Mining

in 28 jurisdictions worldwide

Contributing editors: Michael Bourassa and John Turner

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Fasken Martineau

Getting the Deal Through is delighted to publish the fully revised and updated tenth edition of Mining, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and business people.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 28 jurisdictions featured.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. Getting the Deal Through publications are updated annually in print. Please ensure you are referring to the latest print edition or to the online version at www.gettingthedealthrough.com.

Getting the Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen on the basis of their recognised expertise.

Getting the Deal Through would also like to extend special thanks to contributing editors Michael Bourassa and John Turner of Fasken Martineau for their assistance with this volume.

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Uzbekistan

Bakhodir Jabborov
Grata Law Firm

Mining industry

1. What is the nature and importance of the mining industry in your country?
Uzbekistan's mining industry is one of the country's most important and strategic industries. Uzbekistan is one of the world's largest producers of gold (ranked ninth) and of uranium (ranked seventh). Uzbekistan also produces copper, silver, coal, phosphate, molybdenum, potassium, tungsten, lead, zinc and other minerals.

2. What are the target minerals?
Uzbekistan possesses most types of minerals. Different regions focus on different minerals. For example, Navoi province is famous for its large deposits of gold and uranium and Tashkent province for copper, coal and gold deposits.

3. Which regions are most active?
The most active regions are Navoi, Samarkand and Tashkent provinces.

Legal and regulatory structure

4. Is the legal system civil or common law-based?
Uzbekistan's legal system is based on civil law, which is similar to the Romano-Germanic system of law.

5. How is the mining industry regulated?
Exploration and development of minerals is regulated under a number of national laws and regulations. Exploration and mining rights are granted on the basis of a subsoil-use licence awarded to the subsoil user, through tenders or direct negotiations, by the State Committee of the Republic of Uzbekistan on Geology and Mineral Resources.

6. What are the principal laws that regulate the mining industry?

What are the principal regulatory bodies that administer those laws?
The main act regulating the mining industry is the Law on Subsoil No. 444-II, new edition, dated 13 December 2002 (Subsoil Law). The Subsoil Law provides the fundamental legal framework governing exploration and development of all subsoil resources, including both minerals and oil and gas. The Subsoil Law provides for state licensing and control, rights and obligations, basic rules regarding efficient use of resources, types of subsoil use, duration of subsoil use, and other matters.

The industry is also regulated under a number of other laws and regulations, including the Resolution of the President of Uzbekistan on Terms and Conditions on Granting of Subsoil Use Rights No. PP-649 dated 7 June 2007 (Regulation PP-649), the Tax Code, Land Code, Labour Code and Environment Protection Law. It shall be noted that Regulation PP-649 established a procedure for granting a licence on subsoil-use rights for all subsoil minerals excluding construction materials. Granting subsoil-use rights for exploration and development of deposits of construction materials is regulated by the Resolution of the President of the Republic of Uzbekistan on Terms and Conditions on Granting of Subsoil Use Rights for Deposits of Construction Materials No. PP-1524 dated 2 May 2011. In addition to the above, the Law on Concessions dated 30 August 1995 (Concession Law) provides a legal basis for this form of right to develop mineral resources. However, this law has not yet been widely applied in practice. To date, there have not been any examples of concessions being negotiated and entered for mining projects in Uzbekistan. The difference between the regulatory framework in Uzbekistan and that of other countries is in the absence of any separation between mining and petroleum law and a common approach towards regulation of the mining industry and the oil and gas industry. The confusion is exacerbated by the Law on Production Sharing Agreements dated 7 January 2001 (PSA Law). The PSA Law applies, in addition to the Subsoil Law, in the case of affairs related to the conclusion, execution and termination of PSAs in the exploration and mining of mineral resources in Uzbekistan.

The principal regulatory bodies that administer the laws and regulations related to mining are the State Committee of the Republic of Uzbekistan on Geology and Mineral Resources (Geology Committee), the State Inspectorate of the Republic of Uzbekistan on Control over Industrial Safety of works in Industry, Mining, Geology and Public Utilities Sectors (Industrial Safety Inspectorate) and the State Committee of the Republic of Uzbekistan on Protection of the Environment (Environment Protection Committee).

7. What classification system does the mining industry use for reporting mineral resources and mineral reserves?
Civilian and military units, independent firms and international joint ventures. Mineral resources are classified into three categories: balance, in-balance and off-balance.

Uzbekistan's mineral resource and reserve reporting system is quite different from generally recognised international systems, such as Canada's CIM Standards, Australia's JORC Code or South Africa's SAMREC Code. Uzbekistan, along with many other CIS countries, still uses the former Soviet system for classification of mineral resources and reserves. This categorises mineral concentrations according to the extent to which they have been explored and substantiated, specifically: categories A, B, C1 and C2 and three categories of potential resources P1, P2, P3 and, also, on an economic-value basis, with two categories: balance reserves (commercial reserves) and off-balance reserves (reserves lacking commercial potential).
Mining rights and title

8 To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

Under the Subsoil Law all subsoil resources are owned by the state. Title to minerals passes from the state to the subsoil user on extraction from the ground, pursuant to the terms of the subsoil-use licence. Any transfer of subsoil ownership rights (including the right of use) to a non-state party is subject to approval by the Cabinet of Ministers of the Republic of Uzbekistan (government or Cabinet of Ministers).

Uzbekistan differs from many other countries, where there is private ownership of minerals in the ground and where landlords have title to all mineral resources located under their land plots. All subsoil resources in the ground, until extracted, are owned by the state. Surface rights do not grant rights to natural resources in the ground and, in this way, are clearly distinct from mineral rights.

9 What information and data is publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

Usually, geological data held by the Geological Committee are treated as state secrets and the Geological Committee makes very high-level information publicly available, such as the names of given deposits, their location and respective mineral reserves, as recognised by the state. Usually this information is publicly available through the websites of government agencies such as the Geology Committee, the Agency on Information Support and Foreign Investments Promotion and the annual geological conference, Uzgeoinvest.

Sufficient basic geological data to prepare an aggregated feasibility study (for exploration activities) or a preliminary feasibility study (for mining activities) is provided by the Geology Committee in the course of conducting tenders or direct negotiations for the right to develop a particular deposit or exploration area. This information may be disclosed to investors subject to their signing a confidentiality agreement. A more detailed package of geological information regarding a certain deposit or subsoil area is made available to the licensee after the relevant licence for subsoil-use rights has been granted.

10 What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence?

What are the requirements to convert to a mining licence?

Uzbekistan uses a licensing system for the grant of exploration and mining rights. Therefore, subsoil-use rights are granted on the basis of a subsoil-use licence awarded to the subsoil user on behalf of the Cabinet of Ministers by the Geology Committee. Such licences are usually awarded either through tenders or direct negotiations.

The primary obligations of the mineral rights holder include obligations to:

- use the allotment only for the purposes stipulated in the licence;
- comply with standards and rules on technology of conducting subsoil-use operations;
- comply with the work programmes on development of operations;
- draw up geological, survey and other documents in the process of the development of mineral deposits, the use of subsoil for other purposes not connected with the mining of minerals and to protect their safety;
- keep records of the volume and quality of extracted and reserved principal and other jointly deposited mineral resources;
- preserve extracted but temporarily unused associated subsoil resources;
- ensure compliance with standards of loss when mining minerals and processing mineral raw materials;
- not exercise selective extraction of rich blocks within the licensed area;
- update the Geology Committee on the status of, and changes in reserves of, the principal and other jointly deposited subsoil resources;
- provide information on the volume of extracted subsoil resources to the Geology Committee;
- ensure the safety of human life, health and the natural environment;
- ensure safe execution of work connected with the use of subsoil and taking of measures for the prevention of extraordinary situations, elaboration of plans to eliminate accidents;
- observe the established procedure for closure and conservation of enterprises for mining of minerals and underground structures not associated with mining of minerals;
- ensure execution of works connected with planning or terracing of dump slopes and pit edges, as well as erosion preventive measures; and
- restore land plots and other natural features that have been disturbed as a result of subsoil-use operations to a condition suitable for further use.

Depending on the type of the subsoil use, the licence may include other obligations.

The Subsoil Law and Regulation PP-649 grant the exploration licence holder a right to progress from exploration to mining activity and states that a party or parties that financed the exploration activities on a given deposit shall have an exclusive right to obtain a licence for mining activities on the same deposit. The exploration licence holder is usually treated as the financier of exploration activities and has the exclusive right to progress to mining activities. There is no automatic transfer from exploration to mining licence. The Subsoil Law and the Regulation PP-649 provide that the mining licence must be granted upon the application of the party that financed the exploration activities. The application must be supported by:

- documents proving that exploration activities on a given deposit were financed by an applicant and disclosing the source of financing;
- notarised copies of a certificate of incorporation and constitutive documents of the applicant;
- information on the executive management and shareholders of the applicant; and
- information on technical and technological capacities of the applicant demonstrating that the applicant is capable of performing the intended activity on development of the deposit and ensuring production, and also information on contractors to be involved in performance of the intended activity. In addition, the Geology Committee may request submission of copies of an applicant’s or its contractors’ licences and permits for carrying out certain types of activities connected with the subsoil use.

11 What is the regime for the renewal and transfer of mineral licences?

The term of a licence may be extended provided that a subsoil user applies to the Geology Committee not less than six months before expiry of the validity period of a licence. Pursuant to the Subsoil...
Law, the Geology Committee must take a decision on whether to grant the extension within 30 days of the submission of the extension application. Usually, this decision is closely coordinated with the government. The extension is subject to the subsoil user’s compliance with the terms and conditions of the licence and the subsoil user demonstrating that it requires an extension to complete exploration or mining activities on a given deposit.

The Subsoil Law and the Regulation PP-649 are silent on the transfer of licences with respect to exploration activities and only provide such rights with respect to licences for mining mineral resources and licences for use of technogenic mineral generations. The said licences can be transferred (partially or in full) to another party provided that this party undertakes all obligations under the licence. Transfer of licences is carried out by a licence holder submitting an application to the Geology Committee with an indication of the reasons for the transfer. The application shall be supported by the documents confirming that the party to whom the rights under the licence are being transferred meets the licence requirements. The Geology Committee prepares the information related to the licence transfer and coordinates it with the relevant ministries and state agencies. Recommendations of the ministries and state agencies are further submitted to the government regarding the decision whether to approve or reject the transfer of the licence.

12 Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

Generally, there is no distinction, and foreign individuals and legal entities can directly hold mining rights in Uzbekistan. Uzbekistan has managed to build a powerful mining industry over the past 40 years, thanks to rich uranium and gold deposits. Most of the subsoil deposits are being developed by two major state-owned mining companies or by joint ventures with these companies – Navoi Mining Metallurgical Combine (NMMC) and Almalyk Mining Metallurgical Combine (AMMC). Thus, in practice, priority in providing mining rights with respect to large deposits of strategic minerals, such as gold, silver, copper and uranium are given to these companies. At the same time, the government continues to seek and attract the foreign investors employing innovative technologies and best practices, and there are examples of successful cooperation with large Western and Asian companies.

13 How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

Mining rights may only be suspended, restricted or prematurely terminated in the circumstances specified by the Subsoil Law. Subsoil users are free to choose a judicial body for protection of the rights and they may refer their disputes either to the Uzbek economic courts or foreign arbitrations. Unlike foreign court judgments, foreign arbitral awards shall be recognised in Uzbekistan without retrial on the merits, as Uzbekistan is a party to the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). Accordingly, a foreign arbitral award obtained in a state that is party to the New York Convention should be recognised and enforced by an Uzbek economic court, subject to the qualifications in the New York Convention and compliance with Uzbek civil procedure and the procedures established by the Uzbek law on commercial arbitration for the enforcement of arbitration decisions.

14 What surface rights may private parties acquire? How are these rights acquired?

For mining purposes and in order to secure mining rights, private parties must acquire the surface rights to relevant land plots. Surface rights as such are usually acquired after the mineral licence has been granted, and at the stage of construction or development of the project to the extent that such surface rights are required. Although the Land Code provides for other types of land rights such as the right of permanent or temporary use, in practice, foreign companies or joint ventures engaged in mining activities are granted a lease-right to land. All land rights must be registered with the local state cadaster authority. In addition, Regulation PP-649 provides that subsoil-use rights become effective upon registration of such rights by the Geology Committee in the state register of the subsoil-use rights. Further, the terms of a licence for mineral extracting activities will provide that the mine allotment must be granted by the Industrial Safety Inspectorate. The right to the use of a land plot is linked to the subsoil-use rights, such that any changes in the title of the subsoil-use rights (transfer or termination) will lead to corresponding changes in the rights to use the land plot.

15 Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

Yes, through its state agencies, committees or wholly owned state companies the government participates in mining projects. In fact, currently, most of the subsoil deposits are being developed by two major state-owned mining companies, NMMC and AMMC. Also, the Geology Committee has set up a number of joint ventures with foreign investors for prospecting and exploring potential fields in Uzbekistan.

There is no local listing requirement for the mining project companies in Uzbekistan.

16 Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

The Subsoil Law is silent on expropriations of licences by the government. However, the Law on Guarantees and Measures for Protection of Foreign Investors’ Rights dated 30 April 1998 (Law on Protection of Foreign Investors’ Rights) provides that foreign investments and any other assets of foreign investors located in the Republic of Uzbekistan cannot be nationalised or confiscated, except in the instance of natural disasters, accidents, epidemics and epizootics. In the event of nationalisation in the said circumstances, the government is obliged to provide the affected foreign investor with compensation of an amount equal to the damage caused as a result of such nationalisation. The law further provides that the state shall be a guarantor of timely payment of such compensation to the foreign investor.

17 Are any areas designated as protected areas within your jurisdiction and which are off-limits or specially regulated?

Yes, there are certain areas that have special status and where mining works may be either prohibited (for example, in natural parks) or restricted (for example, in frontier zones and certain types of agricultural land).

Duties, royalties and taxes

18 What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

Uzbekistan’s Tax Code specifies several special taxes payable by subsoil users, including mining companies, in addition to general taxes such as corporate income tax (8 per cent), VAT (20 per cent), social tax (25 per cent), excise and customs duty, tax on petrol and other mandatory duties:

- subsoil-use tax (gold, 5 per cent; copper, 8.1 per cent; uranium, 10 per cent; coal, 4 per cent) is calculated on the value of the
mineral resources produced and is payable on a quarterly basis for small entities and on a monthly basis for other types of entities. The value of the mineral resources for purposes of subsoil-use tax is generally determined using the average weighted sales price for the reporting period;

- subscription bonus (gold, 10,000 times the minimum monthly wage (MMW); copper, 1,000 times MMW and uranium 500 times MMW) is a one-time fixed payment to the state for the right to explore and extract minerals in accordance with a subsoil-use licence;
- commercial discovery bonus (0.1 per cent) is a fixed payment that is payable by subsurface users when a commercial discovery is made in the licensed territory. The rate of the commercial discovery bonus is determined on the basis of the value of proven extractable reserves (the value of the mineral resources is generally determined using the market price established at international exchanges);
- excess profits tax (50 per cent) is payable in respect of the certain types of minerals, which are determined in accordance with legislation. In 2014, only natural gas, copper, cement, clinker and polyethylene pellets are subject to excess profits tax; and
- production-sharing agreements. In addition, the Uzbek Tax Code specifies the special tax regime for foreign companies conducting activities under PSAs. Thus, a foreign investor, its contractors and subcontractors under a PSA are exempt from payment of all types of taxes and mandatory duties with regard to exploration activities. Further, during the period of the PSA a foreign investor is required to pay corporate profit tax, land tax, water use tax, excise tax, social tax and special taxes for subsoil users (subscription bonus and commercial discovery bonus), excluding excess profits tax. Incentives granted to a foreign investor under the PSA are exemption from payment of VAT and property tax and exemption from customs duties that would otherwise be levied upon imported goods and works purported for activities under the PSA and upon export of products belonging to a foreign investor in accordance with the PSA.

A non-resident company operating or acting through a permanent establishment must, in addition, pay a net profit tax from its activity in Uzbekistan at the rate of 10 per cent. Domestic parties are not subject to this tax, although they must withhold 10 per cent within Uzbekistan at the rate of 10 per cent. Domestic parties are not establishment must, in addition, pay a net profit tax from its activity with respect to any Uzbek withholding tax. Generally, the same tax regime applies to domestic companies and foreign companies whose activities in Uzbekistan create a permanent establishment for Uzbekistan tax purposes. Otherwise, foreign companies are subject to Uzbekistan withholding tax with respect to certain Uzbekistan-sourced income such as dividends, interest, royalties and other similar income, subject to reduction or elimination under any applicable double tax treaties. Furthermore, income received from the provision of goods, work and services that creates no permanent establishment in Uzbekistan is not subject to any Uzbek withholding tax.

As mentioned above, the Uzbek Tax Code specifies the special tax regime for foreign companies conducting activities under a PSA. Thus, a foreign investor, its contractors and subcontractors under a PSA are exempt from payment of all types of taxes and mandatory duties with regard to exploration activities. Further, during the period of the PSA, a foreign investor is required to pay corporate profit tax, land tax, water use tax, excise tax, social tax and special taxes for subsoil users, excluding excess profits tax. Incentives granted to a foreign investor under the PSA are exemption from payment of VAT and property tax and also exemption from customs duties that would otherwise be levied upon imported goods and works destined for activities under the PSA and upon export of products belonging to a foreign investor in accordance with the PSA.

![Business structures](image_url)

**Business structures**

24 What are the principal business structures used by private parties carrying on mining activities?

The Subsoil Law contains no restrictions with respect to the business structures that may be used for the purpose of conducting mining activities in Uzbekistan. The Law allows any form of legal entity (whether local or foreign) to acquire mining rights in Uzbekistan. The two most commonly used business forms in Uzbek mining activity are the limited liability company (LLC) and joint-stock company of Foreign Investors’ Rights, the PSA Law provides similar stability provisions but for the entire period of validity of the PSA, without ten years’ limitation. Pursuant to the PSA Law, if after signing of the PSA, the Republic of Uzbekistan adopts any laws or other legal acts that lead to deterioration of commercial results of the foreign investor’s operations under the PSA, then the provisions prescribed under the PSA continue to be applicable to the foreign investor. This rule does not apply to the changes made in the laws with respect to standards (norms, rules) for safety of works, preservation of mineral resources, environmental protection and health of the population.

21 Is the government entitled to a carried interest, or a free carried interest in mining projects?

Currently, the concept of carried interest or a free carried interest is not used in Uzbekistan with respect to mining projects.

22 Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

Currently, the Uzbek Tax Code does not provide for a clear procedure of determining of the capital gains with respect to the transferred rights, especially if the entity receiver of the capital gain is located outside of Uzbekistan. However, the most recent trends show that such entities located outside of Uzbekistan are viewed by local tax authorities as receivers of the capital gain and are thus subject to the tax on capital gains in Uzbekistan.

23 Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

Generally, the same tax regime applies to domestic companies and foreign companies whose activities in Uzbekistan create a permanent establishment for Uzbekistan tax purposes. Otherwise, foreign companies are subject to Uzbekistan withholding tax with respect to certain Uzbekistan-sourced income such as dividends, interest, royalties and other similar income, subject to reduction or elimination under any applicable double tax treaties. Furthermore, income received from the provision of goods, work and services that creates no permanent establishment in Uzbekistan is not subject to any Uzbek withholding tax.

As mentioned above, the Uzbek Tax Code specifies the special tax regime for foreign companies conducting activities under a PSA. Thus, a foreign investor, its contractors and subcontractors under a PSA are exempt from payment of all types of taxes and mandatory duties with regard to exploration activities. Further, during the period of the PSA, a foreign investor is required to pay corporate profit tax, land tax, water use tax, excise tax, social tax and special taxes for subsoil users, excluding excess profits tax. Incentives granted to a foreign investor under the PSA are exemption from payment of VAT and property tax and also exemption from customs duties that would otherwise be levied upon imported goods and works destined for activities under the PSA and upon export of products belonging to a foreign investor in accordance with the PSA.
(JSC). The Law allows for a JSC and an LLC to each be used for either joint ventures or 100 per cent foreign-owned subsidiaries.

25 Is there a requirement that a local entity be a party to the transaction? As a general rule, there is no requirement that subsoil users enter into the transactions with only local entities. However, in practice, the state, through the Geology Committee or its mining companies, is usually involved in mining activities of strategic or high-revenue projects by participation in joint ventures with foreign investors.

Also, there is a general expectation on the subsoil users to use locally manufactured equipment, materials and finished products wherever possible as well as to engage local organisations for works and services in the course of subsoil-use operations.

26 Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

Yes, operations in Uzbekistan are often structured through holding companies located in other jurisdictions and in most cases through Dutch, Swiss and Singaporean holding companies owing to favourable tax treaties with these countries.

Financing

27 What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?

The Subsoil Law does not regulate the financing of mining activities and mining companies are free to choose their funding sources. In practice, the principal sources of financing are a user’s own funds and funds borrowed from foreign private financing institutions, such as EBRD, ADB, IFC, etc. Debt financing is subject to registration with the Central Bank of Uzbekistan (CBU) unless borrowings are made for a period of no more than 360 days. In addition, registration with the CBU is subject to regular reporting to the CBU, which monitors the relevant debt-financing agreement.

It should be noted that currently there is no well-established legal framework in Uzbekistan for the domestic securities market that could enable mining companies to issue domestic bonds or commercial papers.

28 Please describe the regime for taking security over mining interests. Imposing security interests over any type of subsoil-use licences is not enforceable under Uzbek law.

Restrictions

29 What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?

There are no direct limitations or restrictions imposed on the import of machinery and equipment or services in connection with mining activities, although certain types of machinery and equipment may fall under limited restrictions (for example, equipment with integrated radio frequency devices). It should be noted that import operations are subject to Uzbek exchange control requirements, such as registration of import contracts with a local servicing bank and customs authorities. Imported items should conform to Uzbekistan’s technical standards.

30 What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

There are no general requirements in the Subsoil Law or PSA Law that some or all minerals produced must be processed or sold domestically. However, the PSA Law provides for a pre-emptive right of the Republic of Uzbekistan, in case of emergency, to buy mineral resources produced by the subsoil user on a priority basis. Prices and other details of such purchase entitlement have to be set out in the PSA. The PSA Law does not provide expressly otherwise, and in practice the Ministry of Finance is entitled to this pre-emptive right.

31 What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

In 2003, Uzbekistan followed article VIII of the IMF Treaty to ensure free and unrestricted conversion of local currency into foreign currency for current operations. In accordance with the law, the conversion of national currency into hard currency must be done within five banking days. However, in practice, companies engaged in business activities in non-strategic sectors (retail, trade, etc) of the economy may experience delays.

Export proceeds are generally subject to a 50 per cent mandatory sale to local servicing banks. The mandatory sale must be carried out within five days following the receipt of export proceeds. The income to be converted may be reduced by specific foreign currency expenses including transportation, insurance, customs duties, commissions, interest on bank loans, and goods and services related to the production of exports. An exemption is also provided for reinvested revenues resulting from an increase in export or the export of scientific and technological equipment.

Environment

32 What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The main act in the area of environmental protection is the Law on Environmental Protection No. 754-XII dated 9 December 1992, as amended, which sets out the rights and duties of individuals and legal entities, provides for the regulation of and control over environmental protection, provides a general framework for environmental impact assessment and environmental monitoring. In addition, it provides requirements for the use of radioactive materials, atomic energy and dangerous chemical substances. Other key acts regulating environmental protection are:

- the Land Code;
- the Law on Radiation Safety No. 120-II, dated 31 August 2000, as amended;
- the Law on Waste No. 362-II, dated 5 April 2002, as amended;
- the Law on Environmental Assessment No. 73-II, dated 25 May 2000;
- the Law on Atmospheric Air Protection No. 353-I, dated 27 December 1996;
- the Law on Water and Water Use No. 837-XII, dated 6 May 1993, as amended; and

The principal regulatory bodies in these areas are the Environmental Protection Committee and the Industrial Safety Inspectorate.
Update and trends

Over the past year, the government has continued to steadily develop a number of new subsoil deposits. In particular, NMMC launched new operations for production of gold and uranium, and AMMC launched new operations of copper, cement and some other commodities. In addition, several leading multinational companies obtained licences for the exploration of copper and uranium in greenfield areas, and several foreign investors started development of silicon, tungsten and molybdenum deposits.

33 What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

There are several types of environmental licences and permits subsoil users must obtain before carrying out their activities. The Law on Environmental Assessment, No. 73-II, dated 25 May 2000 requires subsoil users, prior to financing works on construction of mining projects, to obtain a conclusion on environmental assessment from the specialised department of the Environment Protection Committee as to compliance of the intended activity with ecological requirements and that measures undertaken by the subsoil user on environmental safety ensure sufficiency and feasibility of efficient use of mineral resources. The subsoil users must also obtain permits to discharge pollutants into the environment, permits in respect of water consumption, permits setting limits for air pollution and waste disposal permits. Obtaining a conclusion on environmental assessment and all other required environmental permits and licences may take up to one month, and on sophisticated projects up to three months.

34 What is the closure and remediation process for a mining project? What performance bonds, guarantees and other financial assurances are required?

The Subsoil Law and Regulation PP-649 require that subsoil users conduct closure and remediation. The closure and remediation terms and conditions are usually different, and depend on certain environmental, operational and other external circumstances of each mining project. Therefore the Subsoil Law and Regulation PP-649 only set out general rules on closure and remediation and require that such specific provisions be included in the mining licences.

No performance bonds, guarantees or other financial assurances are required of a subsoil user upon closure of a mining project. Pursuant to the general rules established by the Subsoil Law, subsoil users must conduct closure and remediation at their own expense, except, for instance, where mining rights are prematurely terminated by the government due to an emergency situation. In the past, mining companies were required to establish special reserve funds for mine reclamation purposes.

Health & safety, and labour issues

35 What are the principal health and safety, and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Uzbekistan has a broad range of laws regulating labour relations, the main element of which is the Uzbek Labour Code (the Labour Code). However, there are no special requirements, standards or labour rules applicable to labour relations in the mining industry.

As for work safety, the general issues related to health and safety at work are governed by the Labour Code, as well as by the Law on Industrial Safety on Hazardous Manufacturing Objects, dated 26 September 2006 (Law on Hazardous Objects) and the Law on Labour Protection, dated 6 May 1993 (Labour Protection Law). These statutes impose on employers a considerable number of obligations related to ensuring safe working conditions and work safety, including obligations to ensure that working conditions at each workplace meet work safety requirements, that the employees use individual and collective protective gear, that the employees observe the work and rest regime provided for by Uzbekistani laws, that a work safety service is established, etc. Finally, each employer is required to develop an extensive set of various labour safety rules and regulations, as well as numerous other documents relating to work safety.

The principal regulatory body administering health and safety, and labour laws is the Ministry of Labour and Social Protection of the Population and Industrial Safety Inspectorate.

36 What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

There are no restrictions or limitations specifically imposed on the employment of domestic or foreign employees in connection with mining, besides the limitation provided set the PSA Law. Pursuant to the PSA Law, one of the main conditions of carrying out works under PSAs is that the number of Uzbek citizens in these works shall not be less than 80 per cent of the average annual number of workforce and use of foreign personnel above these quotas is only allowed in the case of the absence of Uzbek citizens with the appropriate qualifications for a vacant position.

Hiring of foreign employees for any business activities in Uzbekistan is undertaken on the basis of work permits issued by the relevant state agencies. Legal entities with foreign employees in Uzbekistan must obtain a foreign labour licence from the Agency of Foreign Labour Migration Issues (Labour Agency). The Labour Agency functions under the Ministry of Labour and Social Protection of the Population. A licensed company must also obtain a work permit (confirmation) from the Labour Agency for each foreign employee. The Labour Agency should issue a foreign labour licence within 30 days from the date of submission of all required documents.

Social and community issues

37 What are the principal community engagement or CSR (corporate social responsibility) laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

To date, Uzbekistan has not introduced such laws.

38 How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

Not applicable.

39 What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

No specific international treaties, conventions or protocols relating to CSR issues (including indigenous peoples) are applicable in Uzbekistan.

Foreign investment

40 Are there any foreign ownership restrictions relevant to the mining industry?

There are no foreign ownership restrictions relevant to the mining industry in Uzbekistan. In practice, however, the mining industry is viewed as a strategic sector of the economy and as result most of the large-scale mining projects are being implemented by the state-owned mining companies.
International treaties

41. What international treaties apply to the mining industry or an investment in the mining industry?

Uzbekistan is a party to several international treaties relevant to the mining industry, including the Treaty on Cooperation in Study, Exploration and Use of Mineral Resources of 27 March 1997. Uzbekistan has also concluded about 50 bilateral investment treaties with other countries. Uzbekistan is a party to a number of multilateral treaties concerning foreign investment. Thus, on 6 May 1994, Uzbekistan ratified the 1965 Washington Convention on the Procedure of Settlements of Investment Disputes between States and Nationals of Other States.
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