

# MINING

## Finland



# Mining

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights into mining industry issues, including industry overview; basis of legal, regulatory and resource/reserve reporting system; ownership and acquisition of mining rights and title; restrictions on foreign parties; state participation, expropriation and compensation mechanisms; duties, royalties and taxes, including stabilisation mechanisms; business structures; financing sources and security regime; restrictions on movement of goods, services, people and capital in connection with mining activities; environmental, closure and remediation, health and safety, labour, social and community, and international law issues; anti-bribery and corrupt practices; and recent trends.

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## Table of contents

### **MINING INDUSTRY**

Standing

Target minerals

Regions

### **LEGAL AND REGULATORY STRUCTURE**

Basis of legal system

Regulation

Classification system

### **MINING RIGHTS AND TITLE**

State control over mining rights

Publicly available information and data

Acquisition of rights by private parties

Renewal and transfer of mineral licences

Duration of mining rights

Acquisition by domestic parties versus acquisition by foreign parties

Protection of mining rights

Surface rights

Participation of government and state agencies

Government expropriation of licences

Protected areas

### **DUTIES, ROYALTIES AND TAXES**

Duties, royalties and taxes payable by private parties

Tax advantages and incentives

Tax stabilisation

Carried interest

Transfer taxes and capital gains

Distinction between domestic parties and foreign parties

### **BUSINESS STRUCTURES**

Principal business structures

Local entity requirement

**Bilateral investment and tax treaties**

**FINANCING**

**Principal sources of financing**

**Direct financing from government or major pension funds**

**Security regime**

**RESTRICTIONS**

**Importation restrictions**

**Standard conditions and agreements**

**Mineral restrictions**

**Import of funds restrictions**

**ENVIRONMENT**

**Principal applicable environmental laws**

**Environmental review and permitting process**

**Sustainability**

**Closure and remediation process**

**Restrictions on building tailings or waste dams**

**HEALTH AND SAFETY, AND LABOUR ISSUES**

**Principal health and safety, and labour laws**

**Management and recycling of mining waste**

**Use of domestic and foreign employees**

**SOCIAL AND COMMUNITY ISSUES**

**Community engagement and CSR**

**Rights of aboriginal, indigenous or disadvantaged peoples**

**International law**

**ANTI-BRIBERY AND CORRUPT PRACTICES**

**Local legislation**

**Foreign legislation**

**Disclosure of payments by resource companies**

**FOREIGN INVESTMENT**

**Foreign ownership restrictions**

**INTERNATIONAL TREATIES**

**Applicable international treaties**

**UPDATE AND TRENDS**

**Recent developments**

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## MINING INDUSTRY

### Standing

What is the nature and importance of the mining industry in your country?

Finland is dependent on mineral-based products as construction and infrastructure industries are heavily dependent on raw materials. Further, the production of machinery, vehicles, electric vehicle batteries and high tech rely on the availability of mineral-based materials. In addition, food production requires mineral fertilisers and machinery that are produced from mineral-based materials.

Finland's long-term goal is to host an active minerals sector that is globally competitive, and secures raw material supply while supporting regional development.

Finland's mineral resources represent a significant part of its national wealth, and the minerals sector has a significant direct and indirect impact on its national economy and employment. According to the latest statistics, Finland hosts a total of 43 active mines that have a total annual turnover of approximately €2 billion. The mining sector employs approximately 5,100 people.

In 2022, there were a total of 54 active companies carrying out exploration in Finland, with a total annual expenditure of €80.4 million. Investments made by mining companies during 2022 totalled €304 million. A total of 49.6 million tonnes of ore was extracted in 2022, equating to a 3.5 per cent increase compared to 2021.

According to a recent government study, the minerals sector – covering mining operations and the industries that produce and supply machinery, equipment, technology and services for mining operations – has an annual total turnover of approximately €12.2 billion, with a total gross return of €22 billion. The study was based on 2015 statistics, but the importance of the minerals sector to our economy has not since decreased.

Access to certain raw materials is a growing concern within the European Union as the supply of many critical raw materials is highly concentrated. For example, most of the EU's supply of critical raw materials is imported from China, Russia and Ukraine. Following the Russian invasion of Ukraine in February 2022, and the ensuing sanctions imposed by the European Union and its international partners, and the countermeasures taken by Russia, the European Union has called for work to be taken forward on reducing the single market's strategic dependencies in critical raw materials. The production of critical raw materials provides significant opportunities for Finland, as its geological environment holds great potential in many critical raw materials.

*Law stated - 30 March 2023*

### Target minerals

What are the target minerals?

The most commonly extracted and produced base metals in Finland are chromium (324,000 tonnes), zinc (59,000 tonnes), nickel (42,200 tonnes), copper (34,400 tonnes) and the most commonly extracted precious metals are silver (1,600,000 ounces), gold (320,000 ounces), platinum (51,000 ounces) and palladium (36,500 ounces) (figures based on 2021 statistics). In addition, notable quantities of cobalt and lead are also mined.

In addition to exploration projects targeting base- and platinum-group metals, and gold and silver, many exploration projects are currently targeting raw materials for batteries as well as rare earth elements.

The European Commission has estimated that the European battery value chain will amount to an annual market value of €250 billion by 2025. Finland is in a good position to develop its battery mineral industry since its geological potential in terms of key raw materials for batteries, mainly cobalt, graphite, lithium and nickel, is favourable. Further,

the production of critical raw materials for the European Union provides significant opportunities for the country, as the Fennoscandian shield, on which Finland is located, holds great potential in many critical raw materials.

### Mineral production and discovery potential

Metal/mineral	Mining production in Finland	Discovery potential in Finland
2020 critical raw materials for the European Union		
Antimony	Deposits	Moderate
Baryte	No known significant deposits	Moderate
Beryllium	No known significant deposits	Moderate
Cobalt	Mining production	Good
Gallium	No known significant deposits	Low
Germanium	No known significant deposits	Low
Graphite	No known significant deposits	Moderate
Indium	No known significant deposits	Moderate
Lithium	Mining projects	Good
Magnesium	No known significant deposits	Low
Niobium	Mining projects	Good
Platinum group metals	Mining projects	Good
Rare earth metals	Deposits	Good
Tantalum	Deposits	Moderate
Titanium	Mining projects	Good
Tungsten	Deposits	Moderate
Vanadium	Mining projects	Good
Economically important or very important		
Aluminium	No known significant deposits	Low
Bentonite	No known significant deposits	Low
Boron	No known significant deposits	Low
Chromium	Mining production	Good
Clay minerals	Deposits	Moderate
Copper	Mining production	Good
Diatomite	No known significant deposits	Low
Feldspar	Mining production	Good
Fluorite	No known significant deposits	Low
Gold	Mining projects	Good discovery potential
Gypsum	No known significant deposits	Low



Iron	Mining projects	Moderate
Limestone	Mining production	Good
Magnesite	No known significant deposits	Moderate
Manganese	Mining projects	Moderate
Molybdenum	Deposits	Moderate
Nickel	Mining production	Good
Perlite	No known significant deposits	Low
Precious stones	Deposits	Moderate
Quartz	Mining production	Good
Rhenium	No known significant deposits	Low
Silver	Mining projects	Moderate
Soap stones	Mining projects	Good
Talc	Mining production	Good
Tellurium	Deposits	Good
Uranium and thorium	Exploration	Moderate
Zinc	Mining production	Good

Source: Finland's Minerals Strategy 2010 / the European Commission: Fourth list of critical raw materials for the EU of 2020.

*Law stated - 30 March 2023*

## Regions

Which regions are most active?

The most attractive regions in terms of exploration are currently the northern, western and eastern regions of Finland, the most active region being Central Lapland. Active mining operations or planned mining projects are also largely located within the aforementioned regions.

*Law stated - 30 March 2023*

## LEGAL AND REGULATORY STRUCTURE

### Basis of legal system

Is the legal system civil or common law-based?

Finland's legal system is civil law-based.

*Law stated - 30 March 2023*

## Regulation

### How is the mining industry regulated?

The Finnish legal system is based on written law, which is passed by the state legislature – parliament. Acts passed by parliament, such as the diverse set of legislation applied to the mining industry, are applied and enforced on a state level throughout Finland. In the region of Åland, the regional parliament passes laws on matters that fall under its autonomous status, such as the permitting of exploration and exploitation of minerals within Åland's territory.

Mining agreements or comparable arrangements between the state and private entities are not used in Finland.

Municipalities have a long history of having a land-use planning monopoly; thus, municipalities play a key role in the permitting stage of mining projects as local-level land-use planning decisions are required to be adopted prior to the commencement of mining activities.

In addition to local land-use plans, regional councils, consisting of municipalities of the region, pass regional land-use plans, which set out land-use principles for the development of the region in question. According to the land-use plan hierarchy, local-level land-use plans must be compatible with the passed regional land-use plans.

*Law stated - 30 March 2023*

### What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

The mining industry in Finland is regulated through a broad set of legislation, such as:

- the Mining Act (621/2011), as amended;
- the Environmental Protection Act (527/2014), as amended;
- the Water Act (587/2011), as amended;
- the Nature Conservation Act (1096/1996), as amended; replaced by the Nature Conservation Act (9/2023) as of 1 June 2023;
- the Environmental Impact Assessment Act (252/2017), as amended;
- the Dam Safety Act (494/2009), as amended;
- the Act on the Safety Handling of Hazardous Chemicals and Explosives (390/2005), as amended;
- the Reindeer Husbandry Act (848/1990), as amended;
- the Act on the Sami Parliament (974/1995), as amended; and
- the Land Use and Building Act (132/1999), as amended.

Principal regulatory and supervisory bodies include:

- the Ministry of Employment and Economic Affairs, responsible for the steering of the mineral policy of Finland and when the Mining Act Reform enters into force 1 June 2023, the competent authority for permitting under the Mining Act if an exploration or mining permit might endanger national security;
- the Ministry of Environment, responsible for the overall steering and development of nature conservation and environmental protection policies of Finland;
- the Finnish Safety and Chemicals Agency, being the Mining Authority under the Mining Act, is the competent authority with regard to permitting matters relating to exploration and mining. The Mining Authority also supervises and enforces compliance with the Mining Act. The Finnish Safety and Chemicals Agency is also the

- competent authority in respect of the Act on the Safety Handling of Hazardous Chemicals and Explosives;
- the government is a competent permitting authority under the Mining Act in matters concerning land expropriation permits, an instrument securing mining operations' access to land, and mining permits related to the production of uranium and thorium;
  - the Regional Administrative Agency is the competent permitting authority under the Water Act and the Environmental Protection Act, which implements Directive 2010/75/EU on integrated pollution prevention and control into national law;
  - Centres for Economic Development, Transport and the Environment (ELY Centres) are responsible for supervising adherence to the environmental and water permits. ELY Centres also have permitting and supervisory duties under the Nature Conservation Act. ELY Centres also act as contact authorities in environmental impact assessment procedures carried out in accordance with the Act on Environmental Impact Assessment Procedures. ELY Centres are also competent authorities concerning dam safety issues;
  - Metsähallitus, a state-owned enterprise that manages state-owned land and water areas, has statutory responsibilities concerning the protection of the areas as well as a permitting role under the Nature Conservation Act concerning exploration activities within national parks and nature reserves;
  - municipalities have a long history of having a land-use planning monopoly; thus, municipalities play a key role in the permitting stage of mining projects as local level land use planning decisions are required to commence mining activities; and
  - regional councils, consisting of municipalities of the region, pass regional land-use plans that set out land-use principles for the development of the region in question. According to the land-use plan hierarchy, local-level land-use plans must be compatible with the passed regional land-use plans.

## Major amendments

The parliament has passed numerous bills submitted by the government in 2022. These have impacted and shall impact the mining industry's legislative and regulatory environment. The major amendments are:

- the Mining Act reform, entering into force on 1 June 2023. The main amendments under the Mining Act reform are as follows:
  - the validity period of reservations is shortened to 12 months (unless the Mining Authority decides based on special grounds to grant the reservation for 24 months at the maximum), reservations must not include areas where exploration permit may not be granted by law, and the reservation holder must pay a reservation fee (tax) of €1 per hectare for the area granted;
  - renewal of exploration permits that have been valid at least 10 years requires the consent of at least half of surface rights holder (measured by area) or a decision by the government that the project must be furthered for public benefit;
  - the validity of exploration permits can be extended by the decision of the Mining Authority if exploration has been interrupted due to force majeure. This extension would not be included in the maximum period of validity (15 years);
  - commencement of exploration works despite an appeal on the exploration permit is made possible by a separate decision by the Mining Authority;
  - a land use plan approved by the local municipality is made an explicit prerequisite for a mining permit;
  - mining rights are made subject to the approval of the Ministry of Employment and Economic Affairs if the proposed activity might endanger national security. Exploration or mining permits may not be granted, if the activity would endanger national security. According to the Act on the State's Right of Pre-Emption in Certain Areas (459/2019), the State has the right to pre-emption in transfer of property within 500 metres of military

areas and within 1,000 metres of radar stations, airfields, harbours or similar installations. We anticipate that the same boundaries will be used to determine the need for an approval by the Ministry of Employment and Economic Affairs when applying for mining rights;

- the scope of mining collateral is regulated more extensively to include the necessary safety measures on site in exceptional circumstances for one year, excavation fees to landowners for one year and costs for the monitoring of safety for 30 years after the closure of the mine; and
  - participation rights of local communities, including the Sami, are expanded so that there are more instances where to give notification must be given of exploration activities and exploration and mining permit holders must hold annual public events to present the results and impacts of activities.
- the Mining Tax Act (314/2023), to be collected as of 1 January 2024 and to be 0.6 per cent of the average market value of each calendar year for metallic minerals and €0.20 per ton of other mined minerals;
  - the Nature Conservation Act (9/2023) reform, entering into force on 1 June 2023. The main reforms that affect mining are as follows:
    - exploration permits can no longer be granted in national parks or strict nature reserves; and
    - new specially protected areas are introduced (beach sand dunes and serpentine group mineral grounds, on which there is flora associated with serpentine). Exploration on these areas is subject to a special permit.
  - the Act on Environmental Damages Fund (1262/2022), a secondary environmental liability scheme reform which repeals the previous compulsory environmental insurance scheme and aims to manage environmental risks and adequate restoration measures in cases where the responsible party is insolvent, unknown or unavailable; and
  - the development of collateral regulations, most importantly those in the Environmental Act to empower the supervisory authority to initiate a procedure to review the permit collateral, if it is deemed to be insufficient to cover the environmental responsibilities of the permit holder.

*Law stated - 30 March 2023*

## Classification system

What classification system does the mining industry use for reporting mineral resources and mineral reserves?

The Pan European Reserves and Resources Reporting Committee (PERC) is responsible for setting reporting standards for companies listed on markets in Europe. The PERC Reporting Standard is fully aligned with the Committee for Mineral Reserves International Reporting Standards Reporting Template.

Further, Finland's Financial Supervisory Authority recommends that issuers and persons responsible for prospectuses comply with the European Securities and Markets Authority guidelines on risk factors under Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market. Accordingly, all relevant prospectuses should include details of mineral resources and, where applicable, reserves (presented separately) and exploration results or prospects in accordance with:

- the Australian Joint Ore Reserves Committee (JORC) Code;
- the South African Code for Reporting of Mineral Resources and Mineral Reserves Code;
- the various standards and guidelines published and maintained by the Canadian Institute of Mining, Metallurgy and Petroleum;
- the Society for Mining, Metallurgy, and Exploration Guide;
- the PERC Code;
- the Certification Code for Exploration Prospects, Mineral Resources and Ore Reserves as published by the Instituto de Ingenieros de Minas de Chile (Chile); and

- the Russian Code for the Public Reporting of Exploration Results, Mineral Resources and Mineral Reserves (NAEN Code).

As there are significant numbers of publicly listed Australian and Canadian companies carrying out exploration and mining activities in Finland through their Finnish subsidiaries, mineral resources and reserves, as well as exploration results from Finland, are often reported according to the JORC Code or Canadian National Instrument 43-101.

*Law stated - 30 March 2023*

## **MINING RIGHTS AND TITLE**

### **State control over mining rights**

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?

The Mining Authority is the competent authority to award mineral rights in Finland, excluding mining permits concerning the production of uranium and thorium, which are subject to a mining permit awarded by the government.

Private parties may hold mineral rights provided that the prerequisites set in the Mining Act are satisfied. Accordingly, parties eligible to apply and hold mineral rights are:

- natural persons domiciled within the European Economic Area;
- legal entities incorporated under the laws of Finland; and
- foreign legal entities established in accordance with the laws of a state belonging to the European Economic Area and having a registered branch in Finland.

The incorporation of a company in Finland is not restricted and thus the abovementioned requirement does not impose an actual requirement of local ownership.

Although mineral rights are issued by a governmental authority, or, in some cases, the government, the state does not have ownership of the minerals nor does the surface rights holder. Instead, Finnish mining legislation is based on the principle of discovery, where the party first staking a claim has a preferential right to acquire mineral rights for the area concerned.

An awarded mining permit gives its holder the sole right to exploit mining minerals found in the mining area, organic and inorganic surface materials, waste rock and tailings generated as by-products of mining activities. As the ownership of land does not give the right to exploit the minerals found within one's own land, mining operations are always subject to a mining permit even if the operator has surface rights to the area. On the other hand, as surface rights do not follow an awarded mining permit, surface rights must be obtained separately either by contractual means (eg, through purchase or lease), or through a separate expropriation permit.

With regard to exploration, access to land is included in the rights conferred to the exploration permit holder through the exploration permit and thus exploration does not require a separate landowner consent to access the area or commence exploration work on another's land.

The Mining Act recognises everyone's right to make observations and take minor samples even on another's land,

whether in private or state ownership, without a permit or prior consent, provided that this does not cause damage or more than minor inconvenience or disturbance.

It is also possible to carry out exploration without a separate exploration permit, provided that a prior consent is obtained from the landowner. As of the entry into force of the Mining Act reform on 1 June 2023, a notification must also be made to the Mining Authority. However, exploration without an exploration permit does not give the operator preferential rights to seek a mining permit for the target area. A separate exploration permit is always required if exploration poses a risk to people's health, general safety or other industrial and commercial activity, or any deterioration of the landscape or nature conservation. Further, an exploration permit is required if exploration is targeted for locating or exploring a deposit containing uranium or thorium.

*Law stated - 30 March 2023*

### **Publicly available information and data**

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, 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?

The Geological Survey of Finland (GTK), a governmental geoscience research agency, collects and maintains geoscientific data in Finland.

The GTK's key activities are the mapping and evaluation of natural resources as well as research and development. The GTK may also evaluate ore potential of geological formations to encourage further evaluation by the private sector. The most promising projects are tendered to the private sector through the Ministry of Employment and the Economy as the state has no preferred role in the downstream development of mineral projects.

The GTK also provides geological expertise to the private sector offering expert, research and laboratory services for exploration and mining companies.

One of the GTK's statutory duties is to arrange and manage the geoscientific data services in Finland and manage its data. In addition to its own exploration campaigns, the GTK receives geoscientific data from entities carrying out exploration operations in Finland as the Mining Act obliges exploration permit holders to surrender a final exploration work report, the material information pertaining to the exploration and a representative set of drill-core samples to the Mining Authority. The final exploration work reports are forwarded to the GTK for verification and saved in the GTK's standardised database, while the drill cores are sent to the national drill core archive, which holds over 3.5 million metres of drill cores from 34,000 drill holes. Information on the drilling sites and their locations, from which the drill cores in the drill core archive have been collected, can be found on the GTK's Mineral Deposits and Exploration map. The drill cores can be studied in the GTK's facilities. Further, the GTK provides sampling, cutting and photographic services, density and magnetisation measurements, and the possibility to analyse the drill cores with a sample field analyser.

The data sets maintained by the GTK are accessible to all and are made available in digital geographic information systems form and viewable on the GTK's active map explorer web page . The web service provides up-to-date information on land tenure, exploration reports, drilling, mines and undeveloped deposits, mineral indications data and bedrock age data in Finland.

The GTK's databases cover the entire country with exceptional detail and include high-resolution, low-altitude airborne geophysical surveys, regional till geochemical sampling, in-bedrock mapping at a 1:100,000 scale and quaternary geology mapping.

## Acquisition of rights by private parties

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 or more senior tenure? What are the requirements to convert to a mining licence?

## Prospecting work

Everyone has the right, even on another's land, to make observations and take minor samples, provided that this does not cause damage or more than a minor inconvenience or disturbance. This prospecting work does not require any separate permit or consent except with regards to minor sampling, which is subject to a prior notification lodged with the landowner (and once the Mining Act reform enters into force, such prior notification shall also be made to reindeer owners' association if the prospecting area is located in a reindeer management area).

## General overview on acquisition of rights

Private parties may lodge reservation notifications and hold exploration permits and mining permits as means to acquire surface rights for the purpose of carrying out mining operations.

Permit applications are processed and permits are awarded on a first come, first served basis.

All mineral rights are awarded as applied for, provided that the application satisfies the conditions set out in the Mining Act and there are no impediments stipulated in the Mining Act, which would impede the awarding of a mineral right. Further, an exploration or a mining permit may be awarded, regardless of an existing impediment, if it is possible to remove said impediment through permit conditions or by decreasing the size of the permit area.

On rare occasions, the government may commence competitive bidding to sell exploration projects developed by the Geological Survey of Finland (GTK). Acquiring an exploration project through such a bidding process does not entertain a legitimate expectation that the project would be awarded a mining permit in the future; in other words, the party holding an exploration permit acquired through competitive bidding will not be treated more favourably than other operators and will not be promised exploitation rights as a reward. The last competitive bidding was carried out in the early 2010s. Typically, a form of royalty arrangement is included in the asset purchase agreement between the state and the purchaser.

## Preferential rights system

An exception to the first come, first served policy is the preferential rights system under which an exploration permit holder has preferential rights to apply for a mining permit provided that the application for a mining permit is lodged prior to the expiry or cancellation of the exploration permit. Further, operators may reserve areas for a maximum period of 24 months, during which time the reservation holder has the preferential right to apply for an exploration permit to the area covered by the reservation. Once the Mining Act reform enters into force on 1 June 2023, the validity period of reservations is shortened to 12 months (unless the Mining Authority decides based on special grounds to grant the reservation for 24 months at the maximum). A reservation does not entitle its holder to carry out exploration activities within the reservation area unless a prior consent from the landowner of the area in question is obtained. As of the entry into force of the Mining Act reform, the reservation holder must pay a reservation fee (tax) of EUR 1 per hectare, calculated on the basis of the granted reservation area.



## Exploration permit

Exploration activities in general may be carried out by solely obtaining landowner consent and notifying the Mining Authority of the activities. Exploration is nevertheless subject to an exploration permit if the landowner does not consent to such activities or if exploration could cause harm to people's health or general safety, would cause inconvenience to other commercial activities or any deterioration in nature conservation values. Further, an exploration permit is required if the target mineral is either uranium or thorium. Carrying out exploration based on an exploration permit is a means to secure operators' rights, as a valid exploration permit provides its holder with a preferential right to acquire a mining permit for the area in question.

A holder of an exploration permit has various statutory obligations, which include the duty to:

- carry out exploration, as the Mining Authority may decide that an exploration permit will expire if operations have been interrupted continuously for a minimum of one year;
- notify landowners in advance of all fieldwork that may cause any damage or harm and of any temporary constructions that need to be built on the exploration area;
- inform relevant authorities on fieldwork as stipulated in the exploration permit;
- compensate for any harm and damage arising from exploration according to the principle of full compensation;
- pay an annual exploration fee to the landowners of the exploration area. The amount of exploration fee increases gradually from €20 to €50 per hectare as the exploration continues;
- submit an annual report to the Mining Authority regarding the exploration activities carried out during the year and the results thereof;
- as of the entry into force of the Mining Act Reform, hold an annual public event to present the results and impacts of exploration and future plans;
- deposit collateral as stipulated in the permit decision to offset potential damage and inconvenience and perform aftercare measures;
- restore the exploration area to the condition required by public safety, remove all constructions and equipment placed on the exploration area, carry out required rehabilitation and clean-up measures and restore the area to its natural status as far as possible; and
- submit to the Mining Authority an exploration work report and a representative set of core samples before the permit expires.

The holder of an exploration permit is also obliged to comply with the permit-specific stipulations, which may include, inter alia, stipulations such as:

- restrictions concerning exploration work during the nesting season of a protected bird species;
- an obligation to take necessary measures to mitigate harm to reindeer herding;
- to ensure that exploration does not violate the rights of indigenous people; and
- aftercare measures.

## Mining permit

The construction and commencement of mining activities are subject to a mining permit issued by the Mining Authority.

A mining permit holder has the right to exploit the mining minerals found in the mining area, the organic and inorganic surface materials and excess rock, and tailings and other minerals extracted from the bedrock and soil of the mining area to the extent that the use of these is necessary for the purposes of mining operations. The mining permit also



entitles the holder to carry out exploration within the mining area.

The prerequisites for the awarding of a mining permit are that the target deposit is exploitable in terms of size, ore content and technical characteristics.

The decision to award a mining permit is based on a comprehensive approach, taking into account:

- the rights of the landowners;
- the Sami as an indigenous people;
- the impact on other livelihoods;
- the environment, landscape, land use and safety;
- the economic use of natural resources and nature conservation;
- radiation safety; and
- the reconciliation of user needs in different areas.

A mining permit holder is obliged to ensure that:

- the mining activities do not cause damage to people's health or danger to public safety;
- mining activities do not cause significant harm to public or private interests;
- excavation and exploitation do not entail obvious wasting of mining minerals;
- potential future use and excavation work at the mine and deposit are not endangered or encumbered; and
- the permit provisions issued together with the mining permit are complied with.

Further, a mining permit holder is obliged to submit an annual report to the Mining Authority concerning the results of the exploitation of the deposit and any material changes concerning mineral resources and pay an excavation fee to the landowner of the mining area, for the areas not owned by the operator as well as compensate in full any damage or harm caused by the mining activity.

The mining permit will include a schedule for the commencement of the mining activities. If the operator fails to commence mining activities within the set schedule, the Mining Authority is obliged to order the mining permit to expire.

Once the mining activities are terminated, the mining permit holder has two years to bring the mine and any auxiliary areas up to the standards required for public safety and to make the necessary rehabilitation, cleaning and landscaping measures. This includes the measures set out in the Mining Act as well as in the mining and mining safety permits.

As mining operations are regulated through a wide set of environmental laws and permits issued under such laws, mining operators are always subject to further obligations in addition to those set in the Mining Act or a mining permit.

## **Obtaining surface rights**

Mining operations require, in addition to a mining permit and various other permits and following through numerous administrative processes, surface rights to the mining area, which are acquired through voluntary acquisitions (eg. through purchase, lease or expropriation). Expropriation, which should always be seen as a last resort for obtaining surface rights, is subject to a separate expropriation permit issued by the government on the basis of public need, which is assessed particularly on the basis of the impact of the mining project on the local and regional economy and employment, and the societal demand for raw material.

## **Social licence to operate**

While the Mining Act lays down statutory rights and obligations of operators carrying out prospecting, exploration or mining activities, recent years have shown the importance of obtaining and retaining a social licence to operate as operations may be blocked or significantly delayed through public opposition, usually due to lack of trust. Once the Mining Act reform enters into force, the Mining Act will include provisions concerning mandatory public information events (concerning both exploration permit and mining permit holders). Also, a mining permit can not be granted without approval of land use planning by the local elected municipality council.

In addition to familiarisation with the local area and its characteristics, operators should be prepared to:

- discuss their planned projects with local communities in advance;
- have a local representative engage with the relevant authorities; and
- address possible concerns that the planned project might raise among local and recreational residents, local businesses and other stakeholders.

*Law stated - 30 March 2023*

## Renewal and transfer of mineral licences

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

#### Renewal of an exploration permit

An exploration permit is awarded for a fixed term of up to four years. The validity of the permit can be extended up to three years at a time for a total period of 15 years.

Extending the validity of an exploration permit is subject to the following requirements:

- the exploration has been effective and systematic;
- further exploration is needed to determine the exploitability of the deposit;
- the permit holder has not substantially neglected the terms of the permit; and
- extending the permit does not cause unreasonable harm to private or public interest.

As of the entry into force of the Mining Act reform on 1 June 2023, renewal of exploration permits that have been valid for at least 10 years requires the consent of at least half of surface rights holder (measured by area) or a decision by the government that the project must be furthered for public benefit.

#### Renewal of a mining permit

As a general rule, awarded mining permits are valid until further notice. The Mining Authority may nevertheless award a mining permit for a fixed term, provided that compelling reasons for such a decision exist.

The fixed term of a mining permit may not exceed 10 years, but the validity of such permit may be extended for a further period, until further notice, or for a maximum of 10 years at a time, insofar as it is still necessary to exploit the deposit, and in consideration of other factors that have emerged in connection with the processing of the application.

The extension is subject to the following prerequisites:

- the deposit has been exploited effectively and systematically;
- the deposit remains exploitable; and
- the operator has not substantially neglected its obligations or permit regulations under the Mining Act.

## **Renewal of a mining permit due to ceased operations or inactivity**

An awarded mining permit sets out a schedule in which the mining activities are to be commenced. The time limit may be, at a maximum, 10 years starting from the mining permit becoming legally valid. Failure to commence mining operations within the specified schedule may result in the expiry of the mining permit. Further, if mining activities have been ceased continuously for a minimum of five years due to factors dependent on the permit holder may also result in the expiry of the mining permit.

The Mining Authority may postpone the expiry of the mining permit, twice at the most, and specify a new timeframe for the commencement of mining operations or for the continuance of operations. The expiry of a permit can be postponed for a maximum of 10 years in total. A prerequisite for approval of the application is that the reason presented by the applicant is considered justified and the updated work plan sufficiently detailed, and that the decision does not cause undue inconvenience to public or private interests.

Should the mining permit holder have surface rights to the mining area, the expiry of the mining permit may be postponed without the above-mentioned limitations. A prerequisite for such postponement is that postponing the expiry of the mining permit is based on public interest or other specific reasons.

## **Transfer of permits**

All mineral rights, as well as expropriation permits issued under the Mining Act, including permit applications, are transferrable except for reservations.

The assignment of a permit is subject to approval by the Mining Authority; however, the level of discretion concerning the assignment of permits is limited as the Mining Act sets out an exhaustive list of the prerequisites for the assignment of permits. For example, the Mining Authority will not take into account the nationality of the owner of the assignee or assess the purpose or rationale of the assignment provided that all prerequisites laid down in the Mining Act are satisfied. Once the Mining Act reform enters into force, the transfer application must include the reasoning behind the transfer of the permit and the transferee's commercial plans in respect of the permit to be transferred. A change of control in the permit holder is not subject to a separate approval.

In general terms, the Mining Authority is obliged to approve the assignment of a permit if the assignee fulfils the statutory requirements of a permit holder and no grounds for rejection exist. The Mining Authority may prohibit an assignment of an exploration or a mining permit if there is good cause to doubt that the assignee does not have the capacity or has no apparent intention to engage in the activities in accordance with the permit or if the assignee has previously fundamentally neglected its obligations based on the Mining Act. When assessing the nature of the aforementioned negligence, the Mining Authority will take into consideration the systematic nature of said negligence, its duration, recurrence and the damage caused by the negligence.

With respect to mining operations concerning the production of uranium and thorium, a separate legally valid nuclear production permit issued under the Nuclear Energy Act is required for the assignment of the respective mining permit. Once the Mining Act reform enters into force, if the permitted activity is deemed to possibly endanger national security (the activity is in the immediate vicinity of military areas or critical infrastructure), the permitting authority for the transfer of permits is the Ministry of Employment and Economic Affairs.

*Law stated - 30 March 2023*

## **Duration of mining rights**

What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

### **Duration and renewal of an exploration permit**

An exploration permit is awarded for a fixed term of up to four years, which is also a typical duration of an exploration permit, provided that there are no justified reasons that would call for a shorter validity period. The permit can be extended for up to three years at a time for a total period of 15 years. The extension is subject to the following requirements:

- the exploration has been effective and systematic;
- further exploration is needed to determine the exploitability of the deposit;
- the permit holder has not substantially neglected the terms of the permit;
- extending the permit does not cause unreasonable harm to private or public interest; and
- as of the entry into force of the Mining Act Reform, renewal of exploration permits that have been valid at least 10 years requires the consent of at least half of the surface rights holders (measured by area) or a decision by the government that the project must be furthered for public benefit.

Typically, operators in Finland keep exploration permits in good standing throughout their validity and are successful in extending the validity of exploration permits and executing the planned exploration campaigns.

While the Mining Act obliges the Mining Authority to issue permit provisions concerning the schedule in which the operator is required to relinquish parts of the exploration area, there is rarely a need for such provisions as it is typical for the operators on their own incentive to relinquish parts of exploration areas, as the annual exploration fee is raised gradually from €20 to €50 per hectare as the total validity time increases.

### **Duration and renewal of a mining permit**

As a general rule, awarded mining permits are valid until further notice. The Mining Authority may award a mining permit for a fixed term, provided that compelling reasons support such decision.

The validity of a fixed-term mining permit may not exceed 10 years but the validity of such permit may be extended for a further period, until further notice, or for a maximum of 10 years at a time, insofar as it is still necessary to exploit the deposit, and in consideration of other factors that have emerged in connection with the handling of the application. The extension is subject to the following prerequisites:

- the deposit has been exploited effectively and systematically;
- the deposit remains exploitable in terms of size, ore content and technical characteristics; and
- the permit holder has not substantially neglected the obligations or permit regulations under the Mining Act.

### **Renewal of a mining permit due to ceased operations or inactivity**

An awarded mining permit sets out a schedule in which the permitted mining activities are to be commenced. The time limit may be, at maximum, 10 years beginning from the mining permit becoming legally valid. Failure to commence mining operations within the specified schedule, may result in the expiry of the mining permit. Further, if mining activities have been ceased continuously for a minimum of five years due to factors dependent on the permit holder,

this may also result in the expiry of the mining permit.

The Mining Authority may postpone the expiry of the mining permit, twice at the most, and specify a new timeframe for the commencement of mining operations or for the continuance of operations. The expiry of a permit can be postponed for a maximum of 10 years in total. A prerequisite for approval of the application is that the reason presented by the applicant is considered justified and the updated work plan sufficiently detailed, and that the decision does not cause undue inconvenience to public or private interests.

Should the mining permit holder have surface rights to the mining area, the expiry of the mining permit may be postponed without the aforementioned limitations. A prerequisite for such postponement is that postponing the expiry of the mining permit is based on public interest or other specific reasons.

### **Amending permit conditions**

The Mining Authority may alter a valid exploration permit or a mining permit, if the activities cause a consequence prohibited by the Mining Act or the detrimental impacts of the activities deviate substantially from the assessments made during permit consideration. A periodical review of the permit is made every 10 years.

The holder of an exploration permit is obliged to apply for an alteration to the exploration permit if the exploration plan is altered or completed to render revision of the permit regulations necessary. The mining permit holder is obliged to apply for an alteration to the mining permit if the mining area or a part of the mining area is no longer necessary for its operations.

Moreover, the holder of a permit may seek to amend the permit regulations due to changes in planned activities or operations.

### **Cancellation of a permit**

The Mining Authority may cancel an exploration permit or a mining permit if the permit application contained incorrect information and the provided incorrect information materially affected the permit consideration, the permit holder no longer meets the requirements for awarding of a permit or the permit holder has materially neglected or violated the obligations, restrictions, or permit regulations laid down in the Mining Act.

The Mining Authority may also order an exploration permit to expire if operations have been interrupted for a reason dependent on the permit holder continuously for at least one year.

*Law stated - 30 March 2023*

### **Acquisition by domestic parties versus acquisition by foreign parties**

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?

Parties eligible to apply for mineral rights under the Mining Act are:

- natural persons domiciled within the European Economic Area;
- legal entities incorporated under the laws of Finland; and
- foreign legal entities have been established in accordance with the laws of a state belonging to the European Economic Area and having a registered branch in Finland.

The incorporation of a company in Finland is not restricted and thus the aforementioned requirement does not impose an actual requirement of local ownership.

In practice, foreign-based exploration and mining companies usually set up Finnish subsidiaries in the form of a limited liability company through which the mineral rights are held and activities in Finland carried out.

Foreign-owned entities taking up exploration or mining activities in Finland are not required to have domestic partners to pursue activities in Finland. Further, the Mining Authority does not make any distinction between operators based on the nationality of their parent company or their corporate structure. As of the entry into force of the Mining Act Reform, mining rights are subject to the approval of the Ministry of Employment and Economic Affairs in matters concerning national security. Exploration or mining permits shall not be granted, if the activity would endanger national security. This would mean that in exploration in the vicinity of military areas or critical national infrastructure, the ownership structure of the applicant would be under scrutiny and one of the factors considered.

*Law stated - 30 March 2023*

### **Protection of mining rights**

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

Finland is a politically stable country, with a high-quality administrative and judicial system that is based on the rule of law. The Constitution gives individuals strong protection of property rights and there are no cases of expropriation of mineral rights.

With few exceptions, all decisions issued under the Mining Act, such as cancellation decisions, can be challenged by appealing to a competent administrative court. An appeal against a decision of an administrative court to the Supreme Administrative Court requires leave to appeal. The courts do not make any distinction between foreign or domestic parties.

Claims concerning damage, as well as injunctions or other temporary procedural remedies, are handled by the local district courts as the first instance. Criminal proceedings relating to the non-compliance of certain obligations set forth in the Mining Act are also handled by the district courts as the first instance.

Finland is a party to the UN New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention), and thus generally foreign arbitration awards with respect to countries belonging to the New York Convention are enforceable in Finland.

*Law stated - 30 March 2023*

### **Surface rights**

**What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?**

Commencing mining operations requires mining operators to acquire surface rights that need to be acquired separately from the issued mining permit. Surface rights are acquired either through contractual means (eg, through ordinary purchase or lease), or should the operator be unsuccessful to acquire surface rights in such manner, by applying for a separate expropriation permit, which may be awarded if the mining project is considered to meet the threshold of public need. The Mining Authority may issue an expiry decision in the case of an operator's failure to acquire surface rights within five years of awarding the permit.

Acquiring real property in Finland through purchase requires a permission from the Ministry of Defence if the purchaser, whether a private individual or legal entity, is domiciled outside the European Union or the European Economic Area. A permit is also required if a legal entity acquiring the real property is domiciled in the European Union or the European Economic Area, but in which ownership of at least 10 per cent or equivalent effective influence in the entity is domiciled outside European Union or the European Economic Area.

A permission is rarely denied, as the purpose of the permit procedure is to ensure national security and not to, for example, hamper foreign investments or ownership.

### **Land acquisition based on expropriation**

As the object of expropriation under the Mining Act is the operator's right to use another's real property, the expropriation will not affect the title or ownership of the real property in question. Following the foregoing, the landowner's right to an excavation fee will remain and the operator shall be obliged to return the possession of the area in question to the landowner once the mining operations in question have terminated.

A decision to award an expropriation permit may be challenged by appealing to an administrative court and a decision of the administrative court may only be challenged if the Supreme Administrative Court grants leave to appeal.

Since 2011, only two expropriation permit applications have been lodged with the government and only one expropriation permit has been awarded so far.

Although the expropriation permit will not result in the transfer of title to the land, the compensation payable to the landowner will most likely correspond to the market value of the expropriated real property as mining operations usually prevent the use of the real property for a considerable duration of time. The final assessment of the compensation is determined in a legal cadastral survey by the National Land Survey of Finland and the decision concerning the compensation may further be challenged by appealing to the Land Court as the first instance.

If the mining area causes substantial inconvenience to the usage of the real property or if a local land use plan designates an area as an area for mining operations, the landowners concerned have the right to demand that the operator acquires the ownership of such real properties. In such cases, the amount of compensation shall be one and a half times the market value of the real property in question.

*Law stated - 30 March 2023*

### **Participation of government and state agencies**

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?

The government does not have any right to demand a stake in mining projects but may participate in mining projects (e.g., through voluntary investments into mining companies). A possible government investment, whether direct or indirect, in a project a company will not affect the outcome of any administrative procedure such as acquiring mining or surface rights.

Project companies do not have any local listing requirements.

*Law stated - 30 March 2023*

### **Government expropriation of licences**

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

The Act on the Right of Redemption of Immovable Property and Special Rights in Order to Protect National Security (468/2019) gives the government the right to expropriate mining permits for the purpose of:

- safeguarding national defence;
- territorial integrity;
- internal security;
- government administration;
- border security;
- border control;
- maintenance of emergency stocks of critical supplies;
- the continued operation of the infrastructure necessary for the vital functions of society; or
- other equivalent public interest.

Such expropriation may only take place if required by public interest.

It should, however, be pointed out that to our knowledge no such expropriation measures have occurred in modern-era Finland and it is very unlikely that the Act would be applied in the case of mining-sector transactions.

In the event of expropriation of a mining permit, a full compensation shall be payable for the assets, which shall be equivalent to the highest fair market price. Investment protection provisions contained in various trade and investment agreements may further require that the host state compensates the operator for the investments lost due to expropriation.

An expropriation decision may be challenged by appealing to the administrative court. A decision of the administrative court may only be challenged if the Supreme Administrative Court grants leave to appeal.

*Law stated - 30 March 2023*

## Protected areas

Are any areas designated as protected areas within your jurisdiction and which are off-limits to mineral exploration or mining, or specially regulated?

## Mire reserves

Mire reserves are established for the conservation of mire nature and are protected under special legislation. Exploration within a mire conservation area is permitted, provided that the Ministry of Environment issues a separate permit for this activity.

Commencement of mining operations within a mire reserve requires the lifting of the conservation status of the mire reserve in question or the amendment of mire conservation legislation by introducing a possibility to seek an exemption enabling mining operations to be carried out on a mire reserve.

## Wilderness areas

Finland has established 12 wilderness areas with a combined area of approximately 15,000 square kilometres (3.7



million acres), with the aim of conserving nature, preserving Sami culture and livelihoods, and developing the diverse use of nature. The provisions regarding the protection of wilderness areas are laid down in the Act on Wilderness Areas, which stipulates that mining permits may not be issued to wilderness areas without a separate permission issued by the government. Exploration may be carried out in wilderness areas by obtaining an exploration permit under the Mining Act.

Commencement of mining operations within a wilderness area requires the lifting of the wilderness status of the area in question or the amendment of legislation by introducing a possibility to seek an exemption enabling mining operations within a wilderness area.

## Nature reserves

The Nature Conservation Act sets out provisions for the protection of nature reserves. The Nature Conservation Act recognises three types of nature conservation areas, which may be established on state-owned land, namely:

- national parks (41 national parks, with a total surface area of 10,000 square kilometres or 2.5 million acres);
- strict nature reserves (19 strict nature reserves, with a total area of about 1,500 square kilometres or 370,000 acres); and
- other nature reserves.

Any action altering the natural surroundings is prohibited in a national park or strict nature reserve. Further, the Nature Conservation Act contains an explicit prohibition on the extraction of minerals and any action that damages the soil or bedrock in a national park or strict nature reserve.

With the permission of Metsähallitus, a state-owned enterprise managing state-owned land and water areas, geological surveys and prospecting may be carried out other nature reserves, provided that the conservation objectives of the site are not jeopardised. As of 1 June 2023, there will no longer be a possibility to conduct exploration in a national park or strict nature reserve with the permission of Metsähallitus.

In addition to the nature reserve areas established on state-owned land, nature conservation areas may also be established on private land. Such nature conservation areas are protected by area-specific conservation provisions, which might contain a prohibition to damage the soil or bedrock of the site. A competent environmental authority may grant derogations from these conservation provisions, provided that derogation does not jeopardise the conservation objectives of the area and is necessary for the management or use of the site or scientific research; namely, exploration.

## Natura 2000 network areas

The Nature Conservation Act sets out provisions for the protection of Natura 2000 network areas, which is an EU-wide network of protected areas. Accordingly, if a project, either individually or in combination with other projects and plans, is likely to have a significant adverse effect on the ecological value of a site included in the Natura 2000 network, the applicant is required to conduct an assessment of its impact. The obligation to conduct a Natura 2000 assessment also applies to any project outside the Natura 2000 site if the project is likely to have a significantly harmful impact on the site.

According to the Natura 2000 provisions, a permitting authority may not grant any permit for the implementation of a project if the Natura 2000 assessment or the competent environmental authority's opinion indicates that the project would have a significant adverse impact on the particular ecological value for the protection of which the site has been included in the Natura 2000 network. A permit may nevertheless be granted if the government decides that the said project must, in the absence of alternative solutions, be carried out for imperative reasons of overriding public interest.

In some cases, an opinion is requested from the European Commission prior to the government's decision. If the permit is granted, the permit holder must compensate the adverse impacts by ecological compensation in other areas.

## Natural habitats and species

Protection of natural habitats and species may restrict or limit exploration and mining operations on a site hosting protected natural habitats and species. Exploration and mining operations within such sites may require an exemption order issued by a competent environmental authority. The reformed Nature Conservation Act (9/2023) will increase the types of natural habitats as of 1 June 2023 and introduce as specially protected areas serpentine group mineral grounds, on which there is flora associated with serpentine. The areas are not defined in advance by an authority decision.

## Restrictions imposed by the Mining Act

There are statutory limitations regarding the awarding of permits to areas that have previously been occupied by an exploration permit or mining permit.

In addition, the Mining Act lays down certain territorial and areal restrictions, which prohibit prospecting work and the awarding of exploration permits. These areas include, inter alia, cemeteries, areas used by the Finnish Defence Forces and residential buildings with a 150-metre buffer zone.

With the exception of cemeteries, prospecting work as well as exploration may be carried out in a restricted area referred to in the Mining Act if a competent authority or a relevant rights holder gives its consent to the activity in question. Further, the Mining Act sets out certain limitations with regard to road areas, street areas and marketplaces, airports or areas for aviation use, railway areas and canals used for public traffic.

As a general rule, a mining area may not be located in an area for which an exploration permit cannot be awarded. A mining permit may nevertheless be awarded to such area provided that the mining area cannot be otherwise implemented to ensure, for example, mining safety.

As of the entry into force of the Mining Act Reform, mining rights are subject to the approval of the Ministry of Employment and Economic Affairs, if the proposed activity might endanger national security or critical infrastructure. Exploration or mining permits may not be granted, if the activity would endanger national security. According to the Act on the State's Right of Pre-Emption in Certain Areas (459/2019), the State has the right to pre-emption in the transfer of property within 500 metres of military areas and within 1000 metres of radar stations, airfields, harbours or similar installations. We anticipate that the same boundaries will be used to determine the need for approval by the Ministry of Employment and Economic Affairs when applying for mining rights.

*Law stated - 30 March 2023*

## DUTIES, ROYALTIES AND TAXES

### Duties, royalties and taxes payable by private parties

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

Mining companies in Finland are subject to the general corporate income tax. In addition to the general corporate income tax, mining companies are subject to real estate tax and electricity tax as well as value added tax (VAT). Operators also pay exploration and excavation fees to the landowners of the project area.

On 3 March 2023, a separate Mining Mineral Tax Act (314/2023) was approved. The tax will be levied from 2024

onwards. The tax is 0.6 per cent of the average market value of the previous calendar year for metallic minerals and €0.2 per ton for other minerals. Of the tax 60 per cent will be directed to the municipalities where the mines are located and 40 per cent to the state.

The Mining Act reform will introduce a reservation tax (1 euro per hectare in respect of the granted reservation area).

## **Corporate income tax**

Corporate income tax is based on taxable income, which is calculated in accordance with the relevant tax regulations. Currently, the tax rate for corporate income tax is 20 per cent.

## **VAT**

VAT is payable on sold goods and services, unless such goods and services fall under a specific exception. The general VAT rate for goods and services is currently 24 per cent, but there are some exceptions relating to certain products and services. VAT is payable by the seller; however, the seller may deduct the input VAT of purchases of goods and services for business purposes, if another VAT taxpayer has supplied them. Should the amount of VAT paid by the VAT taxpayer for the goods and services purchased for the business operation exceed the amount of VAT payable for the sales of goods and services, the VAT taxpayer will be refunded the excess, provided that the purchased goods and services related to business activities from the sales of which VAT is payable.

## **Electricity tax**

The excise duty on electricity is levied according to two categories, where the Category II excise duty is lower and Category I is higher. The lower duty is levied on separately metered electricity used in industrial manufacturing, such as in mining operations.

## **Real estate tax**

The real estate tax is an annually paid tax based on the ownership of a property. As a rule, both land and buildings are subject to real estate tax.

The real estate tax is based on the taxable value of the real estate determined by the real estate tax rate. The taxable value of the real estate is determined in accordance with the basis of calculations applied in the previous year in the Act on the Valuation of Assets in Taxation.

A recent ruling from the Supreme Administrative Court examined the scope of real estate taxation with regard to mining areas. In its ruling, the Supreme Administrative Court held that land areas used for mining operations as well as tailings ponds and sedimentation basins are subject to real estate tax.

## **Exploration fees**

The holder of an exploration permit is obliged to pay an annual exploration fee to the landowners of the exploration area.

The annual amount of the exploration fee increases gradually from €20 to 50 per hectare as the exploration permit matures.

## Excavation fees

The mining permit holder is obliged to pay an annual excavation fee to the landowners of the mining area in question. In practice, the fee becomes payable in situations where the operator does not hold title to the land located within the mining area (namely, the operator has leased or acquired land access through expropriation).

The amount of the excavation fee per property is €50 per hectare per year. In addition to that, the excavation fee has a variable part of 0.15 per cent of the calculated value of mining minerals included in the metal ores that are excavated and exploited during the course of the year. With regards to industrial minerals, the variable part is agreed between the operator and the landowner. The obligation to pay an excavation fee starts when the mining permit becomes legally valid.

Should the permit authority postpone the expiry of the mining permit (before mining activities have started or if they have been suspended) the hectare-based excavation fee is doubled to €100 per hectare until mining activities commence or resume. The obligation to pay elevated compensation starts when the postponement decision becomes legally valid.

*Law stated - 30 March 2023*

## Tax advantages and incentives

What tax advantages, tax credits and incentives are available to private parties carrying on exploration and mining activities?

The excise duty on electricity is levied according to two categories, where the Category II excise duty is lower and Category I is higher. The lower duty is levied on separately metered electricity used in industrial manufacturing, such as in mining operations.

Currently, there are no other tax advantages or incentives targeted at companies carrying out exploration and mining activities or parties investing in exploration or mining companies.

*Law stated - 30 March 2023*

## Tax stabilisation

Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

The European Court of Human Rights has held that states have wide discretion in determining the types of taxes or contributions to be levied as long as this does not constitute confiscation of property. There are no tax stabilisation provisions or agreements in force.

*Law stated - 30 March 2023*

## Carried interest

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

No. Finnish legislation does not recognise the government's right to demand an equity interest in mining projects nor is any free equity interest granted to the government.

*Law stated - 30 March 2023*

## Transfer taxes and capital gains

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

Transfer of mineral rights is not subject to transfer tax unless the transaction is executed by acquiring the shares of the permit holder.

A share transaction is subject to a 1.6 per cent transfer tax and can result in capital gains taxation on the profit that the sellers of the shares make. Should both the seller and the purchaser in a share transaction be foreign-based companies with no permanent establishment in Finland, the share transaction is exempt from transfer tax.

Should an asset transaction include the transfer of title to any real property, the transfer tax levied is 4 per cent of the value of the real property included in the purchase price.

Capital gains made in connection with the selling of mineral rights are subject to capital gains tax, which is currently 30 per cent until the amount of €30,000 capital gains is reached and 34 per cent on the excess. Capital gains for corporations are usually taxed in connection with regular corporate taxation. The corporate tax rate is currently 20 per cent.

*Law stated - 30 March 2023*

## Distinction between domestic parties and foreign parties

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

There is no such distinction. In general terms, the nationality of the parent company plays no role in the taxation of the Finnish entity.

In certain mineral rights transactions, tax rates and tax liability may vary depending on the domicile of the parties involved. For example, should both the seller and the purchaser in a share transaction be foreign-based companies with no permanent establishment in Finland, the share transaction is exempt from transfer tax.

The annual landowner fees payable by a permit holder are the same for all companies regardless of the company structure or nationality of the possible parent company.

*Law stated - 30 March 2023*

## BUSINESS STRUCTURES

### Principal business structures

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

The most common business form used to carry out mining activities in Finland is a limited liability company. Foreign companies may also operate through a registered Finnish branch of a company established within the European Economic Area.

As mineral rights may only be held by one entity at a given time, joint ventures are often created through a separate limited liability company and the division of shares of the joint venture company holding the mineral rights.

As in many other similar mining jurisdictions, it is common for junior exploration companies to carry out early-stage drilling campaigns on their own or with the support of a mining company. As the projects progress, projects or project companies are often sold to other exploration companies or companies having the access to capital and resources to

further advance the project. Farm-in agreements as well as various royalty arrangements, such as net smelter returns, are often used.

*Law stated - 30 March 2023*

### **Local entity requirement**

Is there a requirement that a local entity be a party to the transaction?

No. It should however be noted, that the Mining Act requires that the mineral rights holder is either a legal person incorporated under the laws of Finland or a natural with permanent residence within the European Economic Area or a registered Finnish branch of a company established within the European Economic Area.

The requirement applies also to entities to which the mineral rights are being assigned.

The incorporation of a company in Finland is not restricted and thus the above-referred requirement does not impose an actual requirement of local ownership.

*Law stated - 30 March 2023*

### **Bilateral investment and tax treaties**

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?

Finland has entered into a number of tax treaties, which may affect the structuring of foreign entities' operations in Finland. There does not, however, seem to be one preferred way to structure the operations and companies have used a variety of structures.

*Law stated - 30 March 2023*

## **FINANCING**

### **Principal sources of financing**

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?

Most of the operators in Finland are Finnish subsidiaries owned by foreign-based companies, which are funded through their parent companies raising capital from the capital markets in Australia, Canada, Sweden or the United Kingdom, or subsidiaries of international mining companies for which the funding comes from the income from the mining company's own production.

Lately, however, Finnish investors and banks have been more interested in the possibilities of investing in or financing mining operations. There are currently two mining companies listed on the Helsinki stock exchange.

*Law stated - 30 March 2023*

## Direct financing from government or major pension funds

Does the government, its agencies or major pension funds provide direct financing to mining projects?

The Finnish Industry Investment, a state-owned investment company, as well as Finnish Minerals Group, a state-owned company managing the state's mining industry shareholdings, have invested in Finnish mining projects. Finnish banks, as well as pension funds, have recently shown an interest in mining projects as well.

Certain public funding, such as investment grants or development grants for small and medium-sized companies, may be granted by the centres for economic development, transport and the environment for exploration and mining operations. Business Finland and the state-owned financing company, Finnvera, may also provide funding or guarantees, or both, for exploration and mining companies operating in Finland.

*Law stated - 30 March 2023*

## Security regime

Please describe the regime for taking security over mining interests.

A holder of an exploration permit may pledge its preferential right to a mining permit and the holder of a mining permit may pledge the right to exploit the minerals. The pledge becomes effective once the Mining Authority receives a written pledge notification lodged by the permit holder.

The information regarding the pledge rights encumbering mineral rights is public information.

If the permit holder is seeking to relinquish a pledged mineral right, written consent from all pledgees must be appended to the relinquishment application. In addition, the Mining Authority is obliged to inform all pledgees of a permit regarding any relinquishment applications or applications seeking to amend the mineral right in question.

Companies may also pledge other assets, such as real property, facility buildings and tangible property.

*Law stated - 30 March 2023*

## RESTRICTIONS

### Importation restrictions

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

Generally, there are no restrictions on the importation of mining machinery and equipment. Certain specific laws may affect the importation of machinery and equipment or services required in connection with mining activities such as the importation of explosives, for which a separate permit is needed.

As Finland is an EU and United Nations (UN) member state, companies are required to pay close attention to the UN and EU international sanctions list concerning, among others, export and import restrictions relating to the war in Ukraine.

*Law stated - 30 March 2023*

## Standard conditions and agreements

Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

Orgalime is widely recognised and used in Finland. Further, some companies use, for instance, the NL17 General Conditions for the Supply of Machinery and other Mechanical, Electrical and Electronic equipment in Denmark, Finland, Norway and Sweden, while on the other hand, the Orgalime terms are often used for wider international businesses.

In addition, the Finnish general terms IT2022 ELT – Special Terms and Conditions for Deliveries of Equipment, used together with the IT2022 YSE General Terms and Conditions, are used widely for IT-related agreements in businesses between Finnish companies and sometimes also in international business.

Arbitration clauses are very common in equipment supply agreements. Arbitration under the Arbitration Rules of the Finland Chamber of Commerce is the most common form of dispute resolution when the parties are from different countries and the Finnish party can choose the dispute resolution forum.

Should equipment (or mining minerals) need to be transported, the Road Transport Contract Act (345/1979), the Railway Transport Act (1119/2000) and Sea Act (674/1994) are applicable. The Road Transport Contract Act is based on the UN Convention on the Contract for the International Carriage of Goods by Road (1956). The Sea Act takes into account the Hague (1924), Hague-Visby (1968) and Hamburg (1978) Conventions. The said domestic legislation is to some extent carrier-friendly.

*Law stated - 30 March 2023*

## Mineral restrictions

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?

Minerals extracted and produced in Finland are generally not subject to export restrictions. The export of uranium and thorium is more specifically regulated and subject to a number of permits.

As Finland is an EU and UN member state, companies are required to pay close attention to the UN and EU international sanctions list concerning, among others, export and import restrictions relating to the war in Ukraine.

*Law stated - 30 March 2023*

## Import of funds restrictions

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?

There are no specific restrictions or limitations in the mining laws of Finland concerning the import of funds for mining activities or the use of the proceeds.

As Finland is an EU and UN member state, companies are required to pay close attention to the UN and EU international sanctions list concerning, among others, export and import restrictions relating to the 2022 Russian invasion of Ukraine.

*Law stated - 30 March 2023*



## ENVIRONMENT

### Principal applicable environmental laws

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

The mining industry in Finland is regulated through a diverse set of environmental legislation, such as:

- the Mining Act (621/2011, as amended), sets an obligation for the permit holder to ensure that mining operations do not cause significant adverse impacts on the environment. Provisions may be included in the mining permit ensuring that the operations do not cause any prohibited impacts on the environment;
- the Environmental Protection Act (527/2014, as amended), regulates, inter alia, industrial emissions as well as waste areas and implements Directive 2010/75/EU on industrial emissions into national law;
- the Water Act (587/2011, as amended), regulates operations impacting water bodies;
- the Nature Conservation Act (1096/1996, as amended), and replaced by the Nature Conservation Act (9/2023) as of 1 June 2023, includes conservation and protection provisions, which might affect exploration and mining operations, and as of 1 June 2023, regulations on ecological compensation;
- the Environmental Impact Assessment Act (252/2017, as amended) implements Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment to national law. According to the Act, mining projects are subject to an environmental impact assessment procedure, which is to be carried out prior to issuing project permits; and
- the Act on the Coordination of Certain Environmental Permitting Procedures (764/2019) enables the operator to choose a joint procedure for the various environment-related permits required for mining operations.

Principal regulatory and supervisory bodies concerning environmental matters include:

- the Finnish Safety and Chemicals Agency (being the Mining Authority under the Mining Act) is the competent authority with regard to permitting matters relating to exploration and mining. The Mining Authority also supervises and enforces compliance with the Mining Act;
- the Regional Administrative Agency is the competent permitting authority under the Environmental Protection Act and the Water Act;
- Centres for Economic Development, Transport and the Environment (ELY Centres) are responsible for supervising adherence to the environmental and water permits. ELY Centres also have permit and supervisory duties under Nature Conservation Act. ELY Centres also act as contact authorities in impact assessments carried out in accordance with the Act on Environmental Impact Assessment Procedures and issue opinions in environmental impact assessments of plans and programmes. ELY Centres are also competent authorities concerning dam safety issues;
- Metsähallitus, a state-owned enterprise that manages state-owned land and water areas, has statutory responsibilities concerning the protection of state-owned land and water areas as well as a permitting role under the Nature Conservation Act concerning exploration activities within some nature reserves;
- the Ministry of Environment is responsible for the overall guidance and supervision of nature and landscape conservation as well as the general guidance, monitoring and development of activities under the Environmental Protection Act; and
- the Ministry of Employment and Economic Affairs is responsible for the general guidance, monitoring and development of the Mining Act as well as steering mineral policy in Finland.

## Environmental review and permitting process

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

### Environmental impact assessment

Mining projects are subject to an environmental impact assessment procedure under the Environmental Impact Assessment Act (252/2017, as amended), which implements the Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment into national law.

Accordingly, the environmental impacts of a project must be studied in an assessment procedure before any action relevant in terms of environmental impact is taken to implement the project.

The assessment procedure is initiated by drawing up an assessment programme, which is lodged with the coordinating environmental authority. The drawing up of an assessment programme must be carried out at the earliest possible stage of planning. The programme is subject to a comprehensive stakeholder participation procedure and authority assessment. A procedure takes up to 60 days.

The actual environmental impact assessment of the planned project and its various alternatives is carried out on the basis of the assessment programme and the coordinating environmental authority's statement concerning the programme. Once completed, the environmental impact assessment report is submitted to a comprehensive stakeholder participation procedure and authority assessment. A procedure takes up to 60 days.

Once the coordinating environmental authority has received the stakeholder opinions, the coordinating environmental authority issues its own statement on the assessment report and its adequacy (referred to as a reasoned opinion). The reasoned opinion shall be delivered within two months.

Both the Mining Act and the Environmental Protection Act provide that an environmental impact assessment report is to be appended to a permit application, should the project in question be subject to an environmental impact assessment procedure. Further, both acts provide that a permit decision shall state in what way the assessment report and the reasoned opinion have been taken into account during the permit procedure.

An environmental impact assessment procedure usually takes from one to two years in total.

### Environmental permit

According to the Environmental Protection Act, mining operations are subject to an environmental permit. A mining project may require the alteration of a water body and thus require also a permit that is issued under the Water Act. These permits are often applied for and handled simultaneously by the competent Regional Administrative Agency.

An environmental permit is awarded if the activity meets the requirements laid down in the Environmental Protection Act and the Waste Act (646/2011). The requirements of the Nature Conservation Act will also be taken into account in the processing of the application.

When processing an environmental permit application, the impacts of the activity are assessed, taking into account the location of the activity and the fragility of its environment. The environmental permit may also include provisions to limit the impacts of the activity as the activity must not, alone or in combination with other activities, result in:

- harm to health;
- unreasonable harm to neighbours under the Neighbour Relations Act;

- environmental pollution or risk of pollution;
- soil, groundwater or marine pollution;
- deterioration of special natural conditions; and
- risk to water supply or other important public access.

Once an application is considered to contain all relevant information, the competent regional administrative agency informs other authorities and the parties concerned of the application. The competent regional administrative agency will solicit the necessary authorities and other parties for their opinions on the application matter.

Once all opinions have been received, the regional state administrative agency gives the applicant the option to respond to the opinions within a certain time limit.

Once the regional state administrative agency has obtained all relevant information to draw up a decision, the regional state administrative agency will assess whether the permit application may be awarded based on the provisions of the Environmental Protection Act. An issued decision will include permit provisions concerning emissions, emission limit values, the prevention and limitation of emissions and the location of the site of the emissions, measures preventing soil and groundwater pollution, wastes and the reduction of their quantity and harmfulness, actions to be taken in the event of a malfunction or other exceptional circumstances, measures to be taken after the cessation of operations, such as remediation of the area and prevention of emissions and other measures to prevent or reduce environmental pollution or the risk of it.

Obtaining an environmental permit for a novel mining project will take at least 12 months. The length of the environmental permitting process is highly dependent on the size and specifics of the project. Also, the processing time may be prolonged by up to several months if the application is incomplete or details of the project are altered after the lodgement of the permit application.

Possible administrative court proceedings need to be taken into account when determining a timeline for a project.

## **Natura 2000 assessment**

If a mining project, either individually or in combination with other projects and plans, is likely to have a significant adverse effect on the ecological value of a Natura 2000 network site, the operator is required to conduct an appropriate assessment of its impact on the site. The same applies to any mining project outside the site that is likely to have a significantly harmful impact on the site.

The permitting authority is obliged to oversee that the assessment is carried out and once the assessment is complete, a written opinion shall be requested from the local ELY Centre concerning the appropriateness of the assessment. The opinion shall be given without delay and within six months at the latest.

No authority may award a permit for the implementation of a project, or adopt or ratify a plan, if the assessment procedure or the requested opinion indicates that the project or plan would have a significant adverse impact on the particular ecological value for the protection of the site. In such case, the permit can be awarded and a plan can be adopted or ratified if the government decides that said project or plan must, in the absence of alternative solutions, be carried out for imperative reasons of overriding public interest. In certain cases, a separate opinion shall be requested from the European Commission prior to the government's decision. If the permit is granted, the permit holder must compensate the adverse impacts by ecological compensation in other areas.

Depending on the impact of the project on the ecological values of the site, a Natura 2000 assessment may take from a few months up to several years, should the project require separate permission from the government.

A Natura 2000 assessment can be carried out as part of the environmental assessment procedure.

## Sustainability

Do government agencies or other institutions in your jurisdiction provide incentives or publish environmental and social governance (ESG) guidelines for green projects?

The Finnish Accounting Act (1336/1997) requires large public-interest undertakings to report on their corporate social responsibility.

In the absence of other statutory reporting obligations, a majority of the Finnish mining industry and exploration companies report voluntarily according to the Finnish Towards Sustainable Mining (TSM) Standard, a sustainability standard that is based on the Canadian TSM model. The Finnish TSM Standard contains guiding principles in terms of environmental, social and economic performance and provides mining and exploration companies with guidelines concerning sustainable operations. Companies committed to the Finnish TSM Standard report annually on their production and output, their environmental impacts and cooperation with local stakeholders, and safety and health aspects. The reports are published by the Finnish Network for Sustainable Mining .

Generally, Business Finland offers, among other things, innovation-funding services , which extend to green projects of mining companies.

As of 1 June 2023, the supervisory authority according to the Nature Conservation Act (9/2023) can approve and register plans for voluntary ecological compensation.

Law stated - 30 March 2023

## Closure and remediation process

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

The mining industry in Finland is regulated through a diverse set of legislation and the closure and remediation obligations are imposed through various acts and permits, most notably the Mining Act, Environmental Protection Act, the Act on the Safety Handling of Hazardous Chemicals and Explosives and the permits issued under the referred acts.

### Closure provisions under the Mining Act

Once mining activity is terminated, the mining operator must restore the mining area to a condition complying with public safety and ensure the restoration, cleaning, and landscaping of the site. Further, the operator is obliged to perform the closure measures that are specified in the mining permit and remove all excavated minerals and the buildings and other constructions on the ground. The required closure measures are to be completed within two years of the termination of the mining activities.

Immediately after the closure measures have been completed but no later than two years after the termination of the activities, the mining operator shall submit a written notification to the Mining Authority, which shall include an account of the measures performed, the geological documentation concerning the site and an up-to-date mine map.

Having received the closure notification, the Mining Authority will arrange a final inspection in which it is determined whether the closure measures have been completed as required.

Once it has been established that all closure measures have been completed, the Mining Authority issues a closure decision, which will include provisions necessary to protect public and private interests and monitoring of the mining

area. The mining operator's responsibility to monitor the mining area, in compliance with the orders issued in the mining permit or those in the decision to terminate mining activity, alongside the necessary corrective measures and the costs incurred shall continue as stipulated in the closure decision. The operator's responsibilities further include the obligation to inform the Mining Authority of all significant detrimental impacts on public safety detected during monitoring and the implementation of the necessary corrective measures. Further, the Mining Authority may issue orders concerning the corrective measures necessary.

## **Closure provisions under the Environmental Protection Act**

The mine closure and remediation questions are also addressed as a part of the environmental permit process.

The environmental permit contains specific stipulations on the monitoring of emissions and the impacts of the activity as well as the state of the environment following the cessation of the operations. The final closure and restoration activities are confirmed in a closure plan, which has to be delivered for approval to the environmental permit authority prior to the closure of the mine. An environmental permit for mining operations will contain necessary stipulations on extractive waste, the waste management plan for extractive waste operations and compliance with the plan. Environmental permits concerning mining activities will also contain stipulations concerning the closure and aftercare of the waste facility, as well as regulations on an internal emergency plan for a waste facility for extractive waste posing a risk of a major accident.

According to the Environmental Protection Act, mining operations are obliged to draw up a waste management plan for extractive waste, which is to be prepared to prevent the generation of extractive waste and reduce its harmfulness. The waste management plan must include, inter alia, information measures related to the closure of operations.

According to the Government Decree on Extractive Waste, which implements Directive 2006/21/EC on the management of waste from extractive industries in national law, a waste facility may be considered as finally closed only after the competent environmental authority has carried out a final on-site inspection, assessed all the reports submitted by the operator, certified that the land affected by a waste facility has been rehabilitated and communicated to the operator its approval of the closure.

The closure approval will not in any way reduce the operator's obligations and the operator will continue to be responsible for the maintenance, monitoring, control and corrective measures in the after-closure phase for as long as may be required. The operator shall, inter alia, control the physical and chemical stability of the facility and minimise any negative environmental effect, in particular, with respect to surface and groundwater.

Following the closure of a waste facility, the operator is obliged to notify the competent environmental authority without delay of any events or developments likely to affect the stability of the waste facility, and any significant adverse environmental effects revealed by the relevant control and monitoring procedures.

## **Closure provisions under the Act on the Safety Handling of Hazardous Chemicals and Explosives**

Once a facility or a part of it is terminated, the operator shall ensure that all facilities in question are cleaned and hazardous chemicals and explosives are handled and managed in a manner that they do not pose a risk to human health, the environment or personal property. The Act on the Safety Handling of Hazardous Chemicals and Explosives does not require operators to deposit separate collateral for the purpose of performing aftercare measures in the case of insolvency.

## **Collateral for termination of mining activity**

A mining operator is obliged to deposit collateral for the purpose of termination and aftercare measures of mining

operations in accordance with the Mining Act and the Environmental Protection Act. These are two separate security instruments covering different aftercare measures. The collateral deposited under the Mining Act covers the cleaning, and landscaping of the mining area, as well as restoration measures ensuring public safety, the removal of excavated mining minerals and buildings and other constructions from the mining site and, as of the entry into force of the Mining Act reform on 1 June 2023, the necessary safety measures on site in exceptional circumstances for one year, excavation fees to landowners for one year and costs for the monitoring of safety for 30 years after the closure of the mine. The collateral deposited under the Environmental Protection Act covers measures relating to the closure and restoration obligations concerning the waste areas and costs of restoring land areas to a satisfactory state. The collateral required of mining operators has been significant in the latest environmental permits and old permits can be reviewed by the authorities to reflect current requirements for collateral.

Currently, the collaterals deposited under the Mining Act range from €1,000 to €1.5 million, while the permit specific collaterals deposited under the Environmental Protection Act range from €10,000 to €324 million.

*Law stated - 30 March 2023*

## **Restrictions on building tailings or waste dams**

### **What are the restrictions for building tailings or waste dams?**

Waste dam safety requirements are defined in the Dam Safety Act (494/2009) and the Government Decree on Dam Safety (319/2010), which lay out the general obligation for operators to design and construct dams in a manner ensuring that their use, does not constitute any safety hazard. The designer of the dam needs to be professionally qualified and the persons in charge of the operation and management of the dam need to have the necessary knowledge.

Before a dam is taken into use, the dam is classified based on a risk assessment. The construction plans as well as the risk assessment report and the surveillance programme all need to be approved by the environmental permit authority.

The owner of the dam is primarily responsible for the surveillance of the dam. Monitoring frequency depends on the dam. Monitoring can be continuous, weekly or take place over three-month intervals, for instance.

Dam inspections are regulated and the dam safety legislation requires that inspections are carried out during the construction phase and use. Statutory provisions contain obligations concerning annual inspections as well as periodic inspections. The owner of the dam must:

- inspect the condition and safety of a Class 1 and 2 dam at least once a year, and in the case of a Class 1 dam, provide a written report of the annual inspection to the dam safety authority;
- organise periodic inspections for Class 1–3 dams at least every five years and, where necessary, more frequently, in which the dam safety authority and rescue authorities have the right to participate; and
- notify the dam safety authority with a written report of the periodic inspections.

The regional rescue authorities are responsible for the emergency planning for dam accidents and rescue operations in the event of an accident, as set forth in the Dam Safety Act (494/2009) and Rescue Act (379/2011).

Any requirements on alarm systems, emergency drills and responsibilities between the company and the authorities regarding the rescue of people are determined by the regional rescue authorities on a case-by-case basis. The owner of the dam must:

- notify the dam safety authority of emergency calls and exceptional situations related to dam safety;
- assist the rescue authorities in performing rescue activities together with the dam safety authority; and

- take the necessary actions to prevent accidents and limit damages caused by an accident.

Some Finnish mining companies have also adopted the Global Industry Standard on Tailings Management ( GISTM ).

*Law stated - 30 March 2023*

## HEALTH AND SAFETY, AND LABOUR ISSUES

### Principal health and safety, and labour laws

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?

Mine safety matters are regulated in the Mining Act and more specific provisions concerning a mining safety permit are laid down in the Government Decree on Mine Safety.

As a general rule, the operator is obliged to ensure mining safety. In doing so, the operator must pay particular attention to the structural and technical safety of the mine and the prevention of dangerous situations and accidents in the mine. The operator must also systematically identify elements imposing risks to mining safety and ensure that the duties and areas of responsibility of management and other personnel pertaining to mining safety are clearly defined at all levels of the organisation. By means of training, instruction, and guidance, the mining operator shall ensure that the persons operating in the mine are sufficiently informed about mining safety and the measures it requires.

The mining operator is obliged to prepare an internal rescue plan for the mine, which must specify, inter alia, foreseeable dangerous situations and accidents and the potential impact thereof, measures to prevent dangerous situations and accidents and to limit the consequences thereof, cooperation with the local rescue authority, exit routes and possibilities for protection, along with arrangements for extinguishing and rescue duties, preparation for repairing the damage caused by accidents and clearing the environment.

The mining operator must appoint a person in charge of mining safety. The person in charge shall be employed by the operator and stationed in the mine in question. The person in charge must have the required experience and expertise with regard to technology and mining safety.

The mining operator shall ensure that access to the mine and mining area is prevented for unauthorised parties and that the rescue authority managing rescue operations and local rescue service units have access to the mine and mining area.

The mining operator shall keep an up-to-date mine map, which the operator is obliged to submit to the Mining Authority whenever so requested and once the mining operations are terminated. The mine map shall contain itemised information on the measures undertaken in the mine and other mining activity in the mining area, so that aspects of mining safety, land use in the area, and future exploitation of the deposit may be assessed when necessary.

The construction of a mine and its production operations are subject to a mining safety permit issued by the Mining Authority. A mining safety permit shall include the necessary provisions concerning measures required to implement mining safety as described in general terms above. The Mining Authority shall review the regulations of a fixed-term mining safety permit at a maximum interval of 10 years. The Mining Authority must include the interval for review in the permit.

Legislation on occupational safety, such as the Occupational Safety and Health Act (738/2002) , applies to the mining industry. In addition, the Rescue Act contains provisions concerning fire safety and rescue work, and the Radiation Act (859/2018) contains provisions concerning radiation safety for those working in a mine. The safe handling and storage of hazardous chemicals and explosives are regulated under the Act on the Safety Handling of Hazardous Chemicals and Explosives. Other acts, which contain occupational safety provisions, are:



- the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006);
- the Act on the Conformity of Certain Technical Devices to Relevant Requirements (1016/2004);
- the Chargeman Act (423/2016); and
- the Dam Safety Act (494/2009).

The principal regulatory bodies concerning health and safety, and labour laws are:

- the Mining Authority is the competent authority overseeing the compliance of the Mining Act and issues decisions concerning mining safety under the Mining Act;
- the local rescue authorities, being competent in supervising, inter alia, the compliance of the Rescue Act;
- the local Regional State Administrative Agency by monitoring compliance with the regulations on occupational safety and health in inspections carried out at workplaces; and
- the Radiation and Nuclear Safety Authority supervises compliance with the Radiation Act and the regulations and orders issued in connection with it.

The principal law regulating labour relations is the Employment Contracts Act (55/2001) . There is also a generally binding collective bargaining agreement applicable to the mining industry.

*Law stated - 30 March 2023*

### **Management and recycling of mining waste**

What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

The Government Decree on Extractive Waste (190/2013) , the Environmental Protection Act and Waste Act set out the principal provisions for the management and recycling of mining waste.

Relevant permit conditions on the management and recycling of mining waste are given in the environmental permit, which includes relevant provisions concerning extractive waste. Should the exploration phase include test quarrying or other measures than mere drilling and such activities generate extractive waste, the Mining Act requires that an exploration permit holder must also prepare a mining waste management plan, unless such plan is already required under the Environmental Protection Act.

A mining permit entitles the holder to exploit the tailings generated as a by-product of mining activities. However, the current mining legislation does not recognise the possible exploitation of closed or abandoned tailings ponds as a mining permit may only be awarded for the exploitation of minerals found within the bedrock. It follows that with regards to closed or abandoned tailings ponds, the primary party entitled to exploit such tailings ponds is the owner of the real property on which such tailings ponds are located. The exploitation of closed or abandoned tailings ponds will be subject to an environmental permit setting necessary provisions for the activity ensuring, for example, that the activity does not cause harm to health, environmental pollution or risk of pollution to the soil and groundwater.

*Law stated - 30 March 2023*

### **Use of domestic and foreign employees**



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

Generally, a non-Finnish person who intends to engage in paid employment in Finland is required to have a residence permit. A person engaged in an independent business or profession in Finland must have a residence permit as a self-employed person.

However, EU citizens and citizens of Iceland, Liechtenstein, Norway and Switzerland can freely work in Finland if the work lasts for a maximum of three months. After that, they must register their right to reside in Finland, but they do not need a special residence permit. The employee must go to the local police department to register his or her right to reside in Finland. Unless it is withdrawn, registration by a person with the right to reside in Finland is valid until further notice.

Foreign employees who are non-EU citizens and equivalent persons need a residence permit for an employed person if they intend to work in Finland. An alien who has entered the country either with or without a visa is not allowed to engage in paid employment in Finland but has to apply for a residence permit. A residence permit can be granted on the basis of either temporary work or work of a continuous nature.

In granting the permit, the needs of the labour market are taken into consideration. The policy aim of the residence permit is to support the possibility of those who are in the employment market to gain employment. Thus, the availability of the workforce in Finland is also supported. To grant a residence permit to an employed person, the foreign national's means of support must be guaranteed. The employment office will estimate both the labour requirements and the sufficiency of the means of support.

As to Finnish citizens, there are no particular mining law-related restrictions in connection with mining activities.

*Law stated - 30 March 2023*

## SOCIAL AND COMMUNITY ISSUES

### Community engagement and CSR

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

### Community engagement

The Constitution of Finland secures everyone's right to a healthy environment and the possibility to influence the decisions that concern their own living environment.

As a result, it is a widely recognised principle throughout Finnish environmental legislation that the legislation should ensure local communities' opportunity to influence decision-making, and the opportunities of individuals to influence decision-making involving them and their living environment.

In addition, the Constitution secures the rights of the Sami as an indigenous people and the Finnish environmental legislation as well as the Mining Act contain provisions securing Sami rights as well as ensuring engagement concerning decision-making affecting the Sami.

### Corporate social responsibility

There are no minerals sector-specific CSR laws applicable in Finland. Instead, the CSR-related provisions contained in the Mining Act make it a notable CSR law applicable to the mining industry. The provisions of the Mining Act promote exploration and mining activities in a socially, economically and ecologically sustainable manner. In doing so, the Mining Act (as well as other legislation applicable to exploration and mining) takes into consideration the rights of landowners, indigenous people and parties suffering damage, such as reindeer herders and other sources of livelihood, environmental impacts and the economic use of natural resources. The Mining Act ensures local participation and individuals' right to influence decision-making involving them and their living environment.

The Finnish Accounting Act requires large public-interest undertakings to report on their corporate social responsibility.

On 28 November 2022, the European Council approved the Corporate Sustainability Reporting Directive (CSRD) that requires Finland to implement the directive in its national legislation. The directive will require all large companies, listed SMEs and certain non-European companies to report on the respect of human rights and the environment in their own operations and through their value chains, environmental impacts, and on having adequate governance, management systems and measures in place to this end. The application will be phased according to the size of the company so that reporting obligations for companies not currently required to report will begin from 2025 to 2028.

The directive complements recent other CSR-related EU-level legislation, such as the proposal for a corporate sustainability reporting directive, the Sustainable Finance Disclosure Regulation, the Taxonomy Regulation, the proposal for a new batteries regulation and the 'Conflict Minerals' Regulation.

On 16 March 2023, the European Commission published a proposal for a Critical Raw Materials Act. If enacted, the Act would enable the Commission to recognise as strategic projects raw material projects that would make a meaningful contribution to the security of the EU's supply of raw materials and that would be implemented according to the EU standards on sustainability. Recognition of a raw material project as strategic project would entail priority in national permitting processes.

*Law stated - 30 March 2023*

### **Rights of aboriginal, indigenous or disadvantaged peoples**

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

Finland has not ratified the International Labour Organization (ILO) 169 Indigenous and Tribal Peoples Convention of 1989. However, the mining legislation, other applicable legislation as well as the Constitution secure some of the rights and procedures required by the ILO Convention.

### **Planned activities and carried out activities affecting the rights of the Sami**

All activities governed by the Mining Act that are planned to be carried out in the Sami Homeland must be adapted to secure the rights of the Sami as an indigenous people. This requires both operators as well as permitting authorities to ensure that the permitted or carried out activities do not violate the rights of the Sami.

The Mining Act contains various provisions ensuring the rights of the Sami. For example, the Mining Act prohibits the awarding of mineral rights if the planned activities alone, or together with other corresponding permits and other forms of land use would, in the Sami Homeland, substantially undermine the preconditions for engaging in traditional Sami sources of livelihood or otherwise to maintain and develop the Sami culture.

The Mining Act contains special provisions that help the permitting authority to determine the effects of the planned activities within the Sami Homeland as well as in certain cases outside the Sami Homeland. The Mining Act reform also includes certain new provisions related to the Sami Homeland, such as prior assessments on the effects of

operations to Sami Homeland. These provisions oblige the permit authority to co-operate with, inter alia, the Sami parliament, the local reindeer owners' association and the applicant to establish the impacts of the planned activity on the rights of the Sami as an indigenous people to maintain and develop their own language and culture and shall consider measures required for decreasing and preventing damage. When assessing the impacts on the rights of the Sami, all other valid mineral rights in the vicinity of the project area as well as other forms of usage of areas affecting the rights of the Sami shall be taken into consideration. Further, to further assess the impacts of the planned activity, the permit authority may, if necessary, arrange a consultation to which, inter alia the above, referred parties are invited.

## Permit stipulations

Should mineral rights be awarded to the Sami Homeland or an area within close proximity to Sami Homeland, the mining permit shall include stipulations that mitigate the harm caused to reindeer herding in a special reindeer herding area and ensure that the permitted activity will not endanger the status of the Sami as an indigenous people in the Sami Homeland.

## The right to initiate proceedings

The Mining Act contains provisions under which the Mining Authority may on its own initiative initiate proceedings to prohibit an operator to continue or repeat an act or omission that is found to be in breach of the Mining Act or to issue an order obliging the operator to fulfil its statutory obligations. In addition to the Mining Authority's right to initiate the above-referred proceedings, other relevant authorities, parties suffering damage as well as and the Sami parliament among others have the right to initiate such proceedings.

## The right to appeal

In general, all decisions issued under the Mining Act may be challenged by appealing to the competent administrative court. The Mining Act contains a specific provision laying down the parties having the right to appeal. Accordingly, an exploration and mining permit decision may be challenged by an appeal by the Sami parliament, on the grounds that the activity referred to in the permit undermines the rights of the Sami as an indigenous people to maintain and develop their own language and culture.

Further, as mining operations require land-use planning, other relevant permits as well as various administrative decisions and proceedings, the Act on the Sami parliament, sets out a general obligation for the competent authorities to negotiate with the Sami Parliament in all far-reaching and important measures that may directly and in a specific way affect the status of the Sami as an indigenous people. This *lex generalis* is applied unless specific provisions concerning the participation rights of the Sami are not laid down in sector-specific legislation.

*Law stated - 30 March 2023*

## International law

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

Finland is a signatory to all essential international treaties related to human rights, occupational health and safety, workers' rights, land rights, as well as political and civil rights. Although Finland has not ratified the ILO 169 Indigenous and Tribal Peoples Convention of 1989, the mining legislation, other applicable legislation as well as the Constitution secure some of the rights and procedures required by the ILO Convention. Also, section 8J of the United Nations (UN)

Convention on Biological Diversity and the International Covenant on Civil and Political Rights is applicable.

In addition to the above, the following guidelines and standards concerning CSR are recognised:

- Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises;
- UN Global Compact;
- International Organization for Standardization 26000;
- Tripartite declaration of principles concerning multinational enterprises and social policy by the International Labour Organization; and
- UN Guiding Principles on Business and Human rights.

As an EU member state, the European Commission's proposal published on 23 February 2022 for a Directive on Corporate Sustainability Due Diligence would require Finland to implement the directive in its national legislation. If passed, the Directive will set out a horizontal framework to foster the contribution of businesses operating in the single market to the respect of the human rights and environment in their own operations and through their value chains, by identifying, preventing, mitigating and accounting for their adverse human rights, and environmental impacts, and having adequate governance, management systems and measures in place to this end.

The proposed directive complements recent other CSR related EU-level legislation, such as the Corporate Sustainability Reporting Directive, the Sustainable Finance Disclosure Regulation, the Taxonomy Regulation, the proposal for a new batteries regulation and the 'Conflict Minerals' Regulation.

*Law stated - 30 March 2023*

## ANTI-BRIBERY AND CORRUPT PRACTICES

### Local legislation

Describe any local legislation governing anti-bribery and corrupt practices.

Finland's anti-corruption legislation consists of diverse legislation laying down provisions on corruption and its prevention. Diverse anti-corruption legislation is required as corrupt activities are often investigated as offences in public office, bribery offences, fraud, embezzlement, money laundering and abuse of insider information.

For example, under the Criminal Code of Finland, the acts of bribery and the acceptance of a bribe in business are considered offences. Legal entities may be penalised by a corporate fine and individuals may be prohibited from engaging in business in connection with bribery offences to name a few penalties.

Finnish anti-corruption and anti-bribery legislation may be applied extraterritorially and hence the practices of the target company's potential foreign group companies or agents should also be reviewed.

According to Transparency International's corruption perceptions index 2022, Finland was the second least corrupt country in the world. Further, according to the Fraser Institute's Annual Survey of Mining Companies in 2021 Finland was ranked the seventh most attractive mining jurisdiction in terms of its legal system, which included the assessment of such as fairness concerning legal processes, transparency and corruption.

Finland actively participates in international cooperation related to the combating and prevention of corruption through, for example, the Organisation for Economic Co-operation and Development, the Council of Europe, the United Nations and the European Union.

Finland is a state party to anti-corruption conventions of the above-mentioned organisation and Finnish companies pay attention to the United Nations and EU international sanctions list concerning, among others, export and import restrictions targeted at persons and entities responsible for objectionable policies or actions.

As a result of EU legislation, according to the Act on the Disclosing of Payments Paid to Authorities by Companies in the Field of Extractive Industry and the Logging of Primeval Forests (1621/2015), all exploration and mining companies (or a group of companies) that exceed two of the following thresholds have to report if their payments to state or local authorities exceed €100,000 during the financial periods:

- €40 million in revenues;
- an annual balance sheet total of €20 million; or
- an average of 250 employees.

*Law stated - 30 March 2023*

### **Foreign legislation**

Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

As the companies carrying out exploration and mining operations in Finland often belong to international groups of companies, companies are thus following anti-bribery and foreign corrupt practices based on foreign anti-bribery legislation, such as the US Foreign Corrupt Practices Act and the UK Bribery Act simultaneously with the Finnish anti-corruption and anti-bribery legislation.

*Law stated - 30 March 2023*

### **Disclosure of payments by resource companies**

Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

In its efforts to create a transparent standard for the extractive sector, the European Union has adopted a directive on the annual financial statements (Directive 2013/34/EU). The directive has been implemented in Finland, inter alia, through the adoption of the Act on the Disclosing of Payments Paid to Authorities by Companies in the Field of Extractive Industry and the Logging of Primeval Forests (1621/2015). According to the Act, all exploration and mining companies (or a group of companies) that exceed two of the following thresholds have to report if their payments to state or local authorities exceed €100,000 during the financial periods:

- €40 million in revenues;
- an annual balance sheet total of €20 million; or
- an average of 250 employees.

*Law stated - 30 March 2023*

## **FOREIGN INVESTMENT**

### **Foreign ownership restrictions**

Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?

The Mining Act lays down requirements set for holders of the mining rights. Accordingly, parties eligible to apply and hold mineral rights are:

- natural persons domiciled within the European Economic Area;
- legal entities incorporated under the laws of Finland; and
- foreign legal entities have been established in accordance with the laws of a state belonging to the European Economic Area and having a registered branch in Finland.

The incorporation of a company in Finland is not restricted and thus the above-referred requirement does not impose an actual requirement of local ownership.

Further, the Act on Monitoring of Corporate Acquisitions (172/2012), as amended, gives the government the authority to prohibit the transfer of control of companies to foreign-based entities should there be a vital national interest. The act is mainly aimed at change of control situations related to companies in the defence industry and it is very unlikely that the act would be applied in the case of mining sector transactions.

*Law stated - 30 March 2023*

## INTERNATIONAL TREATIES

### Applicable international treaties

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

Finland is a party to international treaties that apply directly to the mining industry, such as the Convention Concerning Safety and Health in Mines. Several other conventions and treaties relate to the mining industry, for example, employment and environmental issues. Further, as an EU member state, EU legislation concerning, for example, the treatment of waste, impacts on waterbodies and limitation of emissions has a direct impact on Finland's national legislation, either through a direct effect or an obligation to amend national legislation.

Finland, either bilaterally or through the European Union, is a party to numerous trade and investment treaties, which include provisions relating to the protection of foreign investments.

*Law stated - 30 March 2023*

## UPDATE AND TRENDS

### Recent developments

What were the biggest mining news events over the past year in your jurisdiction and what were the implications? What are the current trends and developments in your jurisdiction's mining industry (legislation, major cases, significant transactions)?

Based on annual statistics published by the Mining Authority, in 2022, there were a total of 54 active companies carrying out exploration in Finland, with a total annual expenditure of €80.4 million. The trend observed by the Mining Authority is an increase in grassroots exploration for battery minerals and gold. Investments made by mining companies during 2022 totalled €304 million, and investments decreased by 2 per cent compared to 2021. A total amount of 49.6 million metric tonnes of ore was extracted during 2022, equal to a 3.5 per cent increase compared to 2021.

The government has reformed the Mining Act, seeking to improve environmental protection, ensure the operating conditions of mines and improve local acceptance and influencing opportunities. Also, considerations of national security and the security of critical infrastructure have been introduced in the Mining Act. The amendments shall enter into force on 1 June 2023.

The government has enacted a renewed Nature Conservation Act (9/2023). The Act prohibits exploration in national

parks and strict nature reserves and introduces specially protected areas (eg, serpentine group mineral grounds) on which there is flora associated with serpentine. In these areas, exploration is subject to a special permit under the Nature Conservation Act.

On 3 March 2023, a separate Mining Minerals Tax Act (314/2023) was approved. The tax will be levied from 2024 onwards. The tax is 0.6 per cent of the value of metallic minerals and €0.2 per ton for other minerals. Of the tax 60 per cent will be directed to the municipalities where the mines are located and 40 per cent to the state.

The Geological Survey of Finland has allocated a total of €15 million to support the renewal of its Geological Survey of Finland (GTK) Mintec pilot plant and laboratories in Outokumpu. The goal is to ensure GTK Mintec's position as the world-leading pilot testing and research platform for circular economy and mineral processing. The new laboratory is expected to be finished at the beginning of 2024.

Boliden's Kevitsa nickel mine took into use in September 2022 its first 500-metre electric trolley assist line.

Outokumpu has prepared an Environmental Impact Assessment procedure related to its plans to expand the Kemi Mine. The planned changes to the operations of the mine include expanding the mining concession area and mine within the limitations of the current allowed area, increasing volumes of ore mining and chrome production, revising underground mining methods, processing and using the resulting tailings and building a new tailings pond. For more information, see [here](#).

Rupert Resources has in November 2022 published a resource estimate for its Ikkari gold deposit and initiated an environmental impact assessment of its plan to build a gold mine. For more information, see [here](#).

The Keliber Central Ostrobothnian Lithium Project has begun construction on its lithium plant in 2022. Keliber Technology Oy has been granted environmental permits for two lithium mines and the permits allow for immediate production. For more information, see [here](#).

Terrafame's battery chemicals plant reached full production in 2022. Terrafame has announced three major long-term deals to supply low-carbon and fully traceable nickel sulphate to Renault Group, Stellantis and Umicore. Terrafame has announced that it will start uranium recovery by the summer of 2024.

The Finnish Towards Sustainable Mining Standard has in June 2022 published its first ranking of sustainability of mining companies in Finland. The mines were evaluated in community outreach, tailings and water management, biodiversity management, energy use and greenhouse gas emissions, health and safety, and mine closure.

*Law stated - 30 March 2023*

## Jurisdictions

	<b>Argentina</b>	Allende & Brea
	<b>Canada</b>	Cassels Brock & Blackwell LLP
	<b>Ecuador</b>	Tobar ZVS
	<b>Finland</b>	Kalliolaw Asianajotoimisto Oy
	<b>Ghana</b>	Kimathi & Partners Corporate Attorneys
	<b>Greenland</b>	Nuna Law Firm
	<b>India</b>	Trilegal
	<b>Ireland</b>	Whitney Moore LLP
	<b>Mexico</b>	RB Abogados
	<b>Philippines</b>	Cruz Marcelo & Tenefrancia
	<b>South Africa</b>	Beech Veltman Inc
	<b>Sweden</b>	Foyen Advokatfirma
	<b>Tanzania</b>	Lawfic Attorneys
	<b>Thailand</b>	Chandler MHM Limited
	<b>USA</b>	Haynes and Boone LLP