
PRC LAWS AND REGULATIONS RELATING TO THE INDUSTRY

LAWS AND REGULATIONS RELATING TO MINERAL RESOURCES

The “Mineral Resources Law of the PRC” (中華人民共和國礦產資源法), which was first promulgated by the Standing Committee of the National People’s Congress (the “NPC”) on March 19, 1986 and became effective on October 1, 1986, was amended by the Standing Committee of the NPC on August 29, 1996 and became effective on January 1, 1997. Under the Mineral Resources Law of the PRC, all mineral resources of the PRC are owned by the State. The geology and mineral resources department of the State Council, which is now the Ministry of Land and Resources of the PRC, is responsible for the supervision and administration of the exploration and mining of mineral resources nationwide. The geology and mineral resources departments of the Chinese Government in the respective provinces, autonomous regions and municipalities are responsible for the supervision and administration of the exploration and mining of mineral resources within their own jurisdictions. Enterprises engaged in the mining or exploration of mineral resources must obtain mining permits and exploration permits, as the case may be, which are transferable for consideration only in certain circumstances as provided under PRC laws and regulations, subject to approval by relevant administrative authorities.

According to the “Mineral Resources Law of the PRC” (礦產資源法), the “Administrative Measures on Registration of Tenement of Mineral Resources Exploration and Survey” (礦產資源勘查區塊登記管理辦法) and the “Administrative Measures on Registration of Mineral Resources Exploitation” (礦產資源開採登記管理辦法), before the exploration and mining activities relating to mineral resources can commence, the project company must first obtain the exploration permits and the mining permits, which generally entitle the project company to the exploration and mining rights attached to the relevant mining project. Furthermore, if the mining activities involve gold resources, in accordance with the “Provisions on the Administration of Obtaining the Letter of Approval for Mining of Gold Minerals” (辦理開採黃金礦產批准書管理規定), which became effective as of January 1, 2004, a Gold Operating Permit (開採黃金礦產批准書) issued by the National Development and Reform Commission must also be obtained.

Holders of exploration permits and of mining permits are subject to exploration right usage fees and mining right usage fees, respectively. In accordance with the “Administrative Measures on Registration of Mineral Resources Exploitation” (礦產資源開採登記管理辦法), mining right usage fees are payable on an annual basis. The annual rate of mining right usage fee is RMB1,000 per sq.km. of mining area. In accordance with the “Administrative Measures on Registration of Tenement of Mineral Resources Exploration and Survey” (礦產資源勘查區塊登記管理辦法), exploration right usage fees are also calculated according to the size of the exploration area and are payable on an annual basis. The annual rate of exploration right usage fees for the first year to the third year of exploration is RMB100 per sq.km. of exploration area. From the fourth year of exploration onwards, the rate increases by RMB100 per sq.km. of exploration area per year and is subject to a maximum rate of RMB500 per sq.km. per year. In addition, according to the amended “Administration Regulation for Collection of Mineral Resource Compensation Fee” (礦產資源補償費徵收管理規定), which became effective as of July 3, 1997, holders of mining permits are subject to mineral resource compensation fees, which are to be calculated as a certain percentage of the sales revenue of such holders. The mineral resources compensation fee shall be paid for the first half of each year on or before July 31 of the year, and be paid for the second half of the year on or before January 31 of the following year.

In addition to the above laws and regulations, according to the “Catalogue for Guidance of Foreign Investment” (外商投資產業指導目錄) promulgated by the NDRC and MOFCOM, the mining or

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operation of certain types of minerals are classified as restricted or prohibited categories for foreign investment. For example, the exploration and mining of gold and silver fall within the catalogue of limited foreign investment industries and requires higher level of governmental approval than permitted category, while the exploration and mining of molybdenum fall within the prohibited category for foreign investment. However, according to the “Measures for the Administration of Foreign-Invested Mineral Exploration Enterprises” (外商投資礦產勘查企業管理辦法), where a mineral prohibited from being explored or mined by foreign invested enterprises is proved to exist as an associated mineral in the relevant mines, and the foreign invested enterprises have to explore and mine it together with the main mineral, the foreign invested enterprises may legitimately continue to mine it after obtaining the approval of the MOLAR and MOFCOM and after amending the relevant mining or exploration permits to include the prohibited type of mineral on such permits.

METHODS OF OBTAINING EXPLORATION PERMIT, MINING PERMIT AND GOLD OPERATING PERMIT

Methods of Obtaining Exploration Permit

In accordance with the “Administrative Measures on Registration of Tenement of Mineral Resources Exploration and Survey” (礦產資源勘查區塊登記管理辦法), an applicant for the exploration permit must submit the following documents to the MOLAR (國土資源部) or its local branch:

- an application form for registration and a map indicating the geographical scope of the blocks to be explored;
- a copy of the certificate of qualification of the exploration unit;
- an exploration working plan and an exploration contract or other documents evidencing that the exploration unit is entrusted with the exploration work;
- an implementation plan for the exploration work and its appendixes;
- evidence of source of the funds for the exploration project; and
- other materials required by the geology and mineral resources department of the State Council.

The MOLAR (國土資源部) or its local branch must make a decision within 40 days after its receipt of the application documents, based on the principle of first-to-file, and notify the applicant of the result. If the application is approved, the applicant must pay the exploration right usage fee within 30 days of notification of approval. If the exploration right being applied for is based on a survey conducted using expenditures made by the State, the applicant must also reimburse the State for the expenditures of the survey, the amount of which is to be assessed by the MOLAR in cooperation with assessment agencies recognized by the SASAC.

The maximum valid period of the initial term of the exploration permit is three years. In the case where a renewal is needed, an application must be submitted to the competent authority for renewal of such exploration permit at least 30 days prior to the expiration date stipulated thereon. Each renewal of the valid term cannot exceed two years.

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Methods of Obtaining Mining Permit

In accordance with the “Administrative Measures on Registration of Mineral Resources Exploitation” (礦產資源開採登記管理辦法), an applicant for the mining permit must submit the following documents to the MOLAR (國土資源部) or its local branch:

- an application form for registration and a map indicating the scope of the mining area;
- certificate of qualification of the applicant;
- a plan for development and utilization of the mineral resources;
- approval documents for the establishment of the mining enterprise;
- an environment impact evaluation report for the exploitation of the mineral resources; and
- other materials required by the geology and mineral resources department of the State Council.

The MOLAR (國土資源部) or its local branch must make a decision within 40 days after its receipt of the application documents and notify the applicant of the result. If the application is approved, the applicant must pay the mining right usage fee within 30 days of notification of the approval. In the case where the mining right being applied for is for an area that has been surveyed and where the mineral reserve has been confirmed using expenditures made by the State, the applicant must also pay the cost of the mining right, the amount of which is to be assessed by the MOLAR in cooperation with assessment agencies recognized by the SASAC.

The maximum valid period of the initial term of the mining permit is determined according to the scale of the mine and is up to 30 years for a large-scale mine, up to 20 years for a medium-scale mine and up to 10 years for a small-scale mine. In the case where a renewal is needed, an application must be submitted to the competent authority for renewal of such permit at least 30 days prior to its expiration date.

Methods of Obtaining Gold Operating Permit

According to the “Provisions on the Administration of Obtaining the Letter of Approval for Mining of Gold Minerals” (辦理開採黃金礦產批准書管理規定), the applicant for mining of gold minerals must submit the following documents to the NDRC:

- an application form for exploitation of gold minerals;
- a formal map specifically indicating the scope of the mining area;
- file records evidencing that the ore reserve report (地質儲量報告) which constitutes the basis of the construction has been appraised and filed; or documents evidencing the examination and approval of the ore reserves report;
- an environment impact evaluation report approved by competent environment protection authorities;
- where a boundary dispute concerning the mining area exists, the contract with respect to the boundary of the mining area that has been adjudicated by competent authorities; and
- the contract and the articles of association of the company and the approval for establishment of the company, if the applicant is a company limited by shares.

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The NDRC must within 20 days upon receipt of all application documents decide whether or not to grant the permit. The review period may be extended by 10 days but the applicant has to be notified with the reasons for the extension.

The valid period for a Gold Operating Permit varies from 5 years to 15 years, depending upon the production scale of the mine. In the case where a renewal is needed, an application must be submitted to the NDRC for renewal of the Gold Operating Permit at least 30 days prior to the expiration date stipulated thereon.

According to the reform of government institutions of the PRC on March 5, 2008, the administration of the approval for mining of gold minerals has been delegated to MIIT with effect from June 29, 2008.

The holder of a Gold Operating Permit is entitled to exploit gold mineral resources in the areas specified in the Gold Operating Permit, subject to obtaining a corresponding mining permit.

RIGHTS AND OBLIGATIONS OF HOLDERS OF EXPLORATION PERMITS

The holder of an exploration permit has, among others, the following rights:

- right to carry out exploration of the designated subject in the designated area and within the prescribed time as recorded on the exploration permit;
- right to set up apparatus for power supply, water supply and communication channels in the exploration area and its adjacent areas, without prejudice to the original equipment for power supply, water supply and communication channels;
- access to the exploration area and its adjacent areas;
- right to temporarily use the land legally in accordance with the needs of the exploration project;
- priority in obtaining the mining right of mineral resources as specified on the exploration permit;
- priority in obtaining the exploration right of other newly discovered minerals within the designated exploration area;
- upon fulfilment of the prescribed minimum expenditure requirements, right to transfer the exploration right to a third party upon government approval; and
- right to sell the mineral products extracted from the surface of the land in the exploration area, except for those mineral products which are required by the State Council to be sold to designated entities.

The holder of an exploration permit has, among others, the following obligations:

- to commence and complete the exploration work within the term of the exploration permit;
- to carry out the exploration work in accordance with the exploration plan and to ensure that there is no occurrence of unauthorised mining activities in the designated area;
- to carry out integrated exploration and assessment activities on the para-genetic and associated mineral resources;

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- to submit an exploration report of the mineral resources to the relevant government authority for approval;
- to file with the exploration result of mineral resources for record as required;
- to act in line with the laws and regulations relating to labour safety, land rehabilitation and environment protection; and
- to take steps to eliminate potential safety hazard upon the completion of the exploration work.

RIGHTS AND OBLIGATIONS OF HOLDERS OF MINING PERMITS

The holder of a mining permit has, among others, the following rights:

- to engage in mining activities in the designated area and within the term prescribed under the mining permit;
- to set up production facilities and amenities within the designated area;
- to sell the mineral products, except for those minerals which are required by the State Council to be sold to designated entities; and
- to acquire the land use rights legally based on the requirement of its production and construction.

The holder of a mining permit has, among others, the following obligations:

- to carry out mining activities in the designated area and within the term of the mining permit;
- to effectively protect and reasonably extract the mineral resources and integrate the use of the mineral resources;
- to pay resources tax and mineral resources compensation fees;
- to comply with laws and regulations relating to labour safety, soil and land conservation, land rehabilitation and environment protection; and
- to submit a report on the utilization of mineral resources to the relevant government authority.

LAWS AND REGULATIONS RELATING TO THE ADMINISTRATION OF GOLD

Under the “Administrative Regulations on Gold and Silver of the PRC” (中華人民共和國金銀管理條例) promulgated and implemented on June 15, 1983 (the “Administrative Regulations”), the State shall pursue a policy of unified control over, and monopoly purchase and distribution of gold and silver, and the People’s Bank of China (the “PBOC”) shall be the State organ responsible for the control of gold and silver. Purchase and sale of gold and silver were subject to the regulation of the PBOC. All gold and silver mined and refined by mining enterprises, rural communes, the armed forces and individuals engaged in the production of gold and silver (including those with ore exploration, mining, smelting and refining as their supplementary business), were required to be sold to the PBOC, and were not permitted to be retained for sale, exchange or use. Entities requiring gold and silver for use were required to submit a proposal to the PBOC on the use of gold and silver, which the PBOC would then examine and possibly approve.

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On October 30, 2002, the Shanghai Gold Exchange commenced operation under the supervision of the State Council. Thereafter, the PBOC ceased its gold allocation and gold purchase operation. All PRC gold producers are now required to sell their standard gold bullion through the Shanghai Gold Exchange, and prices of gold on the Shanghai Gold Exchange are determined by market demand and supply, which essentially converge with the price of gold in the international market. On February 27, 2003, the State Council promulgated the “Decision of the State Council in relation to Termination of the Second Batch of Administrative Approval Projects and Amendment of the Management Method of Certain Administrative Approval Projects” (國務院關於取消第二批行政審批項目和改變一批行政審批項目管理方式的決定) and cancelled the approval requirements for the production and sale of gold and gold products. As a result, although the Administrative Regulations have not been abolished, the policy of “centralised purchase and allocation of gold” as stipulated under the Administrative Regulations has been terminated in practice.

Since the promulgation of the “Administrative Permission Law of the PRC” (中華人民共和國行政許可法) on August 27, 2003, which became effective as of July 1, 2004, the State Council reformed the administrative approval system and cleared the outstanding projects which were subject to administrative approval by its ministries and departments. The State Council promulgated the “Decision of the State Council on the Enactment of Administrative Permission for Certain Administrative Approval Projects Which Shall Be Retained” (國務院對確需保留的行政審批項目設定行政許可的決定) on June 29, 2004 which was later amended on January 29, 2009. According to the decision (as amended), the import and export of gold and gold products remain subject to administrative examination and approval. The authority responsible for such examination and approval is the PBOC.

LAWS AND REGULATIONS RELATING TO ENVIRONMENTAL PROTECTION

The State Environment Protection Administration Bureau (環境保護部) is responsible for the supervision of environmental protection in, implementation of national standards for environmental quality and discharge of pollutants for, and supervision of the environmental management system of, the PRC. Environmental protection bureaus at the county level or above are responsible for environmental protection within their jurisdictions.

The “Environmental Protection Law of the PRC” (the “Environmental Protection Law”, 中華人民共和國環境保護法), which became effective as of December 26, 1989, requires entities that operate production facilities that may cause pollution or produce other toxic materials to take steps to protect the environment and establish an environmental protection and management system. The system includes the adopting of effective measures to prevent and control exhaust gas, sewage, waste residues, dust or other waste materials. Entities discharging pollutants must register with the relevant environmental protection authorities.

The “Environmental Protection Law” and the “Administrative Regulations on Environmental Protection for Construction Project” (建設項目環境保護管理條例) which became effective as of November 29, 1998 stipulate that prior to the construction of new facilities or expansion or transformation of existing facilities that may cause a significant impact on the environment, a report on the environmental impact of the construction project needs to be submitted to the relevant environmental protection authority. The newly constructed production facilities may not be operated until the relevant authority is satisfied that such facilities are in compliance with all relevant environmental protection standards.

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Under the “Mineral Resources Law of the PRC”, the amended “Land Administration Law of the PRC” (中華人民共和國土地管理法) which became effective as of August 28, 2004 and “Rules on Land Rehabilitation” (土地復墾規定) which became effective as of January 1, 1989, exploration of mineral resources must be in compliance with the legal requirements on environmental protection so as to prevent environmental pollution. If any damage is caused to cultivated land, grassland or forest as a result of exploration or mining activities, mining enterprises must restore the land to a state appropriate for use by reclamation, re-planting trees or grasses or such other measures as appropriate to the local conditions. If the rehabilitation is not possible or does not comply with the relevant requirements, the mining enterprise must pay a fee for land rehabilitation. Upon closure of a mine, a report in relation to land rehabilitation and environmental protection must be submitted for approval. Enterprises which fail to perform or satisfy the requirements on land rehabilitation may be penalised by the relevant land administration authority.

The State Environmental Protection Administration Bureau must formulate national standards on emission of pollutants in accordance with the national standards on environmental quality, and the State economic and technological conditions. Governments at the provincial level and of the autonomous regions and municipalities may formulate their respective local standards on the discharge of pollutants for items not specified in the national standards. These local governments may formulate local standards which are more stringent than the national ones for items already specified in the national standards. Pursuant to the requirements under the amended “Law on Prevention of Water Pollution of the PRC” (中華人民共和國水污染防治法) which became effective as of June 1, 2008, the amended “Law on Prevention of Air Pollution of the PRC” (中華人民共和國大氣污染防治法), which became effective as of September 1, 2000, and “Administrative Regulations on Levy and Utilization of Sewage Charge” (排污費徵收使用管理條例) which became effective as of July 1, 2003, enterprises which discharge water or air pollutants must pay discharge fees pursuant to the types and volumes of pollutants discharged. The discharge fees are calculated by the local environmental protection authority which must review and verify the types and volumes of pollutants discharged. Once the discharge fees have been calculated, a notice on payment of discharge fees must be issued to the relevant enterprises. In addition, enterprises which discharge sulphur dioxide at a level exceeding the prescribed standards are required to install “desulphurising devices” or adopting other “desulphurising” measures to control the emission of sulphur dioxide.

Under the amended “Law on Prevention of Environmental Pollution Caused by Solid Waste of the PRC” (中華人民共和國固體廢物污染環境防治法), which became effective as of April 1, 2005, entities and individuals collecting, storing, transporting, utilising or disposing of solid waste must take precautions against the spread, loss, and leakage of such solid waste or adopt such other measures to prevent such solid waste from polluting the environment.

The penalties for breach of the environmental protection laws vary from warnings, fines, suspending production or operation to other administrative sanctions, depending on the degree of damage or the results of the incidents. The responsible person of the entity may be subject to criminal liabilities for serious breaches resulting in significant damage to private or public property or personal injury or death.

As the environmental protection is under the administration and supervision of authorities that are distinct from the ones issuing the exploration and mining permits, the breach of the relevant environmental protection laws would not entail revocation of the exploration and mining permits directly. However, the environmental protection authorities may seek cooperation from the authorities

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in charge of the issuance of such permits, which are competent to revoke the exploration and mining permits pursuant to the Mineral Resources Law of the PRC.

See “Business — Environmental Protection and Community Development” regarding compliance by the Group with the above laws and regulations.

In addition to complying with all PRC laws and regulations, we strive to develop and operate our facilities in accordance with internationally accepted good management practices on environmental and social matters, such as the environmental and social standards set forth by the World Bank Group and the International Cyanide Management Code.

LAWS AND REGULATIONS RELATING TO PRODUCTION SAFETY

The PRC government has formulated a relatively comprehensive set of laws and regulations on production safety, including the “Law on Production Safety of the PRC” (中華人民共和國安全生產法), which became effective as of November 1, 2002, the “Law on Mine Safety of the PRC” (中華人民共和國礦山安全法), which became effective as of May 1, 1993, as well as “Regulations on the Implementation of the Law on Mine Safety of the PRC” (中華人民共和國礦山安全法實施條例), which became effective as of October 10, 1996, which pertain to the mining, processing and smelting operation of the mining industry. The State Administration of Work Safety (國家安全生產監督管理總局) is responsible for the overall supervision and management of the safety production nationwide while the departments in charge of safety production at the county level or above are responsible for the overall supervision and management of the safety production within their own jurisdictions.

The State implements a licensing system for production safety of mining enterprises under the “Regulations on Production Safety Permit” (安全生產許可證條例), which became effective as of January 13, 2004. No mining enterprise may engage in production activities without holding a valid production safety permit (安全生產許可證). Enterprises which fail to fulfil the production safety conditions may not carry out any production activity. Mining enterprises which have obtained the production safety permit may not lower their production safety standards, and are subject to the supervision and inspection by the licensing authorities from time to time. If the licensing authorities are of the opinion that the mining enterprises do not fulfil the production safety requirements, the production safety permit may be withheld or revoked.

The State has also formulated a set of national standards on production safety for the mining industry. In general, the mine design must comply with the production safety requirements and industry practice. Each underground mineshaft is required to have at least two safety exits and the mine must be equipped with transportation and communication facilities which connect the mine to the outside. The mine design must be approved in accordance with the requisite procedures.

A mining enterprise must establish a management body or a designated safety management team to be responsible for production safety matters. Education and training on production safety must be provided to workers to ensure that they fully understand the regulations on and the procedures required for production safety, and are able to master the necessary skills for operation safety for their own positions. Those who do not receive this education and training are not permitted to work at the mine.

Pursuant to the “Law on Mine Safety of the PRC” (中華人民共和國礦山安全法), the State has established safety supervision requirements for mines and established mine safety supervisory

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authorities. The responsibilities of such supervisory authorities include, among other things, the following: (i) to supervise the provision of safety education and training by mining enterprises; (ii) to approve mine design, and carry out examinations upon completion of mine construction; (iii) to monitor the status of the construction of safety facilities carried out by the mining enterprises; (iv) to inspect the safety of mines and to require, if necessary, the mining enterprises to amend or resolve any works which fall below the requisite safety standards within a particular time limit; (v) to investigate mining accidents and to supervise the handling of mining accidents; (vi) to impose fines or administrative sanctions against the mining enterprises, the management or any related staff thereof who have severely violated the Law on Mine Safety of the PRC; and (vii) to suggest that relevant authorities suspend or close the operation of mining enterprises which cannot meet the basic safety requirements.

Upon the occurrence of accidents, mining enterprises must immediately take measures to rescue their workers and report any personal deaths or injuries to the relevant authority. In the event of a minor accident, the mining enterprise is responsible for investigating and handling the case. In the event of a serious accident, the government, the relevant authority, the labour union and the mining enterprise must conduct an investigation and handle the case together. In addition, mining enterprises must pay compensation to any staff injured or killed in an accident in accordance with the relevant requirements. Such mining enterprises may only resume production after the relevant danger at the scene has been eliminated.

In addition, under the “Law on Production Safety of the PRC” and the “Law on Mine Safety of the PRC”, the penalties for breach of production safety laws vary from warnings, fines, suspension of production or operation and other administrative sanctions, depending on the degree of damage and the natures of the incident. The person who is personally responsible for such incident may be subject to demotion or termination of employment, or criminal liabilities for serious breaches resulting in significant incidents. The State has implemented an accountability system over incidents relating to production safety.

As the production safety is under the administration and supervision of authorities that are different from the ones issuing the exploration and mining permits, the breach of the relevant production safety laws would not entail revocation of the exploration and mining permits directly. However, the production safety authorities may seek cooperation from the authorities in charge of the issuance of such permits, which have the authority to revoke the exploration and mining permits according to the Mineral Resources Law of the PRC.

See “Business — Occupational Health and Safety” regarding compliance by the Group with the above laws and regulations.

LAWS AND REGULATIONS RELATING TO TAXATION

The State encourages the development of the gold industry by implementing preferential treatment on taxation. “Circular Relating to Tax Policies on Gold” (關於黃金稅收政策問題的通知) issued by the Ministry of Finance (the “MOF”, 中華人民共和國財政部) and the State Tax Bureau of the PRC in 2002 provides that gold production enterprises engaged in the sales of standard gold and gold sand (containing gold content), are exempted from VAT. Transactions made by gold trading enterprises and intermediaries, which are members of the Shanghai Gold Exchange, on the Shanghai Gold Exchange without physical settlement are exempted from VAT, and transactions with physical settlement are subject to VAT levying and immediate refund.

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Enterprises engaged in the mining of mineral resources must pay resources tax in accordance with relevant regulations of the State. In accordance with the “Provisional Regulations on Resources Tax of the PRC” (中華人民共和國資源稅暫行條例), which became effective as of January 1, 1994, for non-ferrous metal ores, the amount of resources compensation levy payable is computed by multiplying the sales or self-used volume of mineral products with the applicable rate of the resource tax ranging from RMB0.4 to RMB30 per tonne of mineral products. The MOF and the State Administration of Taxation (國家稅務總局) reserve the right to adjust the rate of the resource tax from time to time. According to the “Implementing Rules for the Provisional Regulations on Resources Tax of the PRC” (中華人民共和國資源稅暫行條例實施細則) which became effective as of December 30, 1993, resources tax is levied according to the grade of mines and the applicable amount of tax per tonne of ore produced as provided in the schedules attached to such implementing rules.

The MOF and the State Administration of Taxation (國家稅務總局) issued “Notice on Adjusting Policies with respect to Resource Tax of Rock Gold Ore” (關於調整岩金礦資源稅有關政策的通知), which became effective as of May 1, 2006. The notice is about the adjustment of tax, which among other things, adjusted upwards the rates of resource tax for various grades of rock and gold mines. The resource tax rates applicable to gold ore ranges from RMB1.5 per tonne to RMB7.0 per tonne.

On March 16, 2007, the National People Committee of the PRC enacted the “Enterprise Income Tax Law of the PRC” (the “EIT Law”, 中華人民共和國企業所得稅法) which became effective as of January 1, 2008. On December 6, 2007, the State Council enacted the “Implementation Rules for the Enterprise Income Tax Law of the PRC” (中華人民共和國企業所得稅法實施條例) which also became effective as of January 1, 2008.

According to this law and its implementation rules, foreign invested enterprises in the PRC are subject to the enterprise income tax at a uniform rate of 25%. A non-resident enterprise that has an establishment or premises within the PRC shall pay enterprise income tax at a rate of 25% on its income that is derived by such establishment or premises inside the PRC and income that is sourced outside the PRC but is actually connected with the said establishment or premises, unless it is a dividend income where an exemption may apply. A non-resident enterprise that has no establishment or premises within the PRC but has income from the PRC, and a non-resident enterprise that has establishment or premises in the PRC but its income has no actual connection to such establishment or premises in the PRC, shall be subject to PRC withholding tax at the rate of 10% on its income sourced from inside the PRC.

OTHER RELEVANT LAWS AND REGULATIONS

Laws regarding Construction Permits in the PRC

Under the “Construction Law of the PRC” (中華人民共和國建築法) entities which start construction without a construction permit (施工許可證) may be ordered to rectify such default. The construction administrative authorities may order projects that do not meet the requirements for commencement of construction to cease construction or operation, and impose a fine.

Investment System Survey

Under the “Decision of the State Council on the Reform of Investment System” (國務院關於投資體制改革的決定) which came into effect on July 16, 2004, significant changes have been made to the government approval regime for major investment projects in the PRC. The State Council

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abolished the requirements of government examination and approval for investment projects not utilising government funds, and replaced such requirements with a verification and filing system. With respect to non-government funded projects, verification would only be required for major or restricted projects while other projects, irrespective of size, are only subject to a filing requirement. According to the “Catalogue of Investment Projects Requiring Government Verification and Approval” (2004 Version) (政府核准的投資項目目錄(2004年版)), mining development projects of non-ferrous metal mines such as copper mines with an aggregate investment of RMB500 million or above are subject to approval by the department of investment under the State Council while other mine development projects are subject to the department of investment at the provincial level. Foreign investments on gold mining projects with an aggregate investment (including capital increase) of US\$50 million or above are subject to approval by the department of investment under the State Council while those with an aggregate investment (including capital increase) of US\$50 million or below are subject to the approval by department of investment at the provincial level.

Laws and Regulations relating to Foreign Investment in Gold

Pursuant to the “Catalogue of Industries for Guiding Foreign Investment (Revised 2007)” (外商投資產業指導目錄 (2007年修訂)), exploration and mining of precious metals (gold, silver and platinum) is regulated as restricted industry. The “Verification and Approval of Foreign-Invested Projects Tentative Administrative Procedures” (外商投資項目核准暫行管理辦法), which became effective as of October 9, 2004, provides that a project within the restricted catalogue must be:

- submitted to and approved by provincial-level development and reform departments if it has a total investment amount of less than US\$50 million;
- submitted to and approved by the central NDRC if it has a total investment amount of US\$50 million or more; and
- first submitted to and examined by the NDRC and following such examination must be submitted to and approved by the State Council if it has a total investment amount of US\$100 million or more.

Laws and Regulations Relating to CJVs

A CJV is a form of foreign investment permitted in the PRC. Under the amended “PRC Sino-Foreign CJV Law” (中華人民共和國中外合作經營企業法), which became effective as of October 31, 2000, and the “Implementing Rules For the PRC Sino-Foreign CJV Law” (中華人民共和國中外合作經營企業法實施細則) which became effective as of September 4, 1995, a CJV may be a Chinese legal person with limited liability or, alternatively, a non-legal person entity. To establish a CJV, the Chinese and foreign parties must submit documents such as the CJV agreement and the articles of association, to the Ministry of Commerce of the PRC or its authorized local branch (the “Approval Authority”) for examination and approval. The Approval Authority must, within 45 days upon accepting the application, decide whether or not to grant the approval. Within 30 days upon receipt of the approval certificate issued by the Approval Authority, the parties must apply to the competent administration for industry and commerce for registration to obtain the business licence of the CJV. The issuance date of the business licence is the establishment date of the CJV. The investments in a CJV are not necessarily calculated in monetary units. The CJV agreement may require one party to contribute certain specified “cooperative conditions”. The earnings are not necessarily distributed pro rata in accordance with the registered capital paid by each of the parties. In addition, the options for sharing risks and losses, management and post-termination assets may also be determined by the parties.

PRC LAWS AND REGULATIONS RELATING TO THE INDUSTRY

A CJV may be managed by a board of directors or, alternatively, by a joint management committee. The CJV Rules require a CJV to obtain unanimous board (or management committee) approval on the following decisions:

- amendment of the CJV's articles of association;
- termination or dissolution of the CJV;
- reduction or increase of the registered capital of the CJV;
- merger, division or change in the organizational form of the CJV;
- mortgage of assets of the CJV; and
- other matters agreed to by the parties to the CJV.

According to the relevant PRC rules, a transfer of an equity interest in the CJV shall comply with PRC laws and regulations, and be approved by approval departments and submitted for alteration registration with registration departments. A transfer without approval from the relevant approval departments is invalid.

Laws and Regulations Relating to Geological Environment Protection

Pursuant to the “Provisions on the Protection of the Geologic Environment of Mines” (礦山地質環境保護規定) promulgated by the MOLAR (國土資源部) on March 2, 2009 and becoming effective on May 1, 2009, (a) the land and resources administrative departments shall be responsible for the protection of the geologic environment of mines; (b) a mining right applicant shall make a plan on the protection, control and restoration of the geologic environment of a mine (礦山地質環境保護與治理恢復方案), and report it to the competent authority when applying for a mining permit, or when applying to expand the exploitation scale or change the scope of mining area or exploitation manner; and (c) a mining right holder shall, pursuant to the relevant provisions of the state, pay a security deposit for the control and restoration of the geologic environment of a mine (礦山地質環境治理恢復保證金), the amount of which shall not be less than the expenses necessary for the control and restoration of the geologic environment of the mine.

Pursuant to the “Inner Mongolia Autonomous Region Regulations on the Management of Security Deposits for Ecological Restoration in Mines” (內蒙古自治區礦山地質環境治理保證金管理辦法), which became effective as of August 1, 2008, and the “Inner Mongolia Autonomous Region Implementation Plan for Ecological Restoration in Mines” (內蒙古自治區礦山地質環境治理實施方案), which became effective as of September 18, 2009, a holder of mining rights shall prepare a plan on the environmental protection and comprehensive management for the relevant mine, execute a letter of responsibilities for the geological restoration for the relevant mine with the municipal land and resources administration authority on the basis of the plan, and pay a security deposit therefor. The security deposit may be paid in a lump sum or in installments if the term of the mining permit held by such holder is more than three years. It is emphasized that a plan of environmental protection and comprehensive management, a letter of responsibilities for geological restoration, and a certificate of the payment of security deposit for the relevant mine are the requisite documents for the registration of mining rights and for completing the procedures of annual inspection and renewal of the mining permit. If a mining enterprise fails to pay a security deposit or prepare a plan of environmental protection and comprehensive management for the relevant mine as required, the competent authority will not proceed with the procedures of annual inspection, renewal, alteration and mortgage registration in respect of the enterprise's mining permit. If the enterprise fails to make control

PRC LAWS AND REGULATIONS RELATING TO THE INDUSTRY

according to the approved plan, the competent authority shall order the enterprise to carry out geological restoration within a prescribed time limit; if the enterprise fails to do so within the prescribed time limit, the competent authority may suspend the enterprise's mining permit or order it to stop production. However, a mining right holder who already prepared a special plan of environmental protection and comprehensive management, made a special provision of funds and implemented a restoration project for the relevant mine before August 1, 2008 may apply for exemption from paying any security deposit after evaluation by the competent municipal land and resources administration authority and approval by the autonomous region's provincial land and resources administration authority on the condition that the special plan and the restoration project meet the aims and requirements for ecological restoration in mines.

In accordance with the Tibet Autonomous Region Regulations on Ecological Management (西藏自治區地質環境管理條例), which became effective as of May 1, 2003, an applicant for mining rights shall execute a letter of responsibilities for ecological restoration in mines with the land and resources administration authority under the people's government of the autonomous region, and the amount of security deposit for ecological restoration in mines shall be determined according to the result of the evaluation of expenses actually required for ecological restoration. At the same time, a special ecological impact assessment report shall be prepared indicating the payment of security deposit for ecological restoration in the relevant mine for examination and approval by the competent land and resources administration authority under a people's government at municipal level or higher.

As a mining company, we endeavor to comply with applicable laws and regulations relating to geological environment protection, including submission of rehabilitation undertakings and payment of security deposit. As provided in the relevant laws and regulations discussed above, if we fail to pay the security deposit or to prepare a plan of environmental protection and other rehabilitation undertaking for the relevant mine, the competent government authorities may decide not to proceed with administrative procedures on our related mining permits, including annual inspection, renewal, alteration and mortgage registration. If we fail to fulfill our obligations under the relevant rehabilitation undertaking, we may be ordered by the competent government authorities to carry out geological restoration of the mine within a prescribed time limit; and if we fail to do so, the competent government authorities may suspend our mining permit or order us to cease production. In addition, under the relevant PRC regulations, the rehabilitation deposits we paid with respect to any of our mines will not be refunded if we fail to comply with the relevant rehabilitation undertakings. We believe we have set up effective compliance mechanisms to ensure our compliance with applicable PRC laws and regulations on rehabilitation.

LAWS AND REGULATIONS RELATING TO LAND

Pursuant to the "Land Administration Law of the PRC" (中華人民共和國土地管理法) promulgated on June 25, 1986, becoming effective on January 1, 1987 and amended on August 28, 2004, land owned by the State and land collectively-owned by collective economic entities may be allocated and used by units or individuals according to law. The ownership of land and land use rights registered according to the relevant laws shall be protected by law. In the case of short-term use of State-owned land or land collectively-owned by farmers for construction projects or for geological exploration purposes, approval shall be obtained from the land administrative department of the government at or above the county level. Land users shall sign contracts with relevant land administrative department or rural collective organizations or village committees for the short-term use of land, depending on the ownership of land and shall pay land compensation fees as stipulated in the contracts for the temporary use of land. The term for the short-term use of land shall generally not exceed two years.