chapter I of Title X of this Code.

In the case of regularization, the amount due shall be increased by a penalty at a rate set at 2% of the principal amount, per month of delay, with any month started being due in full, without the increase exceeding 50% of the principal amount due.

Article 277. The terms and the conditions for the recovery of annual FAM per mining square shall be specified by the regulation.

To determine the amount of FAM to be recovered, the BCMM will update every two (02) years the base amount set by the Implementing Decree of this Code, in relation to the average value of special drawing rights between January 1 and October 31 of the previous year at the Banky Foiben'i Madagasikara (Central Bank of Madagascar). The amounts thus updated are recorded by BCMM Decision.

Article 278. In the case, that the holder requests a partial conversion of their Mining Permit, the mining square(s) concerned will, after the conversion, follow the rate applicable to the FAM per square due to the corresponding Permit.
To this end, no requests for refund or compensation can be accepted.

Article 279. The annual FAM per square are paid to the BCMM.
The latter issues a receipt to the permit holder at the time of payment and then allocates the respective shares to the various beneficiaries.

CHAPTER VIII
SOCIAL AND COMMUNITY INVESTMENT MINING FUND

Article 280. Every mining operator, upon issuance of their PREA and/or PE, will contribute to a Social and Community Investment Mining Fund (FMISC).

Article 281. A contribution is collected for the Fund, including:

For the PREAs: a fixed amount set by regulation;
For the PEs: a rate of 3% of the direct investment amount provided for in the pre-feasibility study submitted with the permit application for the development and initial equipment of the mine.

In addition, a clause will be included to readjust the amount of this contribution to the actual cost at the end of the studies to be taken after the issuance of the Mining Permit.

This contribution may be capitalized as an asset and depreciated to calculate taxable income for individual and corporate income tax purposes. The decree will specify the depreciation period and method.

Article 282. The Social and Community Investment Mining Funds (FMISC) will be managed transparently in partnership with communities and decentralized authorities.

The conditions and procedures for the collection, implementation, and management of these Funds will be set by a Decree issued by the Council of the Government.

CHAPTER IX
SPECIAL DUTIES AND TAXES ON MINING PRODUCTS

Article 283. A single tax, called Special Duties and Taxes on Mining Products (DTSPM), shall be levied for the benefit of the State, its sectoral divisions, and the CTDs, at a rate of 5% of the value of mining products exported.

Those special duties and taxes are composed of a mining rebate at a rate of 2% for the benefit of the CTDs and a mining royalty at a rate of 3% for the benefit of the State and its sectoral divisions.

It is recalled that mining companies ruled by this Code are subject to the ordinary law system provided for by the Tax Code and the Tax Procedures Code.

Article 284. The assessment for special duties and taxes on mining products for export is established according to the FOB value of the product based on the international price at the time of export. This value will be established by a specialized department within the Ministry of Mines, in collaboration with the Customs Department.

Article 285. No other tax on mining products, other than provided for in this Code, may be payable throughout the entire value chain of that products, including their export from the territory.

Article 286. The Special duties and taxes on mining products are payable by:

- Mining Permit holders for products from mining areas;
- Gold Trade centres and collectors for products from artisanal gold mining;
- Groups;
- Buyers and resellers of mining products.

Article 287. The calculation of special duties and taxes on mining products to not include quantities of substances used by the operator for the purposes of its own exploration or mining work is justified.

Article 288. In the case that the extracted substances are processed following the collect application of this Code, the Mining Permit holder benefits a 30% reduction in the rate of special duties and taxes on mining products.

Article 289. For local sales, the tax base for special duties and taxes on mining products is based on the local market values of mining products, which are established periodically by Order of the Minister of Mines.

Article 290. Revenue from the mining rebate is distributed among the respective budgets of the Local Authorities, Regions, and Provinces concerned, and to the National Equalization Fund.

The distribution is as follows:

- 10% for the National Equalization Fund;
- 90% for the Local Authorities (CTD), including:

  - 60% for the Local Authorities concerned and for the Local Authorities impacted by the Project (mining, transportation, processing, environment, without limitation), the distribution of which is set by regulation;
  - 30% for the Regions;
  - 10% for the Provinces.

Article 291. Mining royalty revenues are paid into the General Budget.

A part may be reallocated to public bodies operating in the mining sector.

The General Budget shares are mainly intended for social and community investments.
The terms of application of this article will be set by regulation.

Article 292. The principles for collecting Special Duties and Taxes on Mining Products are set out in the Government Council Decree.

The terms and conditions for collecting Special Duties and Taxes on Mining Products are set by joint decree of the Minister of Finance, the Minister of Mines, and the Minister of Decentralization.

Article 293. In the case that the extracted mining product comes from different extraction sites spread across several local authorities and regions, the method of distributing the related mining rebate revenue is set by regulation.

CHAPTER X
SUBJECT TO INSPECTIONS

Article 294. Each exploration and/or mining center, each warehouse for the sale or storage of unprocessed form on mining products, and each warehouse of the exporter of mining products are subject to on-site inspection by the Mining Administration.

Article 295. The purpose of inspections is to verify that mining permit holders and all holders of authorizations and approvals are fulfilling their obligations in the exercise of their activities.

In general, all mandatory documents and records are subject to inspection by the inspection officers.

Article 296. The procedures for tracking, control, and inspection are established by Decree issued in Council of the Government.

CHAPTER XI
ADHERENCE TO THE PRINCIPLES AND REQUIREMENTS OF TRANSPARENCY AND GOOD GOVERNANCE

Article 297. All mining permit holders, following the standards and the Guidelines for Extractives Industries Transparency Initiative (EITI), are required to comply to the principles and requirements of transparency and good governance, including:

- making statements based on data audited by the competent authorities;
- stating to the national authorities responsible for ensuring transparency in mining activities all information relating to their payments to the State, including economic, environmental, and social achievements;
- making public, information relating to beneficial ownership;
- making public, all contracts and licenses, new or amended, including information, made available to the public.

However, the Malagasy Government can decide to adhere to other international norms and standards of transparency and good governance.

TITLE VII
RELATIONS BETWEEN PERMIT HOLDERS AND LAND OWNERS AND RELATIONS BETWEEN PERMIT HOLDERS

CHAPTER ONE
RELATIONS BETWEEN PERMIT HOLDERS AND LAND OWNERS

Article 298. The definitions of land owner, as well as all definitions related to the rights of rules or possession relating to the land occupied by any mining permit, are those set out in the relevant legislation in force.

Article 299. The holder of a Mining Permit and the land owner shall agree on their respective rights and obligations by written agreement.

Article 300. The holder of a Mining Permit for mining products may dispose of quarried substances within their mining perimeter, the remove of which is necessary for their mining operations and related industries, upon payment of fair compensation to the land owner.

Article 301. The holder is required to inform the landowner, of his right to occupy the portion of the property covered by his Mining Permit, in particular, the land required for his activity and activities related to it.

Article 302. Apart from exploration and actual mining work, the industrial activities and works referred to above, both within and outside the mining area, include:

- the establishment and operation of powerhouse, offices, and lines for both electricity and telecommunications, exclusively for its own needs, notwithstanding the specific legal and regulatory provisions concerning its activities;
- emergency works, including shafts and galleries intended to facilitate ventilation and water drainage;
- the preparation, washing, concentration, mechanical, chemical, metallurgical, or bacteriological treatment of extracted ores, agglomeration, distillation, and gasification of fuels;
- the storage and disposal of products and waste;
- construction intended for housing, hygiene, and staff care;
- food crops intended for its supply;
- the establishment of all communication routes, including ditches, canals, pipes, pipelines, conveyor belts, railways, overhead cables, river or sea ports, and landing strips;
- the establishment of boundary markers and boundary markers.

Article 303. The holder is required to request authorization from the landowner, or from the land rights holders, or the beneficial owner :

1. within the mining perimeter, to cut the wood necessary for its work, subject to fair compensation in accordance to the legal and regulatory provisions in effect;

2. outside the perimeter, to perform the work necessary for its activity, to develop all communication routes and emergency structures, and to occupy the corresponding land.

   Work outside the perimeter can only be conducted if it is declared to be of public utility according to the clauses of this Code, or if the holder has received explicit permission from the owner of the land, the land rights holders or the beneficial owner as the case may be.

Article 304. In the case that the landowner does not reside within the area granted to the permit holder, and the permit holder is unable to contact them, the relevant CTD authorities shall be informed by the permit holder.

They are going to be responsible for establishing contact between the permit holder and the landowner.

Article 305. The planning and installation projects referred to in Article 303 above may, upon request by the permit holder to the Ministry of Mines, be stated to be of public utility, exclusively in the cases and under the conditions provided for by the relevant legal and regulatory provisions, subject to any specific or additional obligations that may be imposed on the Mining Permit holder.

The costs, compensation, and all expenses resulting from the expropriation procedure will be supported by the Mining Permit holder.

Article 306. The holder is required to repair any damage that this work may cause to private or public surface property, as well as to the environment.

Article 307. In any case, all mining operations must be subject to a lease agreement.

CHAPTER II
RELATIONS BETWEEN MINING PERMIT HOLDERS

Article 308. In the case that it is necessary to execute work intended either to connect neighboring mines for ventilation or drainage, or to open ventilation, dewatering, or emergency routes intended to serve neighboring mines, Mining Permit holders can not oppose the execution of the work and are required to participate in it, each in proportion to their interest.

Article 309. A sufficient investment may be prescribed to prevent the work of one mine from being connected to a neighboring mine already established.

The establishment of this investment cannot give rise to compensation payable by the holder of one mine for the benefit of the other.

TITLE VIII
POSSESSION, TRANSPORT, PROCESSING, MARKETING, AND EXPORT OF MINE PRODUCTS

CHAPTER ONE
POSSESSION AND TRANSPORT

Article 310. All possession of mining products is subject to a register maintained under a procedure defined by the regulation.

Article 311. Besides the holder of a mining permit, their agent registered with the Regional or Interregional Direction in charge of Mines within their jurisdiction is the only authorized to use the Pass on their behalf.

Article 312. Mining products held and transported outside the mining area from which they originate must be followed by a Pass and a receipt proving payment of the mining rebate.

Article 313. The Pass is issued under a procedure defined in the implementing regulations of this Code.

CHAPTER II
PROCESSING OF MINING AND QUARRY SUBSTANCES

Article 314. The clauses of this Chapter apply to industrial and artisanal establishments or parts thereof processing mining and quarry substances.

The establishments listed in the preceding paragraph include lapidaries, goldsmiths, and jewelry stores.

Article 315. The processing of mining products by processing establishments requires a Commissioning Authorization issued by the Mining Administration.

Article 316. The operating licence for establishments or parts for the industrial processing of mining products, integrated mining activity, is issued by the Ministries of Mines and Industry, respectively.

Article 317. For the control of mining products used in processing establishments or parts thereof, unprocessed materials and finished products shall be taken into account, in particular.

Article 318. Processing Establishments are required to keep an Entry and Exit Register and a Pass Register, which are subject to control and inspection.
They are also subject to the preparation of an activity report to be submitted every six (6) months to the Mining Administration.

CHAPTER III
MARKETING

SECTION 1. GENERAL INFORMATION

Article 319. The purchase and sale of mining products is subject by obtaining an Authorization issued by the Mining Administration, in addition to holding a valid tax card issued by the competent department.

Article 320. The buyer-reseller of the mining product concerned is required to keep the recordings and documents for trading in mining products.

Article 321. The marketing of prospecting and exploration products is strictly prohibited.

Article 322. The criteria for the classification of processed mining products are set by regulation.

Article 323. It is strictly prohibited to market synthetic stones, imitation stones, composite stones, or treated stones as natural stones.

Article 324. It is also prohibited to market stones of Malagasy origin as imported stones, and vice versa.

SECTION 2. PRECIOUS AND GEMSTONE COUNTERS

Article 325. The export of precious and gemstones is entrusted exclusively to Precious and Gemstone Trading centres, which are legal entities incorporated under Malagasy law, authorized to operate pursuant to an Approval issued by Order of the Minister of Mines, after instruction and technical advice from the Entity in Charge of Gemology.

Precious and gemstone trading centres can also process the precious and gemstones.

Article 326. The trading centre is subject to compliance with specific Specifications, the implementation of which is the responsibility of the Entity in Charge of Gemology.

Article 327. The trading centre is entitled to the stability regime provided for in this Code.

Article 328. The list of substances classified as precious or semi-precious stones, the model of the Specific Specifications, and the terms and conditions for getting the Approval are established by Order of the Minister of Mines.

SECTION 3. THE EXPORT

Article 329. The procedures for exporting mining products are carried out at the One-Stop Export points (GUE).

The list of Services comprising the GUE and their implementation are established by the Order of the Minister of Mines.

Article 330. The export of mining products, as well as quarry substances, fossils, and substances with rare deposits, is subject to a conformity check conduct by the Mining Administration, according the declaration submitted by the exporter.

Article 331. Non-prohibited fossils can only be exported in a worked state.

Article 332. Apart the exporter's tax obligations, the exporter is also subject to the obligation of bank to register their exports with a locally domiciled bank, the full currency repatriation resulting from these transactions, and the transfer of proceeds on the Interbank Foreign Exchange Market, under the regulations in force.

Article 333. Except for sales of mining products at international fairs and exhibitions, all transactions between the exporter and his client relating to the export sale of mining products must be conducted by documentary remittance or letter of credit.

No transaction in the form of free delivery is permitted.

Article 334. For the export of mining products intended for industry and mining products processed by local industries, as well as industrial stones, conformity control is carried out by sampling.

The terms and conditions for sampling control are set by Order of the Minister responsible for Mines.

In all cases, the packing of mining products and the sealing of the associated container are conducted in the presence of the Mining Administration.

Article 335. Compliance checks before export of precious and semi-precious stones must be conducted in full and not by Sampling.

The procedures for inspecting the conformity of mining products prior to export are set by the Order of the Minister of Mines.

Article 336. Following inspection of the nature and conformity of mining products, the Mining Administration issues a Certificate of Conformity, which constitutes the primary administrative document required for their export from the National Territory.

Article 337. The export of mining products and non-prohibited fossils other than trading ones, including shipments of samples of mining prospecting or exploration products, for analysis, industrial testing, or market research purposes, is legal, subject to prior declaration to the Mining Administration and upon production of a regulatory Pass.

The quantity authorized for export for non-commercial purposes is set, depending on the substances exported, by Decree issued in Council of the Government.

Article 338. The personal collection system is governed by the Order of the Minister of Mines.

In any case, any transportation of personal collections from the National Territory requires prior authorization from the Ministry of Mines.

TITLE IX
STABILITY GUARANTEE

Article 339. A Stability Guarantee is granted to any mining permit holder for a period of five (5) years, renewable upon request to the Mining Administration.

However, for gold trading centres and precious and semi-precious stone centres, the validity of the guarantee matches the validity of the License.

The application must be addressed to the Mining Administration, the model, eligibility criteria and evaluation procedures of which are set out by regulation.

The Stability Guarantee is granted by the Inter-ministerial Order of the Ministry for Mines and the Ministry for Finance and Economics.

Article 340. The stability is applied to the "tax, customs, and parafiscal" regimes.

Article 341. Investors who have chosen this option are guaranteed of the stability of the legal and regulatory provisions concerning the regimes at the time the declaration formality is completed

Article 342. However, the Mining Permit holder may request the benefit of more favorable measures that may apply after the date of the stability options.

In this case, the Mining Permit holder may choose these more favorable regimes if they adopt them in their entirety.

The option for the subsequent favorable regime no longer allows the holder to reapply for the benefit of the initial regimes covered by the stability guarantee.

Article 343. Investors may not continue to benefit from the stability regime if they fail the terms of the Mining Specifications.

Article 344. Beyond the first five-year threshold, the terms for renewing the stability guarantee are set by regulation depending on the type of mining permit.

Article 345. These clauses do not apply to the updating of annual FAM amounts per mining squares.

Article 346. Any operator who has reached a minimum investment threshold set by the law may apply for the special regime under the Law on Large-scale Mining Investments (LGIM).

The eligibility terms and conditions relating to the special regime are set by the LGIM and its implementing regulations.

TITLE X
BREACHES OF OBLIGATIONS AND OFFENCES

CHAPTER ONE
BREACHES OF OBLIGATIONS AND ADMINISTRATIVE MEASURES

Article 347. Failure to pay the annual mining administration fees (FAM) within the legal deadline shall result in cancellation of the corresponding Permit, after the legal procedures provided for in Article 363 of this Code.

Article 348. When the holder of a Mining Permit, in the exercise of their activities, endangers public health or safety, as well as the environment, the Mining Administration may require the holder to carry out the work deemed necessary to remedy the situation.

Article 349. In the case of default by the holder of a Mining Permit, the Mining Administration may have the said work carried out by third parties, at the Permit holder's expense.

Article 350. Irregular maintenance or failure to provide the mandatory documents by this Code is punishable by a written warning issued by the Mining Administration if the infractions do not constitute a legal offence.

After sixty (60) working days, if the irregularities persist, the Mining Administration shall decide to suspend the laissez-passer provisions for the Mining Permit holder.

At the end of the suspension period, the Mining Administration shall issue findings report.

If the observed irregularity has disappeared, the sanction shall be lifted.

Otherwise, the suspension shall be renewed for a second period of sixty (60) working days, until the irregularity is rectified.

Article 351. The Mining Administration reserves the right to cancel the Mining Permit or Mining Authorization granted to any group or cooperative in one of the following cases:

- the Group or cooperative no longer comprises the majority of the initial members;
- the areas subject to supervision now require more advanced mining methods than those authorized for the PREA.

Article 352. The PREA holder or the holder of an Artisanal Mining Permit for Groups or cooperatives using unauthorized equipment for their mining activities is liable to a ban on using their Pass for sixty (60) working days.

They are also required to immediately remove equipment from the mining site.

Article 353. Failure to submit the mandatory periodic reports within the regulatory deadline for any Mining Permit shall be subject to a reminder letter stating the obligation to submit the documents within two (2) months.

Until the reports are regularized, the Mining Permit holder is not authorized to issue passes.

Article 354. Failure to pay special duties and taxes on mining products within three (3) months from the date of notification of the related regulatory Payment Order, shall be punished by a suspension of activity for a period set out in the Implementing Decree of this Code.

Upon expiry of this period, if the special duties and taxes have not yet been paid, the corresponding Permit shall be canceled in accordance with the provisions of Article 363 of this Code, after exhausting the legal procedures.

Article 355. Cancellation of the Mining Permit does not discharge the holder's obligation to pay the special duties and taxes and the late payment penalty, which shall not, however, exceed 50% per year of the amount due.

Article 356. Any exporter of mining and quarrying products who has failed to comply with the obligation to repatriate foreign exchange provided for in Article 332 of this Code shall be suspended from all exports until the situation is regularized, regardless of any other criminal penalties incurred under the law and regulations.

Article 357. Without prejudice to the penalties provided for in specific texts and legislation on Gender-Based Violence, the Administration may take provisional administrative measures aimed at protecting victims.

Article 358. Measures taken by the Mining Administration are subject to administrative appeal.

Article 359. The violations cited in this chapter do not preclude possible criminal prosecution.

Article 360. Apart from the cases provided for in Articles 347, 351, and 354, the cancellation of a Mining Permit may be decided:

- for failure to execute mine development activities, not justified by force majeure, established two (2) years from the date of obtaining all sectoral authorizations, for PREAs and PEs;
- following the interruption of activities not justified by force majeure, for a period of three (3) years for PREAs, and for a period of five (5) years for PEs;
- following the permanent revocation of the Environmental Permit relating to the Mining Permit in question.

Article 361. After observation of the lack of mine development activities or the interruption of activities without valid reason, followed by a period of formal notice of three (03) months without success, the Mining Administration shall notify the BCMM, that it can proceed to cancel the Mining Permit, by the same actions as for the granting.

Article 362. Also, upon finding that an Environmental Permit has been permanently withdrawn or that the holder has been convicted of a crime or offence, the Administration shall notify the BCMM, which shall proceed to cancel the Mining Permit by the same means as for its grant.

Article 363. For the cancellation of the Mining Permit, the following procedure is carried out chronologically as follows:
1. the identification of the breaches that may lead to the cancellation of the Mining Permit;
2. the posting at the BCMM Offices or at the Regional or Interregional Mining Directorates, as the case may be, of the list of defaulting Permit holders;
3. the formal notice of sixty (60) working days given to the Permit holder and the notification of any creditor holding a pledge or mortgage on the Mining Permit;

4. the signing of the Mining Permit cancellation document;
5. the notification of the cancellation decision to the interested party and the notification of any creditor holding a pledge or mortgage on the Permit;
6. the entry of the withdrawal decision in the register of granted Permits;
7. the notification of the interested party;
8. the signing of the Cancellation Order and the publication in the Official Gazette.

Article 364. Legal persons whose permit(s) have been revoked pursuant to the provisions of this Code may only obtain the granting of new mining permits after a period of three (03) years, from the date of registration of the cancellation in the register maintained by the BCMM.

Article 365. The cancellation of a mining permit shall nullify the rights associated therewith.
Furthermore, the cancellation of a mining permit shall not release the holder of his or her environmental obligations.

CHAPTER II

OFFENCES AND PENALTIES

Article 366. Mining offences are defined as violations of the provisions of this Code and its implementing regulations.

Article 367. Acts of exploration for or mining of mineral substances, quarry substances, or fossils, committed and duly documented within Protected Areas designated as prohibited for all mining activity, constitute offenses.

The perpetrators of such acts, co-perpetrators, and their accomplices, as well as receivers of mining products or fossils from such illicit activity, shall be punished by imprisonment of one (01) to five (05) years and a fine of five million Ariary (5,000,000 Ar) to fifty million Ariary (50,000,000 Ar), without prejudice to any damages that the Court may award at the request of the victims.

However, if the acts listed above are committed by a grouping or in an organized gang, they constitute crimes and their perpetrators, co-perpetrators, and their accomplices, as well as receivers, are punished by a term of forced labor of five (05) to twenty (20) years and a fine of one hundred million Ariary (100,000,000 Ar) to five hundred million Ariary (500,000,000 Ar).

Mining and quarry substances, as well as fossils thus extracted, are seized, and the court will order their confiscation.

Article 368. Violations of a mining perimeter granted by regulation, by carrying out acts of prospecting, exploration, or mining constitute an offense and are punishable by a term of imprisonment of six (06) months to two (02) years and a fine of three hundred thousand Ariary (300,000 Ar) to ten million Ariary (10,000,000 Ar).

Any non-prohibited substances or fossils extracted for this purpose must be seized.

However, if the acts listed above are committed by groups of persons, they are punishable by imprisonment of two (02) to five (05) years and a fine of three hundred thousand Ariary (300,000 Ar) to twenty million Ariary (20,000,000 Ar).

Article 369. Persons who hold, purchase, sell, put into circulation or export prohibited fossils or those which are proven to come from fossil deposits classified as national heritage, shall be punished by imprisonment of one (01) to five (05) years and a fine of three hundred thousand Ariary (300,000 Ar) to five hundred million Ariary (500,000,000 Ar) or one of these two penalties only.

However, if the acts listed above are committed as part of organized trafficking, the prison sentence or fine imposed is the maximum provided for in the preceding paragraph.

Article 370. The export of mining, quarry or fossil products, resulting from fraudulent and corrupt ways, carried out without the corresponding supporting documents, or with false supporting documents knowingly established with the aim of misleading the competent Administration, constitutes an offense, punishable by a prison sentence of one (01) to five (05) years and a fine of twenty million Ariary (20,000,000 Ar) to two hundred million Ariary (200,000,000 Ar).

However, if the act listed above is perpetrated within organized trafficking, it constitutes a crime and their perpetrators, co-perpetrators, their accomplices, as well as the receivers, are punished by a sentence of forced labor of five (05) years to ten (10) years and a fine of twenty million Ariary (20,000,000 Ar) to five hundred million Ariary (500,000,000 Ar).

Mining, quarry or fossil products that are the subject of the offence are compulsorily seized, and the court shall order their confiscation.

Article 371. The following acts constitute criminal offences:

1. the purchase, sale, or circulation at the national level of non-prohibited mining substances or fossils, without supporting documents or with supporting documents knowingly established in an inaccurate manner;
2. the continuation of activities on a mining area that has been subject to a suspension of activity, as provided for in Chapter I of this Title;

3. the possession without supporting documents of non-prohibited mining substances, quarries, or fossils;
4. false declarations made in order to obtain an authorization to circulate or export non-prohibited mining substances or fossils;
5. movement or illicit circulation or use of passes or any document authorizing circulation or marketing of non-prohibited mining substances or fossils;
6. the possession, purchase or sale at home or by peddling of non-prohibited mining substances or fossils, with knowledge of their fraudulent origin:

- In the case of hawking, the weighing equipment or other equipment used for the sale or purchase must also be seized and their confiscation ordered by the court;

- The same applies to the transport used for the hawking sale, belonging to the offender, which is seized as security for the fine, in the absence of a maximum deposit or solvent surety;

7. Falsification of the names of mineral substances or certification of false names for substances;
8. Prospecting, exploration, or mining of non-prohibited mineral substances or fossils knowingly conducted without a mining permit or other administrative authorization corresponding to both the substances exploited and the areas concerned;
9. Concealing of mineral substances or fossils for export purposes.

The perpetrators, co-perpetrators, and accomplices of said acts shall be punished by imprisonment of one (01) to five (05) years and a fine of five million Ariary (5,000,000 Ar) to twenty-five million Ariary (25,000,000 Ar).

The penalties imposed shall be accompanied by the seizure of non-prohibited substances or fossils that were the subject of the offence or obtained through its commission.

The confiscation of substances and means of exploitation shall be ordered by the courts.

Article 372. Making a false declaration or any willful omission in order to obtain a mining permit constitutes an offence.

The perpetrators, co-perpetrators, and accomplices of this act shall be punished by imprisonment of six (06) months to five (05) years and a fine of two million Ariary (2,000,000 Ar) to ten million Ariary (10,000,000 Ar).

Article 373. The commercial sale of unhallmarked gold jewelry constitutes a violation, punishable by a fine of one hundred thousand Ariary (100,000 Ar) per gram.

Article 374. Violation of graves, buildings, or religious or cultural sites during the performance of mining work constitutes an offence.

The perpetrators, co-perpetrators and accomplices of this act are punished with a fine of one million Ariary (1,000,000 Ar) to ten million Ariary (10,000,000 Ar), without prejudice to the compensation for damages requested by the victims.

Article 375. Acts of willful destruction of fossils constitute an offence and are punishable by imprisonment of one (1) to five (5) months and a fine of three hundred thousand Ariary (300,000 Ar) to twenty million Ariary (20,000,000 Ar).

Article 376. Areas temporarily reserved under Article 132 are considered mining areas established during the period of their reservation.
Violation thereof shall be punished in accordance with the provisions of Article 368 of this Code.

Article 377. In the case of a repeat offence, imprisonment shall be imposed for all offences referred to in this Chapter.

Article 378. Any offence not provided for in this Code shall be punished in accordance with the provisions of ordinary law.

CHAPTER III
INVESTIGATION AND DETERMINATION OF OFFENCES

Article 379. Mining policing is exercised under the authority of the Minister of Mines.

The body responsible for Mining policing may be composed of sworn agents of the Mining Administration at the ranks of engineer, senior technician, technical assistant specializing in mining or geology, as well as judicial police officers.

Non-sworn agents of the Mining Administration, who are not authorized to issue fines, may assist in law enforcement as auxiliaries to the agents listed above.

Judicial Police Officers assigned to Mining Policing have jurisdiction throughout the territory of the Republic.

Article 380. In the case of an offence involving a mining product, regardless of any prosecution conducted by other entities that have detected the offence, the Mining Administration shall be notified for the purpose of establishing and prosecuting the mining offence.
Products confiscated for this purpose shall be entrusted exclusively to the Mining Administration, regardless of the existence of concurrent offences being prosecuted.

Article 381. The officers listed in Article 379 are authorized to conduct the search and establishment of infraction, investigations, confiscated, and searches, under the clauses of the Malagasy Code of Criminal Procedure, if applicable.

They can make arrests and place persons in police custody for the purposes of the preliminary investigation, under the clauses of Malagasy Code of Criminal Procedure.

The search and detection of offences includes the possibility of body searches.

Article 382. The agents listed in Article 379 are bound by professional confidentiality under the clauses of Article 378 of the Criminal Code and are liable to the penalties provided for in said article.

However, this clause does not preclude:

- the exchange of information with the various tax authorities of the Republic;
- information requested by the investigating judge in charge of the case, which concerns only the incriminated facts, when a proper complaint has been filed and a judicial investigation has been opened.

Article 383. The authorities of the CTD, which are not authorized to issue fines for mining infractions, may assist in the establishment of the investigation report as auxiliaries.

They may refer the matter to the agents listed in Article 379 of this Code.

In this case, their reports, which are of informational value only, may nevertheless serve as a basis for drafting reports.

Article 384. Any person who becomes aware of a violation of the clauses of this Code may also refer the matter to the officers listed in Article 379 of this Code.

Article 385. Mining Administration officers authorized to record mining violations must carry their commission card, the model of which is set out in the Implementing Decree of this Code.
They shall present this document with the mission order relating to their intervention.

Article 386. Civil authorities and law enforcement representatives shall provide assistance and support to officers authorized to investigate violations in the exercise of their duties, whenever required.

Article 387. The procedures for preparing reports, the procedures for conducting searches and raids, as well as body searches relating to the investigation and recording of mining violations, shall be defined by regulation.

CHAPTER IV
EXERCISE OF ACTIONS AND PROSECUTIONS

Article 388. The courts within respective jurisdiction have jurisdiction over crimes or infractions committed in violation of this Code and its implementing regulations.

Cases of crimes or offences committed shall be tried under the criminal procedure in force.

Article 389. Actions and prosecutions will be brought under the legislation in force and will be conducted by the Minister of Mines, who can delegate the matter to a designated representative for this purpose, who can always join the proceedings as a civil party.
The Minister of Mines or his designated representative can make any submissions or draw conclusions he deems necessary and will be heard at the court hearing in support of his submissions.

CHAPTER V
SETTLEMENT

Article 390. All offences under this Code and its implementing regulations, except those classified as crimes or those tending to create conflict between the offender and the local population, may be subject to pre-trial settlement.
A pre-trial settlement has the effect of stopping the prosecution of an infraction.

Article 391. No settlement may be granted unless the offender submits a written request to the Minister of Mines.

Article 392. The Minister of Mines has the power to accept an offender's written submission and to enter into a final settlement, either before or after trial.

However, they can delegate these powers by regulation.
If the amount of the settlement transaction is not paid within the set time limit and the offender has not given up the transaction, the Administration may pursue recovery by any legal means, including enforcement.

Article 393. The determination of the amount of the transaction, the method of calculation, and any revision thereof, are defined in the implementing regulations of this Code.

Article 394. The benefit of the settlement transaction cannot be given in the case of a repeat offence or crime.

Article 395. The total proceeds from settlements, auctions, or fines imposed by the courts, after deducting any costs and taxes, will be distributed under the terms specified in the implementing regulations of this Code.

CHAPTER VI
SEIZURES

Article 396. Mining substances seized under Chapter I of this Title shall be deposited at the Mining Administration office nearest to the place of seizure by the seizing officer, pending a decision on their disposition.

However, for seized precious stones, semi-precious stones, or precious metals, the place of deposit will be the Central Bank, Banky Foiben'i Madagasikara (BFM) nearest to the place of seizure.

Article 397. Deposits shall be made in sealed packages or boxes with a deposit report signed by the officers who noted the offence, the offender, and the depositor, and a copy will be sent to the Ministry of the Public Finance if the deposits were made at the Public Finance office.

Article 398. Deposits will not be entered in the accounts.
They will only be recorded in a special numbered and initialed book. They are considered to be carried out on behalf of the Ministry of Mines.

They are only recorded in a special register, numbered and initialed. They are considered to have been conducted by the Ministry of Mines.

Article 399. In the case that the seized substances remain in the custody of the Administration due to the offender's default, three (03) months after the final settlement of the dispute, the substances will be sold through public auction.

The proceeds of the sale will be paid to the Public Treasury and allocated under the clauses of the implementing regulations of this Code.

Article 400. A copy of the deposit report will be attached to the report of the agents referred to in Article 379 addressed to the Minister of Mines.

The Ministry of Mines shall keep a numbered and initialed register of the deposits made.

Article 401. Only the Minister of Mines, has sole authority after settlement of cases, to order the release of the seizure, after request from the interested party.

In the lack of a settlement, it will be up to the Court to rule on said release.

CHAPTER VII
PROCEEDS FROM FINES, CONFISCATIONS, AND SETTLEMENTS

Article 402. The proceeds from fines and confiscations shall be used to cover:

- costs of all kinds;
- special duties and taxes applied to mining products;
- the shares of the reporting officers;
- where applicable, the shares of those issuing fines;
- the Mining Administration.

The remaining amount, deducted from costs of all kinds and special duties and taxes applied to mining products, constitutes the available proceeds to be distributed to those issuing fines, reporting officers, informants and the Administration.
The statement of that said distribution is established by Order of the Minister of Mines.

Article 403. The proceeds from mining settlements will be distributed between:

- the General Budget;
- the Social and Community Investment Mining Fund;
- the Mining Administration;
- the reporting officers (informants);
- those issuing fines

The statement of distribution proceeds will be established by Order of the Minister of Mines.

TITLE XI
NATIONAL MINING COMMITTEE

Article 404. A body for dialogue, facilitation, consultation, and conciliation, called the National Mining Committee (CNM), is hereby established, the establishment of which is provided for by Decree issued in the Council of the Government.
Article 405. The CNM ensures dialogue and collaboration between the Administration and the authorities of the CTDs and the private sector operating in the mines.

Article 406. The CNM is consulted to provide its opinion on any Draft Legislation, and as needed, any Draft Decree regulating mining activities.

Article 407. The CNM supports the Mining Administration in periodically setting the local market value of mining substances.

The CNM is also responsible for tracking the activities of large mines and facilitating the obtaining of sectoral permits for mining operators.

In carrying out its assigned missions, the CNM may, if necessary, establish ad hoc committees.

Article 408. The CNM ensures compliance with responsible gold standards.

Article 409. When expropriation for public utility impacts a mining permit, the CNM is a member of the administrative commission created as part of the expropriation procedure and participates in its missions under the relevant legal and regulatory texts.

TITLE XII
DISPUTES RELATING TO MINING ACTIVITIES

CHAPTER 1
DISPUTES BETWEEN INDIVIDUALS

SECTION 1. NON-CONTENTIOUS PROCEDURES

SUBSECTION 1. OUT-OF-COURT SETTLEMENT

Article 410. Any dispute arising from the exercise of non-prohibited mining, quarrying, and fossil activities shall be submitted in advance for out-of-court settlement to the relevant CTD.
The relevant Regional and Inter-Regional Mines Directorate and any other entity likely to provide assistance will be consulted with a view to resolving the dispute.

Article 411. The duration of the out-of-court amicable settlement before the CTD will not exceed fifteen (15) days from the date of referral by the most diligent party.

Article 412. The outcome of the out-of-court settlement procedure is recorded in a report signed by the participants.

SUBSECTION 2. CONCILIATION

Article 413. In the absence of an amicable out-of-court settlement before the CTDs, the disputes referred to in Article 410 will be submitted to a conciliation procedure before the CNM.

Article 414. The duration of conciliation before the CNM shall not exceed thirty (30) calendar days, from the date of referral by the most diligent party.

Article 415. In the case of conciliation, a record of agreement shall be established in a report of conciliation signed by the participants.

In the case of failure to reach conciliation, a report shall be drawn up, signed by the participants, noting the points of disagreement.

SECTION 2. LITIGATION PROCEDURES

Article 416. If the procedures referred to in Articles 409 to 414 fail, the most diligent party can submit the dispute to the competent courts.

Article 417. The opinion of the Mining Administration may always be requested for expert advice.

In this case, the expert advice costs will be borne by the parties concerned and paid to the Ministry of Mines.

Article 418. Under the rules of civil liability as defined by the current Law on the General Theory of Obligations, the person carrying out mining or quarry operations will provide compensation to any person who has suffered damage caused by said operations.

CHAPTER II
DISPUTES BETWEEN INDIVIDUALS AND THE ADMINISTRATION

Article 419. Any person who considers themselves aggrieved by an act or decision of the Administration, taken pursuant to the provisions of this Code, may file an administrative appeal before referring the matter to the competent Malagasy courts.

TITLE XIII
TRANSITIONAL PROVISIONS

CHAPTER ONE
MINING PERMIT REGIME

SECTION 1. MINING SPECIFICATIONS

Article 420. The holder of a Mining Permit granted before the effective date of this Code has six (06) months from the effective date of this Code to bring their Mining Permit into compliance with the Mining Specifications system.

For this purpose, they update their Work Program document in accordance with the framework defined by the Mining Administration.

SECTION 2. MINIMUM COST FOR MINING EXPLORATION

Article 421. The holder of a valid PR on the effective date of this Code is required, upon renewal of said Permit, to allocate the Minimum Mining Exploration Cost (CMRM), which is to be included in the Work Program and Financing Plan.

SECTION 3. GRADUAL REDUCTION

Article 422. PR for which a renewal application is pending at the BCMM level on the effective date of this Code is subject to gradual reduction.

The gradual reduction for these Permits only applies upon the next renewal.

SECTION 4. DURATION OF MINING PERMITS

Article 423. Mining Permits valid on the effective date of this Code are subject to the new durations provided for in this Code only upon renewal.

CHAPTER II
GOLD ACTIVITIES

Article 424. Gold panning permits issued before the effective date of this Code remain valid until their expiration.

The renewal of these permits follows the system provided for in this Code.

Article 425. The holder of a Gold Trading Approval, valid on the effective date of this Code, has a period of six (06) months to amend their Specific Specifications, according to his activity.

Article 426. Until the Madagascar Gold Centre (COM) is operational, the missions assigned to it by this Code will be conducted by the National Gold Agency.

CHAPTER III
INDUSTRIAL QUARRIES

Article 427. Valid quarry permits granted by local authorities before the effective date of this Code remain valid until their expiration.

Upon expiration, the permit holder is required to comply with the new provisions, according to the quarry classifications provided for in this Code.

CHAPTER IV
FOSSILS

Article 428. Non-prohibited fossil mining permits granted before the effective date of this Code remain valid until their expiration.

CHAPTER V
PERMITS FOR RARE SUBSTANCES DEPOSITS

Article 429. The Mining Administration, upon entry in effect into this code establish a "reserved area for the supervision of artisanal miners" for the benefit of miners of substances with rare deposits, who will be organized into a group or cooperative.

A PREA Permit subsequently be granted to that group.

Authorizations for the extraction of substances with rare deposits, granted prior to the entry in effect into this Code, remain valid until their expiration.

Holders of these Authorizations, who must form a group or cooperative, have twelve (12) months to apply for PREAs.
Until that PREA is obtained, holders of valid Authorizations can use them and/or request their renewal if necessary.

CHAPTER VI
APPLICATIONS PENDING AT THE MINING ADMINISTRATION

Article 430. Applications for the granting, transformation, and renewal of mining permits, pending at the BCMM, at the entry in effect into this Code, subject to the

specific clauses of the preceding chapters of this Title, will be processed and examined in accordance with its clauses.

The same applies to any other application for Authorization or Approval filed with other Entities or departments of the Mining Administration before the entry into effect of this Code.

Article 431. Any applicant for a PE must provide, in support of their application file at the BCMM, a Pre-Feasibility Study Report, as well as a Work Program and a Financing Plan relating to the mining activities it provides for.

CHAPTER VII
PROVINCIAL SHARE OF MINING REBATE

Article 431 bis. Pending the effective establishment of the Provinces, a decree issued by the Council of Ministers determine the allocation of their share of mining rebate revenue.

TITLE XIV
FINAL PROVISIONS

Article 432. All previous provisions contrary to this current Code remain repealed.

Article 433. The terms of application of the provisions of this Code will be established by regulation.

Article 434. This law will be published in the Official Journal of the Republic.

It will be executed as Public law.

Proclaimed in Antananarivo, July 27, 2023

Andry RAJOELINA

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