



OWNERSHIP PURCHASING OF MINING FIRMS IN TANZANIA

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Overview

Tanzania, among other countries in the world, has been blessed with pure mineral resources hence Minerals are (is) the number one forex earner for Tanzania. Currently, mineral resources contribute up to 3.5% of the Gross Domestic Product (GDP) which is expected to rise to 10% by 2025. Such minerals include gold, diamond, iron, coal, nickel, tanzanite, uranium, and natural gas. Of recent, natural offshore gas deposits have been discovered. The mining sector contains several medium-scale companies and a cluster of small-scale mining companies like Shanta Gold, Petra Gold, Barrick, Acacia, Anglo Gold Ashanti to mention a few. There are now eight large scale operating mines; six for gold and two for gemstones. Gold and diamonds have always been the country's main mineral production; specifically, diamond being commercially produced in bulk since 1925 in the Mwadui area. However recently gold mining has offered one of the best areas to invest ranking the fourth largest gold-producing country in Africa after South Africa, Ghana, and Mali with a main focus on the greenstone belts around Lake Victoria. Some of the

Investing

The Tanzania Mineral Policy 2009 aims at strengthening the mining sector by integrating other economic sectors in the country to improve the conditions for investment, maximizing Government profits, promoting mineral value addition activities, reinforcing social and environmental management, and developing small scale mining operations. The existing mineral policy, legislation, and fiscal regime make Tanzania a suitable destination for investors, particularly in the mining sector.

Tanzania offers a globally competitive and investor-friendly legal regime as stipulated in "The Mining Act 2010" which guarantees investors' security tenure, repatriation of capital and profits, and transparency in the issuance and administration of mineral rights.

It is important to note that, various initiatives have led to a considerable number of changes in policies and laws governing the mining sector in Tanzania. These changes focused on ensuring Tanzanians benefit from their natural resources by inserting clauses that depicting that indigenous people participate in the ownership and management of mining firms.



Governing Laws Include:

- The Mining Act, 2010 (Act No. 14/10)
- The Mining (Mineral Trading) Regulations, 2010
- The Minimum (Minimum Shareholding and Public Offering) Regulations 2016
- The Mining (Local Content) Regulations, 2018
- The Mining (Mineral Trading) Regulations, 2010
- The Environmental Management Act of 2004
- The Land Act CAP 113
- The Village Land Act CAP 114

The Minister for Energy and Minerals and the Commissioner is vested with the rights under the Mining Act 2010 to grant a wide range of licenses to individuals or companies. Such licenses include a prospecting license, gemstone prospecting license, a retention license, a special mining license, a mining license, a primary license, a processing license, a smelting license, and a refining license.

All gemstone exploration and mining are reserved for locals except for cases where skills, technology, or huge capital is required to develop the ore body. In consideration of this, the minister may authorize some projects to run jointly by locals and foreigners, and participation of a foreign investor would have to be below 50%. To ensure the requirement of ownership of mining firms in Tanzania is observed, the Mining Act, 2010 requires that a mining license holder who wishes to transfer equity shares to another person to seek the consent of the minister if the transfer is likely to alter ownership from the license holder to the prospective shareholder.

Mandatory requirement of local content in providing goods and services to a contractor, subcontractor, or holder of a mining license

The Mining (Local Content) Regulations, 2018 it is clearly provided that any foreign company that intends to provide goods or services to a contractor, a subcontractor, licensee, the Corporation or other allied entity within Tanzania shall incorporate a joint venture company with an indigenous Tanzanian company; and afford that indigenous Tanzanian company equity participation of at least 20%.

It is also further provided that any non-indigenous Tanzanian company that is required to



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provide goods and services to a mining license holder or other allied entity, shall incorporate a company in Tanzania and operate it from in association with an indigenous Tanzanian company in Tanzania. The laws stretch further to elaborate what an indigenous Tanzanian company entails in this regard

- Has at least 51% of its equity owned by a citizen or citizens of Tanzania; and
- Has Tanzanian citizens holding at least 80% of executive and senior management positions and 100% of non-managerial and other positions.

Minimum local shareholding for special mining license holders

All holders of special mining licenses are mandatorily required by the Minimum (Minimum Shareholding and Public Offering) Regulations to offer shares to the public and list with the stock market exchange in Tanzania. On top of that, they are required to have a minimum local shareholding of 30% of the total issued and paid-up shares. However, if the holder fails to secure a minimum local shareholding due to an unsuccessful public offering, the minister may upon application and recommendation of the authority grant a waiver to the holder from the local shareholding requirement.

Mineral Trading license

Mineral trading in the United Republic of Tanzania can only be conducted by locals or jointly by locals and foreigners. However, locals must hold not less than 25% shares in the joint venture.

In a nutshell, to ensure ownership Mining firms in Tanzania are devised for participation by Tanzanians, the Government requires foreign firms to grant them a 16% carried interest and paid-up equity.