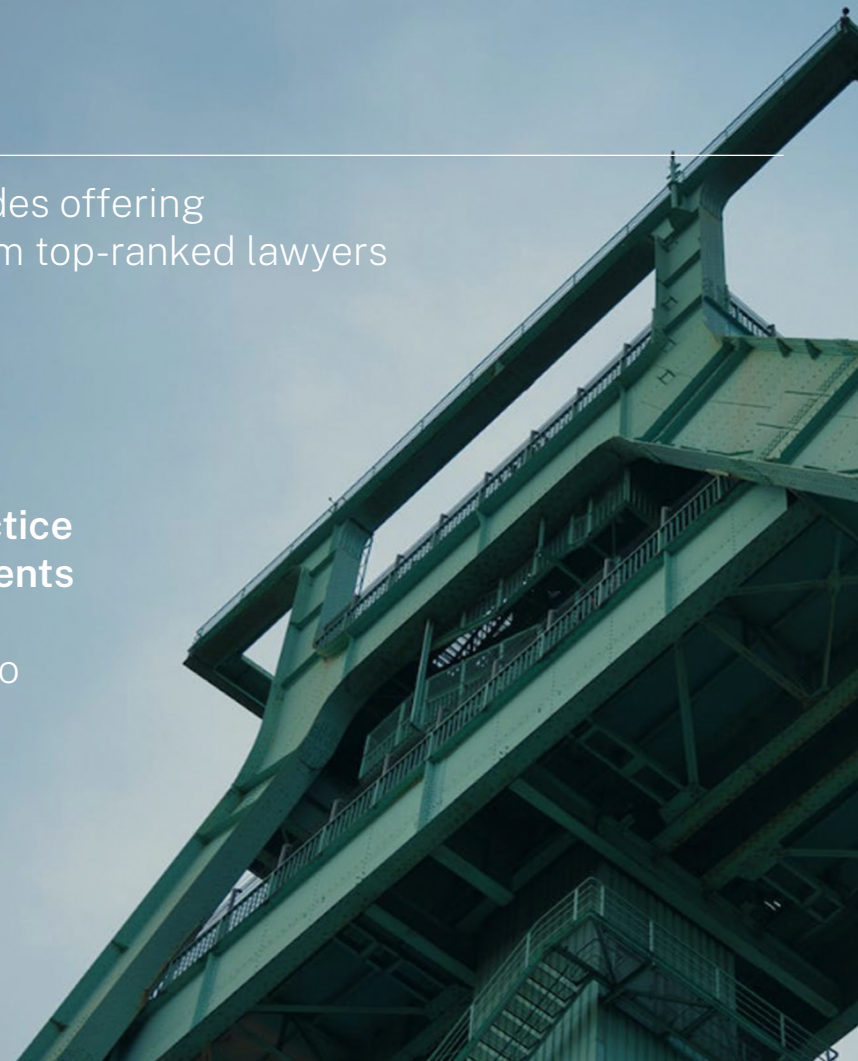

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**Timor-Leste: Law & Practice
and Trends & Developments**

João Afonso Fialho,
Tomás Cabral Anunciação
and Teófilo de Jesus
VdA



TIMOR-LESTE



Law and Practice

Contributed by:

João Afonso Fialho, Tomás Cabral Anunciação and Teófilo de Jesus VdA

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Authors



João Afonso Fialho joined VdA in 2015. He is a partner and head of the oil and gas and natural resources practice. In the last 25 years, João has been involved in a variety of natural

resources projects and transactions in jurisdictions such as Timor-Leste, Mozambique, Angola, Sao Tome and Principe, Portugal, Republic of Congo, the DRC and Guinea Bissau. In the mining sector, João has advised foreign investors in the negotiation of exploration and mining agreements, JV agreements, legal due diligences, farm-in and farm-out agreements, royalties and streaming agreements, etc. João has also advised state entities and international mining companies in the drafting and discussion of legal statutes and ancillary regulations.



Tomás Cabral Anunciação worked at VdA in 2022 as an associate in the public law area of practice, where he was actively involved in several transactions. He rejoined VdA in

2023 as local director of the firm's office in Timor-Leste and has been admitted to the Timor-Leste Bar Association. He has a law degree from the University of Lisbon Law School and a master's in law from the Catholic University of Lisbon Law School. He also attended the Professional Development Programme for Lawyers at the IE Business School in Madrid, Spain. Tomás is also a Professor of Comparative and Administrative Law at the National University of Timor Lorosa'e.

Contributed by: João Afonso Fialho, Tomás Cabral Anunciação and Teófilo de Jesus, **VdA**



Teófilo de Jesus joined VdA in 2018 and works as an international adviser at the firm's Dili office. He assists VdA's main clients and stakeholders, operating in the natural resources, energy, banking and telecommunications sectors. He also assists foreign investors in all matters relevant to their activity in the country. Given his Tetum language skills, Teófilo is an indispensable member of VdA's operation in Timor-Leste. He is currently preparing for his admission to the Timor-Leste Bar Association.

VdA

Rua Dom Luís I 28
1200-151
Lisboa
Portugal

Tel: 351 21 311 3400
Email: vieiradealmeida@vda.pt
Web: www.vda.pt/en



1. Mining Law: General Framework

1.1 Main Features of the Mining Industry

Most of Timor-Leste's mineral resources remain unexplored. According to the Atlas of Mineral Resources of the ESCAP Region published by the United Nations Economic and Social Commission for Asia and the Pacific, the target minerals in the country are chromite, copper, copper-gold, gold and silver manganese, as well as some non-metallic minerals such as bentonite, limestone, marble and phosphate. The country also has battery mineral reserves such as chromium, cobalt and nickel.

Notwithstanding the huge potential of Timor-Leste's mineral resources, the country's mining industry is still at an early phase of development (on an industrial scale).

The government is focused on attracting and developing investment in the sector, which contributes to the creation of jobs, improvement in the living conditions of the population, an increase in the country's tax revenues and diversification of the economy, reducing its dependency on the oil and gas industry.

Acknowledging the potential economic value of the existing mineral resources in Timor-Leste, the government decided to launch a public tender in March 2023 for the award of mineral rights over 49 concession areas for the exploration and mining of metallic minerals, gemstones, industrial minerals, radioactive minerals, rare earths and coal.

In November 2023, the government awarded licences to prospect and research 13 mining areas to four companies, Estrella Resources, Peak Everest Mining, Iron Fortune and Beacon Minerals.

Moreover, between 2023 and 2024, the government enacted legal frameworks with an impact on the mining sector, which included:

- the creation of a regulatory authority exclusively dedicated to the mining sector, the National Authority of Mineral Resources or ANM (which is the result of a split from the former Petroleum and Mineral Resources National Authority or ANPM);
- the legal redefinition of the state-owned mining company Murak Rai Timor, EP; and
- the legal regime for classifying and marketing strategic minerals.

1.2 Legal System and Sources of Mining Law

Timor-Leste has a civil law legal system.

The main sources of mining legislation in Timor-Leste are the Timorese Constitution and the Mining Code (approved by Law 12/2021, of 30 June 2021).

The Mining Code is the main legal instrument in the sector, governing the award and exercise of mineral rights, from exploration to processing and marketing of all types of minerals. Sections of the environmental licensing process and the tax regime are also applicable to the mining industry. The approval of the Regulations to the Mining Code (including rules for the classification of minerals, management and use of the mine closure reserve, health and safety in mining operations, administrative offences and investigation procedures in mining operations, etc) is still under review by the government, with approval pending.

1.3 Ownership of Mineral Resources

In accordance with the Timorese Constitution and the Mining Code, the Timorese State is the

owner of all mineral resources, and the terms and conditions for the award to, and exercise by, third parties of exploration and mining rights are established in the Mining Code. Mineral rights may be granted to private entities as well as to the national mining company (Murak Rai Timor, EP).

The Mining Code expressly states that the holder of mineral rights is the owner of all minerals extracted and produced in accordance with the Mining Code. Minerals that are unlawfully extracted remain the property of the state. If mineral resources are found in privately held areas, the state may acquire the area through direct negotiation with the owner, or expropriation (where there is properly justified public interest, and subject to the expropriation being carried out in a non-discriminatory manner in accordance with the law and subject to the payment of fair compensation).

1.4 Role of the State in Mining Law and Regulations

As the original owner of all mineral resources in Timor-Leste, the state acts as a grantor-regulator of mineral rights and is responsible for awarding mineral rights and overseeing how mineral activities are conducted.

The participation of the Timorese State in mining activities is expressly foreseen in the Mining Code, with the state either acting on its own whenever this is deemed strategic by the Council of Ministers and following a recommendation issued by the National Authority of Mineral Resources, or in co-operation with private parties, up to a maximum amount of 30% of participating interest.

1.5 Nature of Mineral Rights

The Timorese mineral regime may be described as a contractual system, with the operational and economic terms and conditions found under the mineral agreements/licences executed prior to and for the exercise of mineral rights.

The award of a mineral right provides an exclusive right to access and conduct mineral activities, with the holders of the mining rights being the owners of all minerals extracted and produced, in accordance with the Mining Code.

The holders of mineral rights do not acquire property rights over the concession areas.

1.6 Granting of Mineral Rights

The award of mining rights in Timor-Leste is made by means of direct award or public tender (on a first come, first served basis). The relevant awards procedure and awarding entity will be determined based on the type of mineral and the industrial/artisanal nature of the operations.

Direct Awards

On the recommendation of the National Authority of Mineral Resources, the member of government responsible for the mineral resources sector may decide not to launch a public tender procedure and may directly award mineral rights in the following cases:

- where the area is considered as a new area delimitation with insufficient information and data;
- where no bids were received in a previous public tender;
- where there are health, safety and environmental risks associated with the mining area;
- where the minerals are regarded as strategic;
- where the National Mining Company is being awarded the mineral rights; or

- where mineral passes (for artisanal mining) are being awarded.

Mineral resources may be classified as strategic by the Council of Ministers on any of the following grounds:

- economic importance;
- energy security;
- balance of the country's commercial trade;
- rarity;
- national defence and security; and
- growth support of domestic manufacturing industries.

Public Tender

According to the Mining Code, the procedure for the award of mineral rights is as follows:

- Reconnaissance authorisation must be requested from the National Authority of Mineral Resources.
- A natural or legal person is then required to apply for an exploration and appraisal licence. An exploration and reconnaissance licence may then be granted, provided that it has been previously approved by the Council of Ministers (or by the Ministry of Petroleum and Mineral Resources, as applicable).
- The award of a mining licence is granted through a mining agreement (previously approved by the Council of Ministers) between the third party and the National Authority of Mineral Resources, in which the operational and economic terms and conditions of the agreement are defined. The operation and mining licence is issued by the National Authority of Mineral Resources (subject to previous authorisation by the Ministry of Petroleum and Mineral Resources).
- Mineral permits for the exploration and mining of construction materials or ornamental

stones are awarded by the Ministry of Petroleum and Mineral Resources (upon proposal by the National Authority of Mineral Resources), except where the applicant intends to export the construction materials produced, in which case, the Council of Ministers must also be consulted.

- Mineral permits for the exploration and mining of transformation minerals are awarded by the Ministry of Petroleum and Mineral Resources upon consultation with the Council of Ministers.
- Mineral passes for artisanal mining are issued by the Ministry of Petroleum and Mineral Resources and/or the National Authority of Mineral Resources (with delegated powers).
- Marketing licences are issued by the National Authority of Mineral Resources, following a request by an interested party who is not the holder of the mining licence.

1.7 Mining: Security of Tenure Award of Mineral Rights and Progress From Exploration to Mining

Mineral rights can be awarded by means of public tender or by direct award.

According to the Mining Code, mineral activities are exercised in four stages:

- reconnaissance (optional phase);
- exploration and appraisal;
- mining; and
- marketing.

The rights and obligations of the holders of mining rights are set out in the Mining Code and further developed in the relevant mineral contracts (where applicable).

To develop exploration and appraisal activities, a natural or legal person is required to apply

for an exploration and appraisal licence. While transiting to the mining stage, the relevant holder of exploration rights must apply for a mining licence by submitting a mining plan (including a technical, economic and financial feasibility study) for approval. Only in cases of manifest technical and financial incapacity, or by the decision of the holder of exploration and appraisal rights, are the mining rights not awarded to the entity that carried out the exploration works.

Holders of mineral rights are entitled to sell minerals obtained as a result of mining activities, developed in accordance with the relevant mineral contract or licence. Unprocessed minerals may only be exported if:

- the domestic industry is not capable of absorbing the unprocessed minerals;
- from a technical and economic point of view, the processing of the minerals in Timorese territory is not justifiable; and
- the exported minerals are classified as strategic minerals (exportation being subject to previous approval by the competent body).

The sale of minerals by a third party (namely, not the holder of the mining rights) is subject to the issuance of a marketing licence.

Duration of Mineral Rights and Extensions

An exploration and appraisal licence has a maximum duration of four years, but it may be extended by successive two-year periods up to a maximum of an additional six years. Mining rights can be awarded for a maximum of 25 years, which may be extended by successive five-year periods up to a maximum of an additional 25 years.

Different rules apply to artisanal mining and the exploration and mining of construction materials.

Transfer of Mining Rights and Change of Control

Assignment, sale or any type of transfer of a mining right is subject to written consent by the Ministry of Petroleum and Mineral Resources or by the National Authority of Mineral Resources, as applicable. Transfer of a dominant interest or participation in a company that holds mining rights is also subject to written consent by the Ministry of Petroleum and Mineral Resources or by the National Authority of Mineral Resources, as applicable, following a written notice sent by the interested shareholder to the National Authority of Mineral Resources. This written notice must contain the identification details of the assignee or transferee and the terms and conditions of the transaction.

Termination

Mineral rights may be terminated early by the Timorese State if:

- there is a serious breach by the holder of the mineral rights of the legal or contractual obligations arising from the mineral contract;
- the holder of the mineral rights fails to comply with the statutory requirements related to the award of the relevant licence;
- a series of environmental damages occurs as a result of the mining activities, and such damages are attributable to intent or gross negligence on the part of the holder of the mineral rights;
- the holder of the mineral rights fails to comply with the obligation of restoring an area impacted by mining activities, in breach of the applicable environmental quality standards;

- there is proof of tax debts for two consecutive fiscal years during the mining phase;
- the holder of the mineral rights intentionally provides false information to any government entity or the National Authority of Mineral Resources;
- the holder of the mineral rights fails to comply with the obligation of relocating or indemnifying local communities for damages caused by mining activities;
- an illegal transfer of the mineral right occurs;
- an illegal transfer of a dominant interest or participation occurs; or
- the mineral activities are suspended for 120 consecutive days, except if such suspension is previously approved by the National Authority of Mineral Resources, or if it is caused by any act or omission on the part of the state or one of its representatives, or if it is caused by a force majeure event.

2. Impact of Environmental Protection and Community Relations on Mining Projects

2.1 Environmental Protection and Licensing of Mining Projects Laws and Regulations

The Mining Code contains specific provisions regarding prevention and minimisation of environmental and human damages, and establishing the award of environmental mining licences.

Decree-Law 5/2011, of 9 February 2011, which established the environmental review and licensing procedure, as amended by Decree-Law 39/2022, of 8 June 2022 (the “Environmental Licensing Regime”); Decree-Law 26/2012, of 4 July 2012, which approved the Framework Environmental Law; and Decree-Law 41/2022, of 8 June 2022, which created the National Authority

for Environmental Licensing, are also relevant in this respect as they foresee provisions regarding environmental protection and licensing of mining projects in Timor-Leste.

Main Environmental Authorities

The main environmental authorities responsible for the administration and supervision of compliance with the above-mentioned diplomas are the National Authority of Mineral Resources, the National Authority for Environmental Licensing, and the Ministry of Petroleum and Mineral Resources.

Review and Licensing Processes

The environmental review and licensing processes are regulated by the Mining Code and by the Environmental Licensing Regime. The Mining Code foresees the possibility of approval of a specific diploma regarding the environmental review and licensing procedure of mining activities, which has not to date been enacted.

The entity responsible for the review process and approval of the environmental licence is the Ministry of Petroleum and Mineral Resources, in co-ordination with the National Authority of Mineral Resources and the National Authority for Environmental Licensing.

According to the Environmental Licensing Regime, mining projects are subject to environmental impact assessments, which must be requested from competent bodies. Pursuant to the Environmental Licensing Regime, the completion of the review and licensing process may take up to 90 days.

2.2 Impact of Environmentally Protected Areas on Mining

Pursuant to the Mining Code, certain areas may be declared as excluded areas for mineral activ-

ities if and when justified by national interest, national security, the well-being of the nearby community, environmental, cultural or religious issues, or when such mining activities are incompatible with activities projected or being carried out in the target area.

The creation of an excluded area must be declared by the Council of Ministers, under a proposal by the Ministry of Petroleum and Mineral Resources.

The Mining Code also establishes the following as protected:

- areas reserved for graveyards;
- areas where relevant archaeological and cultural heritage has been found;
- areas where national monuments are located;
- areas containing religious sites;
- areas within 250 m of a dam or reservoir;
- areas within 100 m of state buildings;
- areas used for national defence or occupied by national defence entities, including the 100 m surrounding area;
- areas within 100 m of an airport;
- areas reserved for railway, aqueduct, oil or gas pipeline, or construction projects;
- areas reserved for tree plantations or forestry projects;
- areas in or within 250 m of villages, towns, municipalities or cities;
- streets, roads, bridges and other public infrastructure, including a 100 m surrounding zone on each side; and
- national parks.

In this case, if the economic value or other benefits associated with the mineral activities clearly surpass the value and importance of the archaeological and cultural heritage, national monuments or religious sites, or any other legally

imposed off-limits areas, the development of mineral activities in such area may be approved by the Council of Ministers, if proposed by the Ministry of Petroleum and Mineral Resources, subject to consultation with the relevant municipal entities and government bodies.

2.3 Impact of Community Relations on Mining Projects

Holders of mineral rights are required to recognise and respect the rights, customs and traditions of local communities, and promote and contribute to the development of the host and neighbouring communities of the concession area.

The Mining Code further establishes that during the planning and development of mining activities, the holders of mining rights and any third parties responsible for conducting mining activities must put in place adequate measures to consult local communities and accommodate their legitimate concerns.

For that purpose, the holders of mineral rights must appoint a Community Relations Officer, who must be a Timorese national, fluent in one of the official languages (Tetum or Portuguese). This officer will be responsible for co-ordination with the local communities, particularly with the local community leaders. During the planning of any exploration and evaluation, and mining and processing activities, the Community Relations Officer and the representative of the state will consult with the local community leadership to discuss all relevant aspects of the performance of mineral activities in the concession area that may impact the local community, including but not limited to the following:

- creation of jobs and training for Timorese nationals and local residents;

- development of local infrastructure;
- resettlement, if necessary;
- protection of the environment;
- protection and/or relocation of cultural and/or religious sites; and
- rights of access or easements for the movement of populations and animals, as well as for the grazing of the latter, or access to water or cultural and religious sites.

If the presence of local communities in the concession area is not compatible with the development of the mining activities, the holder of the mineral rights, together with the local and national authorities, must prepare and implement a relocation plan, which must be approved and monitored by the competent government entities. The relocated communities are entitled to be compensated by the mining rights holders for the loss of crops, livestock and forest products, among other things, where profits have ceased due to land usage.

There are other protective local content provisions in the Mining Code aimed at protecting local entrepreneurs and promoting local businesses, benefiting from a statutory preferential right in procurement procedures for the provision of goods and services to the mining industry.

2.4 Prior and Informed Consultation on Mining Projects

The Mining Code foresees prior consultation with local communities in the following situations:

- the closure of a mining project (this consultation must be provided for in the corresponding mining closure plan, which is mandatory);
- the approval of the development of mining activities in protected areas; and

- the planning and development of mining activities and, if applicable, the relocation of the local communities impacted by mining activities.

2.5 Impact of Specially Protected Communities on Mining Projects

There are no provisions addressing specially protected communities in mining projects in Timor-Leste.

2.6 Community Development Agreement for Mining Projects

Community development agreements for mining projects are not mandatory by law, nor are they common practice in Timor-Leste.

2.7 Environmental, Social and Governance (ESG) Guidelines and Regulations

ESG policies are incorporated in various scattered legal statutes, but there are no express ESG regulations for the mining sector. Nevertheless, the Mining Code enshrines certain industry-specific ESG principles with which the holders of mineral rights must comply.

These include the duty:

- to conduct mineral activities under strict environmental regulations;
- to comply with the applicable local content policies on recruitment and training of Timorese nationals, and procurement of local goods and services;
- to ensure the involvement of local communities;
- to abide by local laws and regulations; and
- to adopt the best business ethics practice.

However, ESG provisions can also be found in mineral investment contracts (where applicable),

which usually enclose guidelines and principles on environment protection/preservation, human resources and business ethics.

2.8 Illegal Mining

Illegal mining does not constitute a significant disruptive issue in Timor-Leste mineral production. Notwithstanding this, pursuant to the Mining Code, illegally extracted minerals are the property of the Timorese State, and carrying out mining activities without a valid mining right is considered a very serious administrative offence, subject to financial penalties and ancillary sanctions, such as the confiscation of the minerals resulting from the illegal practice.

2.9 Good and Bad Examples of Community Relations/Consultation Impacting Mining Projects

There are no relevant examples to cite.

However, the following is worthy of note – the efforts of the National Authority of Mineral Resources to ensure that the development of mineral activities in the country does not disturb or negatively affect the rights of local communities, and to ensure that these mineral activities ultimately contribute to the sustainable development of the Timorese people.

3. Climate Change, Energy Transition and Sustainable Development in Mining

3.1 Climate Change Effects

Climate change is on the agenda of the Timorese government but has not yet (directly) impacted the mining industry.

3.2 Climate Change Legislation and Proposals Related to Mining

No climate change legislation relating to the mining sector has been passed or is currently being discussed in Timor-Leste.

It is nevertheless worth noting that Timor-Leste is a party to the Paris Agreement, and also approved, in 2011, the National Adaptation Programme of Action on climate change, which considers the environmental sector to be an essential and indispensable vector in the country's sustainable development strategy and in the promotion of the quality of life of Timorese citizens.

More recently, the Timorese government issued Government Resolution 8/2022, of 1 March, which approved the National Climate Change Policy, aimed at strengthening co-operation between the relevant ministries and avoiding the duplication of measures and the implementation of outdated policies. The guiding principles of the policy, addressing the complex challenges created by climate change through mitigation and adaptation to its effects, and compensation of losses and damages, are the following:

- equity and social inclusion;
- inclusion of climate change in sectorial plans and policies;
- informed and active participation;
- commitment to sustainable development;
- long-term capacity building; and
- science and technology-based policy and action.

In compliance with Timor-Leste's commitments under the Kyoto Protocol, the government has also created the Designated National Authority for the Fight Against Climate Change, with the mission to approve the participation of public

and private national entities in projects related to clean development and emissions trading. The Designated National Authority for the Fight Against Climate Change will also liaise between Timor-Leste and the Green Climate Fund.

3.3 Sustainable Development Initiatives Related to Mining

Although growing concern about sustainability is emerging in Timor-Leste (with climate change under the spotlight), there are no relevant sustainable development initiatives for the mining industry.

3.4 Energy-Transition Minerals

There are no specific government or legislative initiatives related to the increasing demand for so-called energy transition minerals as such.

However, as regards rare earth and radioactive minerals, these are classified as strategic minerals under Decree-Law 19/2024, of 25 March, which establishes the rules for the classification and marketing of strategic minerals.

This legal framework establishes special rules for the Timorese State's participation in mining activities related to these minerals, through the national mining company in association with private companies. It also establishes special rules for their commercialisation, such as the duty to take into account the classification and evaluation of these minerals, their scarcity, rarity, price and the particular characteristics of the international market, in order to value these resources in the best interests of the national economy.

4. Taxation of Mining and Exploration

4.1 Mining and Exploration Duties, Royalties and Taxes

The Mining Code sets out a special tax regime for holders of mineral rights (without prejudice to the general tax regime that applies to any entity in Timor-Leste, namely, corporate income tax). No distinction is made between taxing domestic and foreign parties.

Royalty

The rates for mining royalties, calculated on the value of the mineral resources, are as follows:

- precious metals and minerals – 8%, if unprocessed, 3.5%, if processed;
- common metals – 7%, if unprocessed, 2.5%, if processed;
- gems – 8%, if unprocessed, 3.5%, if processed;
- radioactive minerals – 8%;
- rare earth minerals – 15%; and
- ornamental stones – USD10 per tonne, if unprocessed, USD1 per tonne, if processed.

Surface Fee

The surface fee levied on the concession area is payable by all natural and legal persons carrying out mining activities. The amount payable varies in accordance with the size of the concession area, the type of mineral under exploration, the type of mining activity and the operation year in question. It can range from USD25 to USD400 per square kilometre.

4.2 Tax Incentives for Mining Investors and Projects

There are no industry-specific tax incentives for holders of mineral rights, and tax stabilisation

agreements are not expressly foreseen in the law.

4.3 Transfer Tax and Capital Gains on the Sale of Mining Projects

Direct and indirect transfers or sales of mineral rights/mining assets (including by means of M&A operations in and/or outside the country) may trigger capital gains for the purposes of assessment of corporate income tax.

5. Mining Investment and Finance

5.1 Attracting Investment for Mining

The Mining Code contains several provisions regarding transparency and best international practices aimed at creating a safer environment for investment in the mining industry. These provisions include:

- the prohibition of any offers, benefits or gifts to any employee of the National Authority of Mineral Resources or their family members; and
- the annual publication, by the Ministry of Petroleum and Natural Resources, of a report relating to state revenues and other direct and indirect benefits received by the state as a result of or in connection with mining activities (this report must be prepared in accordance with the best international transparency practices).

Other features that may be relevant for attracting investment are discussed below.

Dispute Resolution

The Mining Code regards the judicial courts of Timor-Leste and arbitration courts as the proper mechanisms to resolve any disputes arising in connection with mineral activities or disputes

related to other issues regulated in the Mining Code, in accordance with the titles that granted the corresponding mining rights.

On 17 March 2021, Timor-Leste approved the accession of the country to the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958. Its ratification instrument was deposited with the secretary-general of the United Nations on 17 January 2023 and the convention came into effect in Timor-Leste on 17 April 2023. As such, international arbitral awards are recognised and enforceable in Timor-Leste, without prejudice to the reservation made by the Timorese State, which limits the applicability of the convention to:

- the recognition and enforcement of arbitral awards handed down in another contracting state; and
- disputes arising from legal relationships of a commercial nature, whether contractual or not.

Timor-Leste's national parliament also approved Law 6/2021, of 31 March 2021, which establishes the legal regime of voluntary arbitration and allows Timor-Leste's competent judicial courts to recognise and enforce arbitration decisions.

Early Stage of Development of the Mining Industry

Mining activities have been gradually taking off in Timor-Leste and the country still has abundant mineral reserves to be explored and mined by potential investors, as further detailed in **6.1 Two-Year Forecast for the Mining Sector**.

5.2 Foreign Investment Restrictions and Approvals in the Exploration and Mining Sectors

There are no specific restrictions imposed on foreign investment related to exploration and mining activities, except for strategic minerals. In the case of strategic minerals, if public interest reasons justify it, the government may determine that their marketing must be carried out directly by the national mining company, or through an association with national or foreign companies.

There are also no special rules in respect of foreign ownership, except for artisanal mining and the exploration and mining of construction materials, where access to mineral rights is restricted by local content provisions.

5.3 International Treaties Related to Exploration and Mining

Timor-Leste is not a party to international treaties that favour or protect investment in exploration and mining.

5.4 Sources of Finance for Exploration, Development and Mining

The main sources of funding for private parties intending to carry out mining activities in Timor-Leste are privately owned capital and international funding instruments.

5.5 Role of Domestic and International Securities Markets in the Financing of Exploration, Development and Mining

Timor-Leste does not have a stock exchange market. Most of the funds invested in the mining sector come from overseas.

5.6 Security over Mining Tenements and Related Assets

The creation of security interests over mining rights is subject to the prior approval of the

National Authority of Mineral Resources, except when securities are created for the financing of mining activities and the beneficiary entity agrees that any judicial sale related to the enforcement of the security interest is subject to consent by the Ministry of Petroleum and Mineral Resources.

To achieve this, the holders of the mining rights must send a written notice to the National Authority of Mineral Resources of their intention to create an encumbrance over a mineral right. This notice must include:

- all identity details in respect of the beneficiary of the encumbrance; and
- information regarding the underlying transaction by which the mining rights or assets are encumbered.

The Mining Code foresees that the creation, modification or expiration of charges or encumbrances over mining rights is subject to registration under the Mining Registry (still pending creation), to be organised and managed by the National Authority of Mineral Resources.

6. Mining: Outlook and Trends

6.1 Two-Year Forecast for the Mining Sector

The government of Timor-Leste is keen to attract investment in the country's mining industry, after the launch in 2023 of the first public tender for the award of mineral rights since the enactment of the Timor-Leste Mining Code in 2021. In total, 49 areas were opened for tender and, according to the Overview of Timor-Leste's Geology and Mineral Potentials Report enclosed with the public tender, Timor-Leste has various metallic minerals such as gold, copper, zinc, manganese

and silver, in addition to minerals such as kaolin and, potentially, phosphate, with significant potential for development.

Nine companies (most of which are based abroad, in Australia, India, Indonesia and Singapore) were qualified under the public tender. In late November 2023, the government announced four companies as the bid winners of the public tender: Estrella Resources, Peak Everest Mining, Iron Fortune and Beacon Minerals.

In particular, Estrella Resources was officially awarded three promising mining concessions by the government in the Lautém Municipality in March 2024. Afterwards, in June 2024, this company entered into a joint venture with the state-owned company Murak Rai Timor, EP to perform the mining activities in Lautém, in highly prospective areas for manganese, copper and gold mineralisation.

With the creation of a solid legal framework through the Mining Code and other relevant regulation, the development of the mining industry in Timor-Leste is expected to take off, with the ongoing mapping of mining areas, the publicising of the country's mining potential to attract the numerous mining companies operating in the region, and the effective award of mineral rights by the government to the mining companies, through public tenders such as the one in 2023.

Timor-Leste's robust and investor-friendly legal framework, the success of the first public tender and the global demand for minerals will certainly attract investors in the future.

Trends and Developments

Contributed by:

João Afonso Fialho, Tomás Cabral Anunciação and Teófilo de Jesus VdA

VdA is a leading international law firm with more than 40 years of history. Recognised for its impressive track record and innovative approach in corporate legal services, VdA offers robust solutions grounded in its renowned ethical and professional standards. The high quality of the firm's work is recognised by clients and stakeholders, and is acknowledged by leading pro-

fessional associations, legal publications and academic entities. VdA advises its clients in the development of their projects across the entire value chain of the mining industry. Through the VdA Legal Partners network, clients have access to seven jurisdictions, with broad sectoral coverage in Timor-Leste and all Portuguese-speaking African countries.

Authors



João Afonso Fialho joined VdA in 2015. He is a partner and head of the oil and gas and natural resources practice. In the last 25 years, João has been involved in a variety of natural

resources projects and transactions in jurisdictions such as Timor-Leste, Mozambique, Angola, Sao Tome and Principe, Portugal, Republic of Congo, the DRC and Guinea Bissau. In the mining sector, João has advised foreign investors in the negotiation of exploration and mining agreements, JV agreements, legal due diligences, farm-in and farm-out agreements, royalties and streaming agreements, etc. João has also advised state entities and international mining companies in the drafting and discussion of legal statutes and ancillary regulations.



Tomás Cabral Anunciação worked at VdA in 2022 as an associate in the public law area of practice, where he was actively involved in several transactions. He rejoined VdA in

2023 as local director of the firm's office in Timor-Leste and has been admitted to the Timor-Leste Bar Association. He has a law degree from the University of Lisbon Law School and a master's in law from the Catholic University of Lisbon Law School. He also attended the Professional Development Programme for Lawyers at the IE Business School in Madrid, Spain. Tomás is also a Professor of Comparative and Administrative Law at the National University of Timor Lorosa'e.

Contributed by: João Afonso Fialho, Tomás Cabral Anunciação and Teófilo de Jesus, **VdA**



Teófilo de Jesus joined VdA in 2018 and works as an international adviser at the firm's Dili office. He assists VdA's main clients and stakeholders, operating in the natural resources, energy, banking and telecommunications sectors. He also assists foreign investors in all matters relevant to their activity in the country. Given his Tetum language skills, Teófilo is an indispensable member of VdA's operation in Timor-Leste. He is currently preparing for his admission to the Timor-Leste Bar Association.

VdA

Rua Dom Luís I 28
1200-151
Lisboa
Portugal

Tel: 351 21 311 3400
Email: vieiradealmeida@vda.pt
Web: www.vda.pt/en



Background

Timor-Leste is one of the world's youngest countries. After decades of conflict, in 2002 it became the first new sovereign state of the 21st century.

Over the last two decades, Timor-Leste's government has been particularly focused on rebuilding public infrastructure (water and sanitation systems, roads, airports, ports, etc) and trying to diversify the country's economy, which continues to be highly dependent on oil and gas revenues. Despite all the government's efforts and the stringent local content policies imposed on the country's extractive industries, additional investment and policy changes are still required to strengthen the country's economy, private sector growth, basic infrastructure and services, and human capital for long-term inclusive and sustainable development.

Asian Development Bank (ADB) is supporting Timor-Leste's pandemic recovery and inclusive development through a country partnership strategy for 2023–2027 that focuses on climate-resilient infrastructure and services and the development of a system that fosters economic diversification. ADB will also continue to prioritise promoting good governance and institutional capacity, improving knowledge and innovation, and accelerating gender equality in Timor-Leste.

Mining Potential

Most of Timor-Leste's mineral resources remain unexplored. According to the Atlas of Mineral Resources of the ESCAP Region published in 2003 by the United Nations Economic and Social Commission for Asia and the Pacific, the target minerals in the country are chromite, copper, copper-gold, gold and silver manganese, as well as some non-metallic minerals such as bentonite, limestone, marble and phosphate. Battery

mineral reserves such as chromium, cobalt and nickel are also found in Timor-Leste, which may position the country as a key mineral producer in the context of the energy transition movement.

Developments in the Industry

National legislation

Considering the huge potential of Timor-Leste's mineral resources, the mining industry in Timor-Leste is still at an early stage of development. The government is focused on attracting investment to the sector. The Mining Code, approved in 2021, aims to give investors a robust regulatory framework (aligned with best international mining practices) through which to invest in the country. The regulations aimed at further developing the rules set out in the Mining Code are currently being drafted and are expected to be approved and published in the near future.

The enactment of the Mining Code aims to attract investment to the Timorese mining sector and contribute to the creation of jobs, the improvement of living conditions, the increase of the country's tax revenues and the diversification of the economy, to reduce the dependency on the oil and gas industry.

In March 2023, the Timorese government launched a public tender for the award of mineral rights over 49 concession areas for the exploration and mining of metallic minerals, gemstones, industrial minerals, radioactive minerals, rare earths and coal. In November 2023, the government awarded licences to four companies to prospect and research 13 mining areas. The creation of the state national mining company, Murak Rai Timor, EP, in September 2023 was also reported as a strong sign from the government that the mining sector would be ready to start operating at full capacity within a short period of time.

Also noteworthy was the approval of Decree-Law 62/2023, of 6 September 2023, which created the National Authority of Petroleum, and Decree-Law 63/2023, of 6 September 2023, which created the National Authority of Mineral Resources. According to the latter, this change was aimed at improving the quality and efficiency of sectoral regulation and the achievement of socio-economic development in the country in a sustainable way, while also benefiting current and future generations.

More recently, the government approved Decree-Law 19/2024, of 25 March 2024, which establishes the rules for the classification and marketing of strategic minerals and for the Timorese state's participation in mining activities related to these minerals.

International commitments

In 2008, Timor-Leste joined the international Extractive Industries Transparency Initiative (EITI), a voluntary initiative that works to enhance revenue transparency by verifying and publicising the revenues paid to member governments by extractive companies. Timor-Leste has been using EITI reporting to shed light on transfers from the Petroleum Fund to the national budget, but is expected to start using the EITI to report data from the country's mining industry.

It is also worth mentioning that, on 17 March 2021, Timor-Leste approved the accession of the country to the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, having deposited the ratification instrument with the secretary-general of the United Nations on 17 January 2023. The convention came into effect in Timor-Leste on 17 April 2023.

Future Prospects

Timor-Leste's economic growth is forecast to accelerate to an average of 4.1% in 2024 and 2025 as easing inflation pressures and a stable fiscal outlook contribute to growth, according to the World Bank's semi-annual Timor-Leste Economic Report.

In particular, after the creation of a solid legal framework through the Mining Code and other relevant regulation, the development of the mining industry is expected to take off in the country, with the continuing mapping of mining areas, the publicising of the country's mining potential to attract the numerous mining companies operating in the region, and the effective award of mineral rights by the government to the mining companies through public tenders such as the one in 2023.

Timor-Leste's robust and investor-friendly legal framework, the success of the first public tender and the global demand for minerals will certainly attract investors in the future.

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