

REGULATION NO. 2005/3

ON MINES AND MINERALS IN KOSOVO

The Special Representative of the Secretary-General (SRSG),

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

In conformity with section 8.1 (q) and (r) of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001), and having consulted members of the Economic and Fiscal Council and the Government,

Duly noting the responsibilities of the Kosovo Trust Agency under UNMIK Regulation No. 2002/12 on the Establishment of Kosovo Trust Agency,

For the purpose of authorizing and facilitating in compliance with the relevant international practice the safe, environmentally acceptable and sustainable exploration, extraction and processing of mineral resources in Kosovo by regulating and monitoring the mining industry, including the collection, management and archiving of geo-scientific data for the benefit of Kosovo.

Hereby promulgates the following:

PART I
SCOPE AND DEFINITIONS

Section 1
Scope

1.1 The present Regulation shall apply to all activities involving the exploration, exploitation, mining and processing of Mineral Resources in Kosovo.

1.2 The Commission is authorised to exempt from the scope of the present Regulation activities pertaining to Mineral Resources located within less than sixty (60) centimetres from the original surface of the Earth.

Section 2 Definitions and Interpretation

2.1 Whenever used in the present Regulation, each of the following terms shall have the indicated meaning unless the context within which such term appears clearly intends another meaning:

“*Artisanal Mining*” means the small scale extraction of Construction Minerals by private individuals by hand, using traditional tools and light tractor or other small vehicle transportation, not involving blasting, mechanical diggers, crushers, conveyor belts or other heavy machinery.

“*Artisanal Mining Programme*” shall have the meaning ascribed to it in section 44.3 (h).

“*Artisanal Mining Site*” means an area that has been designated as a site for Artisanal Mining pursuant to Part VII of the present Regulation.

“*Business Organisation*” means a business organisation established under and currently registered in accordance with the law applicable in Kosovo.

“*Cash-operating margin*” means the amount derived by deducting operating costs from revenue where:

(a) “Operating costs” means expenditures paid or incurred in connection with Mining Operations and/or the processing of the concerned minerals after the commencement of production from the Mining Area other than:

- (i) A capital expenditure in excess of five thousand euros (€ 5,000);
- (ii) Depreciation; and
- (iii) Financing charges, including interest, fees and related charges;

and

(b) “Revenue” means the gross value of all amounts received or due and payable to the Licensee as a result of the sale or other transfer of rights in or to minerals or Mineral Resources in any form or location, whether un-extracted, extracted or processed.

“*Commission*” means the Independent Commission for Mines and Minerals established pursuant to UNMIK Regulation No. 2005/2 of 21 January 2005 on the Establishment of the Independent Commission for Mines and Minerals.

“*Construction Minerals*” means all minerals and associated materials exploited for the purposes of and/or use in the construction industry, including sand, gravel, limestone, marble, marl, chalk, alum, andesite, basalt, dunite, diabase, granite, tuff, schist, shale, slate, sandstone, quartz sand, clay, and aggregate.

“*Environmental Impact Assessment*” means an assessment to determine the likely environmental consequences of activities pertaining to Exploration or mining as defined in the Environmental Law.

“*Energy Minerals*” means solid hydrocarbons, Geothermal Resources, uranium, liquid and gaseous hydrocarbons, other than petroleum and water capable of use as a Geothermal Resource or as a source of hydroelectric power.

“*Explore*” and “*Exploration*” mean any activities undertaken to determine the existence, quantity and probable value of a Mineral Resource.

“*Exploration Area*” means the area to which an Exploration License applies.

“*Exploration License*” means the official written authorisation issued by the Commission under Part III of the present Regulation.

“*Exploration Operations*” means geological mapping, soil and rock sampling, trenching, drilling, geophysical surveying and similar activities undertaken for Exploration or any other purpose.

“*Exploration Programme*” shall have the meaning ascribed to it by section 21.1(e) of the present Regulation.

“*Environmental Law*” means Law No. 2002/8 of 16 January 2003, “The Environmental Law,” as promulgated by UNMIK Regulation No. 2003/9 of 15 April 2003.

“*Geothermal Resources*” means energy resources pertaining to and derived from the heat generated by the natural geophysical processes of the interior of the Earth.

“*Industrial Minerals*” includes graphite, corundum, quartz (for industrial purposes), bauxite, olivine, kyanite, andalusite, sillimanite, wollastonite, asbestos, talc, pyrophyllite, muscovite and other micas, vermiculite, kaolin, feldspar, nepheline, leucite, scapolite, apatite, baryte, calcite, dolomite, magnesite, fluorite, sulphur, phosphates, gypsum, bentonite, diatomaceous earth, “fullers” earth, palygorsite, attapulgite, sepiolite, salt, anhydrite, gypsum, perlite, celestite, boron minerals, cryolite and pyrite, and shall include Water as defined hereunder.

“*Law on Access to Official Documents*” means Law No. 2003/12 of 16 October 2003, “The Law on Access to Official Documents” as promulgated by UNMIK Regulation No. 2003/32 of 6 November 2003.

“*License*” means an Exploration License, a Retention License, or a Mining License.

“*License Area*” means the physical/geographical area specified in a License where the activities authorized by such License may be conducted.

“*Licensee*” means the Person or Persons named and authorised by the License.

“*Liquid and Gaseous Hydrocarbons*” means any organic compound, gaseous or liquid, consisting predominantly of carbon and hydrogen.

“*Metallic Minerals*” means minerals containing the following metals: lithium, rubidium, caesium, beryllium, magnesium, strontium, radium, boron, aluminium, scandium, yttrium, the rare earth metals (lanthanides), actinium, thorium and other actinides, germanium, tin, lead, arsenic, antimony, bismuth, sulphur, selenium, tellurium, copper, silver, gold, zinc, cadmium, mercury, gallium, indium, thallium, titanium, zirconium, hafnium, vanadium, niobium, tantalum, chromium, molybdenum, tungsten, manganese, rhenium, iron, cobalt, nickel and platinum and metals of the platinum group (PGMs).

“*Mineral Resource*” means any Metallic Mineral, Industrial Mineral, Construction Mineral, Precious or Semi-Precious Stone, Energy Mineral or Water having potential commercial value.

“*Mineral Resource Group*” is a general term referring one of the specific groups of Mineral Resources identified under the definitions of “Metallic Minerals,” “Industrial Minerals,” “Construction Mineral,” “Precious or Semi-Precious Stone,” “Energy Mineral” or “Water.”

“*Mineral Resources Management Plan*” shall have the meaning ascribed to it in section 61.

“*Minimum Exploration Expenditure*” means the minimum amount that the a Licensee under an Exploration License is required to expend on Exploration Operations, as provided for in section 23.2 (b) of the present Regulation.

“*Mining Area*” means the area to which a Mining License applies.

“*Mining License*” means a License issued by the Commission under Part V of the present Regulation.

“*Mining Operations*” means all activities undertaken for the purpose of carrying out the mining or exploitation of a Mineral Resource.

“*Mining Programme*” shall have the meaning ascribed to it by section 30.1(i) of the present Regulation.

“*Permit*” means the official written authorisation issued by the Commission for the conduct of Special Operations.

“*Permit Area*” means the physical/geographical area specified in a Permit where the activities authorized by such Permit may be conducted.

“*Permit Holder*” means the Person specified in a Permit as having the authority to carry out the activities authorised by such Permit.

“*Person*” means a physical or juridical person.

“*Precious and Semi-Precious Stones*” means diamond, emerald, ruby, sapphire, amazonite, aventurine, beryl, chrysoberyl, chrysocolla, cordierite, diopside, garnet, quartz (including amethyst, citrine, rock crystal, agate, carnelian, chalcedony, chrysoprase, jasper, hyalite, opal, tigers eye), sodalite, topaz, tourmaline and turquoise.

“*Public Authority*” means any governmental executive authority, public body, ministry, department, agency, or other such authority that exercises executive, legislative, regulatory, public administrative, or judicial powers. In this context, an act shall be deemed an act of a “public authority” even if taken by an otherwise private organisation or establishment if exercised pursuant to a grant of authority under a normative or sub-normative act or pursuant to a delegation of authority from another Public Authority.

“*Special Operations*” means:

- (a) Exploration Operations involving:
 - (i) Drilling,
 - (ii) Trenching,
 - (iii) Sampling, including bulk sampling,
 - (iv) Geophysical surveys, including surveys involving the use of aircraft or high voltage electrical methods,
 - (v) The operation of machinery or equipment, and

(vi) Any related activities carried out for the purposes of Exploration that physically modify or disturb the land surface;

(b) The import, transport, manufacture, storage, use and/or destruction of explosives for non-military purposes;

(c) The commencement of Mining Operations or Artisanal Mining;

(d) Mining Operations involving:

(i) The use or operation of machinery or equipment, or

(ii) Such other activities as may be designated by the Commission;

and

(e) The handling, storage, or processing of minerals involving:

(i) The use or operation of machinery or equipment,

(ii) The application of chemicals or other agents, or

(iii) Other activities as may be designated by the Commission.

“*Special Operations Programme*” has the meaning ascribed to it in section 37.1 (i) of the present Regulation.

“*Resource Estimate*” means a document prepared in accordance with the European Federation of Geologists’ Code for Reporting of Mineral Exploration Results, Mineral Resources and Mineral Reserves (The Reporting Code).

“*Retention License*” means a License issued by the Commission under Part IV of the present Regulation.

“*Significant Owner*” means a Person holding or controlling a five percent (5%) or greater ownership interest, directly or indirectly, in an Undertaking.

“*Solid Hydrocarbons*” means lignite, brown coal, coal, anthracite and any other solid carbonaceous material.

“*Surface Rights Agreement*” means an agreement between an applicant, a Licensee or a Permit Holder and a third party having lawfully registered property rights to the surface area that such applicant, Licensee, or Permit Holder proposes to use or is using for the conduct of activities covered by the present Regulation, which is concluded between these parties for the purpose of authorizing such applicant, Licensee, or Permit Holder to conduct such activities.

“*Thermal Waters*” means waters, generally from a spring or geyser, the temperature of which is significantly above the annual local average air temperature.

“*Undertaking*” means:

(a) Any enterprise, partnership, joint venture, legal person, association, project, branch, office, or other organisation or establishment (regardless of ownership, domicile or place of business or establishment),

(b) Any Public Authority, or

(c) Any physical person acting on behalf of any of the foregoing.

“*Water*” means water found on or under the surface of the Earth that is:

(a) Suitable for bottling or packaging for commercial sale, or

(b) Usable as a source of thermal or hydroelectric energy.

2.2 More detailed definitions of the terms used in the present Regulation, as well as the definition of other terms, may be established by the Commission, provided, however, that such more detailed definitions and definitions of other terms shall not impair the operation of any provision of the present Regulation.

2.3 As used in the present Regulation, words denoting the singular shall include the plural and vice versa. Words denoting gender shall include the other gender and shall also include reference to an Undertaking where the context reasonably permits.

2.4 References to “section” are references to sections of the present Regulation unless otherwise indicated.

2.5 References in the present Regulation to another law or regulation shall be interpreted, when and to the extent that it is reasonable to do so, as including any successor legislation to such law or regulation as well as any subsidiary legislation lawfully issued pursuant to such law, regulation or successor legislation.

PART II **GENERAL PROVISIONS**

Section 3 Authorized Exploration or Mining

No Person may carry out any activities involving the exploration, exploitation, mining or processing of a Mineral Resource or undertake any other activity or operation that is regulated by the present Regulation except as provided for in the present Regulation.

Section 4 Types of License and Permits

The following Licenses and Permits may be granted by the Commission under the present Regulation:

- (a) An Exploration License, as provided for in Part III hereof;
- (b) A Retention License, as provided for in Part IV hereof;
- (c) A Mining License, as provided for in Part V hereof;
- (d) A Permit to conduct Special Operations, as provided for in Part VI hereof; and
- (e) An Artisanal Mining License, as provided for in Part VII hereof.

Section 5 Eligibility Criteria

A Person desiring to receive or maintain a License or Permit, or to extend or receive a transfer of an existing License or Permit, shall be eligible therefor if:

(a) The applicant is currently registered Business Organisation having at least one senior technical manager responsible for the day-to-day technical operations of the Business Organisation who is physically present in Kosovo at least 270 days a year, or a publicly-owned enterprise or a socially-owned enterprise, and neither the applicant nor any of its executives, managers, directors or Significant Owners has in the past ten (10) years:

- (i) Been determined by a court of competent jurisdiction to have committed any offence involving violence, threats of violence, corrupt practices, money laundering, bribery, or kickbacks or any criminal offence

punishable by six (6) months' imprisonment under the law applicable to such offence;

(ii) Been declared ineligible, by reason of conduct such as that described immediately above, by any multilateral bank, institution or organization providing funds for general development, public investment or reconstruction;

(iii) Been determined by a court of competent jurisdiction to have committed a serious offence by participating in the activities of a criminal organization, defined as a structured association established over a period of time and operating in a concerted manner to achieve financial gain through activities that are criminal or otherwise illegal where they take place;

(iv) Been determined by a court of competent jurisdiction to have committed an act of fraud or an act equivalent to fraud;

(v) Been fined or penalized by a Public Authority for intentionally making material misrepresentations in a document or statement provided to a Public Authority, and such fine or penalty has not been invalidated or annulled by a court of competent jurisdiction; or

(vi) Been indicted or convicted in Kosovo for a criminal offence punishable by at least six (6) months' imprisonment and, in the case of an indictment, the matter is still pending in the courts;

(b) The applicant:

(i) Has not in the past two (2) years, been adjudged to be bankrupt or insolvent by a court of competent jurisdiction;

(ii) Is not being wound up or administered by a court of competent jurisdiction;

(iii) Does not currently have in place an agreement or arrangement with its creditors providing for extended or reduced terms of payment because the applicant had previously been unable to satisfy its obligations as they came due;

(iv) Is not currently the subject of a judicial or administrative order suspending or reducing payments by or to such applicant thereby resulting in the total or partial loss of the applicants right to administer and/or dispose of its property;

(v) Is not currently the subject of legal or administrative proceedings that may result in judicial or administrative order described immediately above;

(vi) Has not, in the past three (3) years, been adjudged by a court of competent jurisdiction to have breached a contract with any public entity, public authority or public undertaking in Kosovo or elsewhere; or

(vii) Is not delinquent in the payment or submission of any taxes, duties, contributions or charges owed or required to be submitted or paid to a public authority or publicly owned enterprise;

(c) And in addition to the requirements under (a) or (b) above:

(i) Has not misrepresented a material fact in its application;

(ii) Is financially and technically qualified and experienced to undertake the activities under the License or Permit to which the application relates, and to carry out the obligations therein provided;

(iii) Possesses “all risk” third party liability insurance valid through the term of the License or Permit, in the minimum amount reasonably prescribed by the Commission;

(iv) Has not previously had a License or Permit cancelled or suspended by the Commission, and such action has not been invalidated, enjoined or annulled by a court of competent jurisdiction; and

(v) Is not in default under any License or Permit; provided that the Commission shall not reject an application on the grounds of such a default unless the applicant has been given details of the default and has failed to remedy it within such reasonable time as the Commission has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation;

and

(d) The subject matter of the License or Permit for which the applicant has made an application:

(i) Does not materially conflict with the subject matter of another License or Permit issued to a third party;

(ii) Does not materially conflict with the subject matter of an application that has been submitted by another applicant having priority;

(iii) Does not include subject matter covered by a License that is to be awarded on the basis of competitive tender procedures; and

- (iv) Does not include an area where the concerned activities are prohibited under any other law in effect in Kosovo.

Section 6
Generally Applicable License and Permit Procedures

6.1 The Commission shall issue procedures and standard forms for the application, recordation, processing and issuance of Licenses and Permits, and for the extension, modification, transfer, suspension or cancellation thereof.

6.2 A prescribed form shall include, where appropriate, conditions:

- (a) Requiring compliance with specified laws, rules, codes or standards;
- (b) Requiring the reporting of accidents;
- (c) For the protection of employees, public safety and public health; and
- (d) For the protection of the environment.

6.3 The Commission shall issue a schedule specifying the amount of the application fee that must be submitted with each type of application. The amount of such fees shall be consistent with international best practice. Each applicant shall pay the required fee to the Commission concurrent with the filing of its application. All such fees shall be non-refundable.

6.4 The Commission shall confirm the time and date of receipt of each application, and shall record the name of the applicant, its address, telephone number, and type of application.

6.5 All decision of the Commission shall be made in a fair and independent manner, free of self-interest and any political, commercial or other influence.

6.6 The Commission may request an applicant to submit such additional information as the Commission reasonably deems necessary to verify information previously filed or submitted by such applicant and the applicant's compliance with the present Regulation.

6.7 The Commission shall maintain complete and accurate records of all applications relating to a License or a Permit and of all meetings that the Commission held to consider such applications; such records shall include, inter alia, all decisions reached and the reasons for such decisions.

6.8 Such records shall be available for public inspection in accordance with the Law on Access to Official Documents.

Section 7
Surrender of License Area

7.1 A Licensee under an Exploration License, Retention License or Mining License who desires to surrender all or any part of the License Area, shall apply to the Commission, not less than three (3) months before the date on which he desires the surrender to have effect, for a certificate of surrender. Subject to subsection 3 hereunder and any relevant Mine Development Agreement, the Commission shall issue to the applicant a certificate of surrender either unconditionally or subject to such conditions relating to the surrendered area as the Commission may reasonably determine.

7.2 An application under this section shall:

(a) Identify the area to be surrendered and, if the application applies to only a part of the License Area, include a plan clearly identifying both the part to be surrendered and the part to be retained;

(b) State the date on which the applicant desires the surrender to take effect;

(c) Give particulars of the operations that have been carried out under the License on the area to be surrendered; and

(d) Be supported by such records and reports in relation to those operations as the Commission may reasonably require.

7.3 The Commission shall not issue a certificate of surrender:

(a) To an applicant who is in default;

(b) To an applicant who fails to comply with the requirements established by the Commission under this section;

(c) If the Commission is not satisfied that the applicant:

(i) Has complied with the Rehabilitation Programme required under section 30, and

(ii) Will leave such area in a condition that is safe and that accords with good mining and environmental practice; or

(d) If the Commission is not satisfied that the area that is to remain subject to the License is capable of being efficiently used or developed according to the terms of the License.

7.4 A certificate of surrender shall take effect on the date on which it is issued to the applicant. Where the certificate relates to the entire License Area, the License shall be cancelled with effect from the same date; in any other case, the License shall be modified to take account of the surrender.

Section 8

Suspension or Cancellation of License or Permit for Non-Compliance

8.1 Unless a Mine Development Agreement provides otherwise, if the Commission determines that a Licensee or Permit Holder has failed to comply with a material requirement of the present Regulation or any instrument issued or executed pursuant to the present Regulation, the Commission shall provide such Licensee or Permit Holder with a written “Notice of Failure to Comply.” Such notice shall:

(a) Specify the nature of the failure;

(b) Provide the Licensee or Permit Holder with a reasonable period of time to correct the concerned failure; such period of time shall be at least sixty (60) days unless the concerned failure has created or threatens to create a seriously dangerous situation and such failure can be corrected in a shorter period of time with reasonable effort;

(c) Identify those measures that the Licensee or Permit Holder may take to correct such failure, which may include the payment by the Licensee or Permit Holder of reasonable compensation to the Commission if the failure does not create a seriously dangerous situation and cannot be corrected with reasonable effort;

(d) Inform the Licensee or Permit Holder that if the failure continues after the period of time specified under paragraph (b) above, the Commission may take any or all of the applicable penalty and enforcement measures provided for by the present Regulation, including the suspension or cancellation of the concerned License or Permit under section 8; and

(e) Inform the Licensee or Permit Holder of his rights to appeal against the notice or any determination made or decision taken therein by the Commission.

8.2 If the concerned failure continues after the time period specified in the “Notice of Failure to Comply,” the Commission may, unless a Mine Development Agreement or judicial order provides otherwise, suspend or cancel the concerned License or Permit for that reason. Such a suspension or cancellation shall take effect upon the

delivery by the Commission to the Licensee or Permit Holder of the written “Notice of Suspension” or “Notice of Cancellation.”

Section 9
Transfer of Licenses and Permits

9.1 Except as otherwise provided in any relevant Mine Development Agreement or subsection 2 hereunder, no License or Permit shall be transferred, assigned, or encumbered, whether by mutual agreement or by operation of law.

9.2 If a Licensee under an Exploration License or a Mining License or a Permit Holder desires to transfer, assign or encumber such License or Permit, he shall submit to the Commission a completed application for such purpose in the prescribed format, together with the prescribed fee, and shall attach thereto the following:

(a) A copy of the concerned License or Permit, the agreement or other instrument representing the proposed transfer, assignment or encumbrance and all other material documentation related thereto;

(b) A statement from the applicant setting forth the reasons for the proposed transfer, assignment or encumbrance;

(c) The information that the proposed transferee or assignee would be required to submit if it were to apply for the License or Permit in its own name;

(d) An update, in such detail as the Commission may reasonably require, of:

(i) The Exploration, Special Operations or Mining Programme to be carried out by the proposed transferee or assignee, or in case of an encumbrance by the current Licensee or Permit Holder, and

(ii) Other information attached to or submitted in connection with the original application for such License or Permit as well as any application for an extension thereof, if any;

(e) Evidence demonstrating that the current Licensee or Permit Holder is not delinquent or in default in the performance of any of his obligations under the License or Permit and under any related performance bond; and

(f) An agreement by the proposed transferee or assignee to accept and discharge all remaining obligations of the current Licensee or Permit Holder, whether arising under the License or Permit, a Mine Development Agreement, the present Regulation, or any other applicable law.

9.3 The Commission shall agree to the transfer, assignment or encumbrance of a License or Permit upon application by the current Licensee or Permit Holder or by the proposed transferee, assignee or by the beneficiary of the proposed encumbrance in the prescribed form and accompanied by the prescribed fee, if at the date of such application:

(a) The respective conditions of subsection 2 above have been complied with;

(b) The concerned programme of the proposed transferee, assignee or, in case of an encumbrance, the current Licensee or Permit Holder, if different from the current programme, is based on international practice of exploration, mining and environmental protection;

(c) The proposed transferee, assignee or current Licensee or Permit Holder:

(i) Has the financial resources reasonably required to carry out its updated programme, and

(ii) Is or remains eligible under section 5; and

(d) Where the transfer, assignment or encumbrance relates to a Mining License, for which the proposed Mining Programme differs from the initial Mining Programme relating to the License:

(i) The existence of sufficient deposits or reserves of minerals to justify the updated Mining Programme has been established or may reasonably be inferred;

(ii) The area of land to which the transferred, assigned or encumbered License applies is not in excess of the area reasonably required to carry out the proposed Mining Programme; and

(iii) The proposed Mining Programme reasonably ensures the efficient and beneficial use of the Mineral Resources of the concerned area.

Section 10 Transfer of Control

10.1 Without prejudice to the other requirements of the present Regulation, no Licensee or Permit Holder may, without the written consent of the Commission, enter into or give effect to any transaction that would alter the Person or Persons in effective control of such Licensee or Permit Holder. The Commission may only withhold such

consent for good and lawful reasons, which must be provided in writing to the concerned Licensee or Permit Holder.

10.2 The Commission may require the submission of such information as it may reasonably deem relevant and necessary upon receiving an application for its consent pursuant to subsection 1 above.

Section 11 General Commercial Rights of Licensees and Permit Holders

A Licensee or Permit Holder shall have, in relation to the activities authorised by the concerned License or Permit, the rights and obligations to:

- (a) Carry on business in accordance with good commercial mining practice and with international safety procedures, free from undue interference;
- (b) Maintain books of account in Euro;
- (c) Open and operate bank accounts both in Kosovo and abroad;
- (d) Import directly from his respective suppliers all requisite goods and equipment; and
- (e) Receive and retain abroad proceeds from export sales.

Section 12 Restricted Activities

12.1 Unless granted a waiver pursuant to section 12, a Licensee or Permit Holder shall not conduct any activity authorised under such License or Permit upon any land that:

- (a) Is within sixty metres (60) of the boundaries of any village, town, city or other settlement;
- (b) Is the site or within two hundred (200) metres of any inhabited, occupied or temporarily uninhabited house or building;
- (c) Is within forty-five (45) metres of any land that has been cleared, ploughed or otherwise prepared for the growing of farm crops or upon which farm crops are growing;
- (d) Has been used during the immediately preceding twelve (12) months for the growing or harvesting of farm crops;

- (e) Is the site or within two hundred (200) metres of any cattle dip, tank, dam or any private water;
- (f) Is the site or within one hundred fifty (150) metres of any power station, power line, dam, river, reservoir, warehouse, or other public building or facility owned or regulated by any public authority;
- (g) Is within sixty (60) metres of a street, road or highway;
- (h) Is reserved for the purposes of any railroad track or within sixty (60) metres of any railroad track or any land reserved for a railroad track;
- (i) Is dedicated as a place of burial;
- (j) Is the site of any lawfully and officially designated ancient monument or national monument;
- (k) Is part of an aerodrome or any aviation security zone adjacent to an aerodrome;
- (l) Is within an area lawfully and officially designated as a National Park;
or
- (m) Is lawfully used as a forest nursery or plantation or is the site of a lawful timber depot, sawmill or other foresting facility.

12.2 Where a Licensee or a Permit Holder desires to conduct activities that are covered by the License or a Permit in an area that is otherwise prohibited by subsection 1, such Licensee or Permit Holder may apply to the Commission for a waiver of the concerned restriction. The Commission shall consult with those Public Authorities that are directly concerned with the enforcement of the restriction. The Commission may grant the requested waiver only to the extent agreed upon with such Public Authorities.

Section 13 Exercise of Rights

The rights conferred by a License or Permit shall be exercised with reasonable care. Any damage caused to the lawful interest of a third party as a result of the conduct of the activities authorised by a License or Permit shall be compensated in accordance with the applicable law.

Section 14
Use of Wasteful Practices

Where the Commission determines that a Licensee or a Permit Holder is using wasteful practices, it shall give written notice to such Licensee or Permit Holder of such determination. Such notice shall specify the nature of the practices objected to and require the concerned Licensee or Permit Holder to provide an explanation as to why such practices are necessary. If the Commission is not satisfied with the explanation or no explanation is received, the Commission shall order the concerned Licensee or Permit Holder to cease using such practices. As wasteful practices shall be considered practices that are not consistent with good commercial mining practice or with international mining standards.

Section 15
Reports, Records and Information

15.1 Every Licensee and Permit Holder shall maintain an address in Kosovo to which communications from the Commission are to be delivered. Every Licensee and Permit Holder shall be required to notify the Commission of such address and shall immediately notify the Commission of any changes thereto.

15.2 Every Licensee and Permit Holder shall keep at the address referred to in subsection 1 above all records and documents required under the present Regulation. Physical samples may be maintained at a different location in Kosovo as provided under the present Regulation.

Section 16
Mine Development Agreements

16.1 For the purpose of promoting the development of and securing large-scale investment in the mining sector in Kosovo, the Commission may negotiate a Mine Development Agreement with a Licensee or a proposed Licensee.

16.2 When negotiating a Mine Development Agreement, the Commission shall at all times:

(a) Ensure that the terms of the Mine Development Agreement are consistent with the terms of the present Regulation and normal and customary international legal and mining practice, and

(b) Endeavour to advance the overall public interest of Kosovo.

16.3 No Mine Development Agreement shall become effective unless approved by the Special Representative of the Secretary-General.

16.4 The Commission may develop and publish a model form Mine Development Agreement.

Section 17

Licenses Subject to Competitive Tender

17.1 The following Licenses shall only be awarded and issued after the requirements for a competitive tender award in accordance with applicable law have been complied with:

- (a) An Exploration or Mining License that relates to an Energy Mineral; and
- (b) Any other Exploration or Mining License the award and issuance of which has been designated by the competent Public Authority as subject to requirements of a competitive tender procedure.

17.2 The prohibition of subsection 1 shall not apply to the extension or transfer of an existing License.

Section 18

Designation of Minerals and Areas

18.1 The Commission may, by public notice, designate that an Exploration or Mining License relating to a specific mineral within a specific area is to be awarded on the basis of the competitive tender procedures established by applicable law.

18.2 No such designation shall be made, however, if the concerned mineral and area are covered by an existing Exploration or Mining License.

Section 19

Register of Mining Licenses

The Commission shall maintain a Register of Licenses that shall be made available to the public in accordance with the Law on Access to Official Documents.

PART III
EXPLORATION LICENSES

Section 20
Scope and Term

20.1 An Exploration License for Construction Minerals shall:

- (a) Have a term of no more than two (2) years;
 - (b) Apply to an area no larger than two hundred and fifty (250) hectares;
- and
- (c) Be extendable once only for a maximum of 2 additional years.

20.2 An Exploration License for all other minerals shall:

- (a) Have a term of no more than two (2) years;
 - (b) Apply to an area no larger than one hundred (100) square kilometres;
- and
- (c) Be extendable a maximum of three (3) times, each such extension to be for a period of no more than two (2) years; provided, however, that on the occasion of each such extension the area to which the Exploration License then applies shall be reduced by at least fifty percent (50%).

20.3 The Commission shall establish the reduced area under subsection 2 above after taking into consideration a respective proposal from the applicant. Such proposal must be based on the results of all Exploration Operations conducted to date. The Commission shall make reasonable efforts to establish the reduced area in a manner that facilitates the further exploration of the area no longer covered.

Section 21
Applications

21.1 A Person desiring to undertake Exploration in Kosovo shall submit to the Commission a completed application for the issuance of an Exploration License for the concerned Mineral Resource Group within the concerned area. Such application shall be submitted in the prescribed format, together with the prescribed fee, and the following shall be attached thereto:

- (a) The names and addresses of the applicant's Significant Owners and directors, if any;

- (b) The official registered address of the applicant in Kosovo;
- (c) A description of the technical, professional and managerial capabilities of the personnel to be principally responsible for the conduct of the Exploration Programme, including a copy of the respective curriculum vitae and all relevant diplomas, licenses and certificates;
- (d) A map showing:
 - (i) The area under application, defined by coordinates;
 - (ii) The location of any existing building, infrastructure, agricultural activity or other significant manmade improvement or surface feature within such area or within one kilometer from any of its boundaries;
 - (iii) The proposed route of access by the applicant to such area; and
 - (iv) The boundaries of each concerned Municipality; and
- (e) A detailed description of the Exploration Programme proposed to be undertaken by the License applicant, including:
 - (i) A description of the Mineral Resource Group to be covered by the License, supported by any reports or geological reports or other evidence;
 - (ii) A technical description of the Exploration methodology and equipment to be employed;
 - (iii) A description of the overall technical, professional and managerial capabilities of the applicant;
 - (iv) A written, irrevocable commitment to expend on the Exploration Programme an amount per square kilometre not less than the amount prescribed by the Commission for such purpose;
 - (v) Evidence as to the consistency of the application with the Mineral Resources Management Plan; and
 - (vi) Such other documentation or information as the Commission may prescribe.

21.2 For the purposes of subsection 1, expenditures directly attributable to the Exploration activities shall qualify as eligible expenditures.

Section 22
Criteria for Issuance

22.1 Except as otherwise provided in section 17, the Commission shall issue an Exploration License for the concerned Mineral Resource and License Area to the concerned applicant if:

- (a) The requirements of section 21 have been complied with;
- (b) The applicant's proposed Exploration Programme is based on internationally recognized practices of exploration, mining and environmental protection;
- (c) The area of land over which the License is sought and the proposed term of the License are not in excess of the area and term reasonably required to carry out the applicant's proposed Exploration Programme;
- (d) The applicant has:
 - (i) The financial resources reasonably required to carry out its proposed Exploration Programme, and
 - (ii) Is not ineligible under section 5; and
- (e) The application and the applicant are otherwise in compliance with the present Regulation.

22.2 Within six (6) months after receiving a complete application from an eligible applicant, the Commission shall either issue the concerned License or provide the applicant with a written explanation why the Commission has decided not to issue the concerned License.

22.3 Where two or more applications complying with the requirements under this section are made by different Persons for the grant of an Exploration License for the same mineral and over the same area, the applicant whose application was first registered by the Commission shall have priority.

Section 23
Exploration License Rights and Obligations

23.1 An Exploration License confers on the Licensee the exclusive right, subject to the provisions of the present Regulation, to carry out the specified Exploration Operations.

23.2 An Exploration Licensee shall:

(a) Unless the License provides otherwise, commence Exploration Operations within three (3) months from the date of issuance;

(b) Expend on the specified Exploration Operations not less than the applicable minimum amount prescribed by the Commission (“Minimum Exploration Expenditure”); and

(c) Only with the written permission of the Commission and subject to such conditions as it may specify in the instrument of permission, remove any Mineral Resource from the Exploration Area, except for the purpose of analysing the Mineral Resource, determining its value or conducting tests thereon.

23.3 Where the amount expended on Exploration Operations is less than the applicable Minimum Exploration Expenditure, the amount of the shortfall shall be a debt immediately due and payable to the Commission.

23.4 An Exploration Licensee shall:

(a) Keep full and accurate records on:

(i) Boreholes drilled;

(ii) Lithologies penetrated, with detailed logs thereof;

(iii) Mineral Resources identified;

(iv) The results of all geochemical or geophysical surveys;

(v) The results of all analysis or identification of minerals;

(vi) The geological interpretation of the records maintained under subparagraphs (i) to (v) ;

(vii) The number of physical persons employed or contracted;

(viii) Other work done by or on behalf of the Licensee;

(ix) Costs incurred; and

(x) Other activities conducted by the Licensee and relating to the Exploration Programme;

(b) Store and maintain in good condition in Kosovo each core sample obtained under a License, in a manner that clearly identifies the date and location of its extraction; such samples may be maintained at an address in Kosovo other than that specified in section 15 if the Commission has been notified of such address;

(c) Submit to the Commission, within two (2) months from the end of each calendar year:

(i) An annual report for such calendar year, describing all Exploration Operations undertaken, identifying the location of all supporting documents and records and resulting physical samples, and providing an estimate of all Mineral Resources identified, illustrated with plans and sections at an appropriate scale; and

(ii) Annual statements for such calendar year on expenditures, accidents and safety at the work site, and recultivation activities; and

(d) Submit to the Commission, not later than September 30 of each calendar year, an Exploration Programme for the following calendar year.

23.5 During the term of the Exploration License and any License issued subsequent thereto, the Commission shall keep the items referred to in subsection 4 above in strict confidence except to the extent that public access thereto is required by the Law on Access to Official Documents.

23.6 The Commission may, in the exercise of his reasonable discretion, exempt an applicant for an Exploration License from all or part of one or more of the requirements of subsection 4 above.

23.7 An Exploration Licensee shall have the right to apply for and receive a subsequent Mining License for the concerned Mineral Resource in the License Area if the requirements of Part V of the present Regulation are complied with.

Section 24 Exploration License Extension

24.1 An Exploration Licensee desiring an extension of his License shall submit to the Commission a completed extension application in the prescribed format, together with the prescribed fee, and shall attach thereto the following:

(a) A copy of the Exploration License to be renewed and any related Permit;

(b) A map showing the area to which the application relates, defined by coordinates;

- (c) A detailed description of the Exploration Operations conducted to date;
and
- (d) An updated Exploration Programme.

24.2 The Commission, taking into account the provisions of any relevant Mine Development Agreement, shall extend an Exploration License if the concerned Licensee has submitted an application therefor in the prescribed form and accompanied by the prescribed fee, provided that as of the date of such application:

- (a) The requirements of subsection 1 above have been fulfilled;
- (b) The applicant's updated Exploration Programme is based on international practice of exploration, mining and environmental protection;
- (c) The area of land over which the extension is sought is not in excess of the area reasonably required to carry out the applicant's updated Exploration Programme and is otherwise consistent with the requirements of section 20;
- (d) The applicant has the financial resources reasonably required to carry out its proposed Exploration Programme;
- (e) The applicant is eligible under section 5; and
- (f) The applicant is otherwise in compliance with the provisions of the present Regulation.

24.3 Within three (3) months after receiving a complete extension application from an eligible applicant, the Commission shall either issue the concerned extension or provide the applicant with a written explanation why the Commission has decided not to issue the concerned extension.

PART IV **RETENTION LICENSES**

Section 25
Scope and Term

25.1 A Retention License shall:

(a) If issued to a Licensee under an Exploration License for Construction Minerals, have a maximum term of one (1) year from the expiration of such Exploration License;

(b) If issued to a Licensee under an Exploration License for any other mineral, have a maximum term of five (5) years from the expiration of such Exploration License; and

(c) Not be extended.

25.2 Any Retention License that has a term of more than one (1) year shall be subject to annual reviews by the Commission. During such an annual review, the Licensee shall provide the Commission with updated versions of the studies and assessments required under section 26.

25.3 If, during such a review, the Commission reasonably determines that the relevant market conditions and/or other economic factors have changed such that the reasons for the Retention License are no longer present, the Commission may cancel the Retention License on ninety (90) days written notice to the Licensee.

Section 26
Application

26.1 An Exploration Licensee may apply to the Commission for the grant of a Retention License if:

(a) He has identified a Mineral Resource as evidenced by a Resource Estimate within the Exploration Area that is potentially of commercial significance; and

(b) The Mineral Resource cannot be developed immediately because of adverse market conditions or other economic factors that are reasonably believed to be of a temporary character.

26.2 An application for a Retention License shall be accompanied by studies and assessments from qualified experts on:

(a) The prospects for a change of the adverse market conditions or other economic factors, the extent and commercial significance of the Mineral Resource under the relevant market conditions, trends and economic factors; and

(b) Such other relevant information as the Commission may reasonably require in the proposals of the applicant regarding the retention and development of the Mineral Resource.

Section 27
Criteria for Issuance

27.1 If the Commission is satisfied that the commercial development of the concerned Mineral Resource is presently not feasible, but may become so within five (5) years, the Commission may issue a Retention License to the Exploration Licensee over such part of the Exploration Area that the Commission, after consultation with the Exploration Licensee, reasonably believes will be necessary to mine such Mineral Resource.

27.2 Within three (3) months after receiving a complete application from an Exploration Licensee, the Commission shall either issue the concerned Retention License or provide the Exploration Licensee with a written explanation why the Commission has decided not to issue the Retention License.

Section 28
Rights and Obligations

28.1 The Retention License shall, during its validity period, entitle the Licensee to apply for a Mining License for the concerned Mineral Resource within the License Area. Where such application is timely made, the provisions of the present Regulation relating to the granting of Mining Licenses shall apply as if the Retention Licensee were the Exploration Licensee for that area.

28.2 The Commission may condition the issuance of a Retention License on the acceptance by the Retention Licensee of obligations to:

- (a) Continue certain specified Exploration Operations,
- (b) Actively preserve one or more Mineral Resources, and
- (c) Undertake certain specified measures for the protection of the environment.

Such conditions may be specified in the Retention License itself or in a related Mine Development Agreement.

PART V
MINING LICENSES

Section 29
Term and Scope

29.1 A Mining License for Construction Minerals shall:

- (a) Have an initial term of no more than twenty-five (25) years;
- (b) Apply to such area as may be required for the concerned Mineral Resource; and
- (c) Be extendable for further terms of up to twenty-five (25) years.

29.2 A Mining License for all other minerals shall:

- (a) Have a maximum term of no more than forty (40) years;
- (b) Apply to such area as may be required for the concerned Mineral Resource; and
- (c) Not be extendable.

29.3 This Part V shall not apply to the exploitation of Water for commercial purposes.

Section 30
Applications

30.1 A Person desiring to mine or otherwise exploit a Mineral Resource in Kosovo shall submit to the Commission a completed application for the issuance of a Mining License for the concerned Mineral Resources within the concerned area. Such application shall be submitted in the prescribed format, together with the prescribed fee, and the following shall be attached thereto:

- (a) A certified copy of the License applicant's Exploration or Retention License, including any documents evidencing an extension, transfer, assignment or encumbrance thereof;
- (b) The names and addresses of the applicant's Significant Owners and directors, if any;
- (c) The official registered address of the applicant in Kosovo;

(d) A description of the technical, professional and managerial capabilities of the personnel to be principally responsible for the conduct of the Mining Programme, including a copy of the respective curriculum vitae and all relevant diplomas, licenses and certificates;

(e) A map showing:

(i) The area under application, defined by coordinates;

(ii) The location of any existing building, infrastructure, agricultural activity or other significant manmade improvement or surface feature within such area or within one kilometre from any of its boundaries;

(iii) The proposed route of access by the applicant to such area; and

(iv) The boundaries of each concerned Municipality;

(f) All relevant cadastral documentation as prescribed by the Commission;

(g) Completed applications for any approvals required from other Public Authorities as may be required under the applicable law;

(h) One or more Surface Rights Agreements, having a duration of not less than the duration of the proposed Mining License, between the applicant and all third parties having lawfully registered property rights to the surface area that the applicant proposes to use during the conduct of the concerned Mining Operations, or evidence of refusal or failure of such third parties to enter into such an agreement on reasonable terms;

(i) The Mining Programme proposed to be undertaken by the License applicant, which shall include:

(i) An updated Resource Estimate of the Mineral Resources to which the License is to relate and an estimate of expected mine life, based on the results of the Exploration Operations carried out under the Exploration License and such other data and reports as may be required by the Commission;

(ii) A description of: the mine and its planned development, all other planned developments to be constructed, if any, such as a concentrator, smelter or other processing plant, all mine, power, water, transportation, maintenance, storage and other infrastructure facilities, and all staff, food, accommodation, health, educational and other social facilities;

(iii) A description of the proposed location, extent and duration of Mining Operations following the commissioning of the mine and related developments, including the methods, techniques and equipment to be employed, the proposed locations of Mining Operations, an assessment of the expected annual production over the term of the License, and all marketing and agency arrangements, if any; and

(iv) A discounted cash flow estimate over the term of the License of projected capital and operating costs and revenues that establishes the financial and economic viability of the Mining Programme;

(j) An Environmental Impact Assessment and all documents required under the Environmental Law in relation to the Mining Programme prepared in each case by suitably qualified and experienced experts;

(k) A mine closure plan and a rehabilitation programme prepared in each case by suitably qualified and experienced experts;

(l) Where the Commission considers appropriate, in the light of the size and value of the Mineral Resources, a study of the social implications of the proposed Mining Programme prepared by suitably qualified and experienced experts;

(m) A performance bond in the prescribed format guaranteeing the availability of sufficient funds to carry out the mine closure plan and rehabilitation programme, such bond to be in an amount equal to or greater than the estimated cost of such plan and programme, including contingencies; and

(n) Such other documentation or information as the Commission may reasonably require.

30.2 The Commission may, in the exercise of his reasonable discretion, exempt an applicant for a Mining License from all or part of one or more of the requirements of subsection 1 above.

Section 31 Application Processing

31.1 Within six (6) months after receiving a complete application for a Mining License from an eligible applicant, the Commission shall either issue the concerned License or provide the applicant with a written explanation why the Commission has decided not to issue the concerned License.

31.2 At any time prior to the expiry of such six (6) month, the Commission may in exceptional circumstances and in the exercise of his reasonable discretion extend such period for an additional six (6) months. In such case, the Commission shall

immediately notify the applicant in writing of such extension and of the reasons therefor.

31.3 If the applicant has provided evidence that a third party has refused or failed to enter into a Surface Rights Agreement covering surface rights that are reasonably required by the applicant to pursue its Mining Programme, the Commission may make an application in accordance with the provisions of the Applicable Law to the competent Public Authority for the re-allocation of the required surface rights towards enabling the applicant to exercise his rights and obligations under the Mining License. Such re-allocation shall only be effective if done in strict compliance with the Applicable Law.

Section 32 Criteria for Issuance

Upon receipt of a complete application for a Mining License by an eligible applicant, the Commission shall submit any documents relating to approvals that must be issued by other Public Authorities to such Public Authorities. The Commission, taking into account the provision of any relevant Mine Development Agreement, shall issue the concerned Mining License if the following criteria have been fulfilled:

- (a) All requirements of section 30 have been complied with;
- (b) Reasonable evidence demonstrating the existence of sufficient deposits or reserves of minerals to justify the proposed Mining Programme have been provided by the applicant;
- (c) The applicant's proposed Mining Programme is based on international practice of mining and environmental protection, and ensures the efficient and beneficial use of the concerned Mineral Resources in the concerned area;
- (d) The area of land over which the License is sought and the proposed term of the License are not in excess of the area and term reasonably required to carry out the applicant's proposed Mining Programme;
- (e) The applicant has:
 - (i) The financial resources reasonably required to carry out its proposed Mining Programme, and
 - (ii) Is eligible under section 5;
- (d) The application and the applicant are otherwise in compliance with the present Regulation;

(e) Each Public Authority from which an approval is required under the applicable law has either issued such approval or the time limit for issuing such approval has expired and the concerned Public Authority has not taken any action; and

(f) Any required surface rights not covered by a Surface Rights Agreement have been lawfully re-allocated in accordance with the Applicable Law for the purpose of enabling the Licensee to exercise its rights and obligations under the Mining License.

Section 33

Mining License Rights and Obligations

33.1 A Mining License confers on the Licensee the exclusive right, subject to the provisions of the present Regulation and any relevant Surface Rights Agreement, to carry out the specified Mining Operations and related Exploration activities, including, but not limited to, the right to:

(a) Enter the License Area and to take all reasonable measures on or under the surface for the purpose of carrying out the Mining Programme authorised by the License;

(b) Erect the necessary equipment, plant and buildings for the purposes of exploiting, transporting, or processing the mineral recovered;

(c) Sell or otherwise transfer rights to any mineral recovered; and

(d) Stack or dump any mineral or waste products in a manner provided for in the Licensee's Mining Programme.

33.2 A Mining Licensee shall:

(a) Unless the License provides otherwise, commence Mining Operations in accordance with the Mining Programme submitted within three (3) months from the date the Mining License was issued;

(b) Further develop the License Area and carry on mining in compliance with the Mining Programme; and

(c) Demarcate and keep demarcated the Mining Area in such manner as the Commission may reasonably require.

33.3 A Mining Licensee shall maintain:

(a) Complete and accurate technical records of all operations in the Mining Area;

(b) Copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, ore logs, analyses and tests and all other data obtained and compiled by the Licensee in respect of the Mining Area; and

(c) Accurate and systematic financial records of his operations in the Mining Area and such other books of account and financial records as the Commission may reasonably require; and if the Licensee is engaged in any other activity not connected with his Mining Operation, he shall maintain separate records and books of account on his Mining Operations.

33.4 A Mining Licensee shall submit to the Commission:

(a) Within thirty (30) days from the end of each calendar quarter:

(i) A report of the volume/tonnage of minerals extracted during that quarter;

(ii) A statement showing the amount of the royalty that has been determined to be payable in respect of such quarter, together with all information and calculations relating thereto; and

(iii) Written proof that such royalties have been paid in the manner and amount required by Part VIII;

(b) Within one hundred and twenty (120) days from the end of each calendar year:

(i) An audited report for such calendar year providing: a summary of the results of all Mining Operations, precise details on the tonnage, volume, composition, grade and value of minerals produced, precise details on the tonnage and volume of waste removed and the manner in which it was disposed of, a detailed statement of expenditures, costs and persons employed, and an estimate of the remaining mineral reserves illustrated by plans and sections at an appropriate scale;

(ii) Audited annual statements for such calendar year on expenditures, on accidents and safety at the work site, and on recultivation activities;

(iii) An audited annual statement showing the amount of the royalty that has been determined to be payable in respect of such calendar year, together with all information and calculations relating thereto and any modifications and explanations required to reconcile such annual statement

with statements previously submitted in accordance with subsection 4 above; and

(iv) An audited annual financial report showing the profit or loss and the state of the financial affairs of the Licensee at the end of such calendar year.

(c) Not later than September 30 of each calendar year, an updated Mining Programme for the following calendar year; and

(d) Such additional reports, records and other information as the Commission may require.

33.5 During the term of the Mining License, the Commission shall keep the items referred to in subsection 4 above in strict confidence except to the extent that public access thereto is required by the Law on Access to Official Documents.

Section 34 Suspension of Production

34.1 A Mining Licensee shall give written notice to the Commission three (3) months in advance, if he intends to suspend or substantially reduce production. Such notice shall include a detailed justification for such suspension or reduction.

34.2 A Mining Licensee shall immediately inform the Commission of the suspension or reduction of production due to causes beyond his control.

Section 35 Extension of a Mining License for Construction Minerals

35.1 A Mining Licensee for Construction Minerals that wishes to extend his License, shall submit to the Commission a complete application for such extension in the prescribed format, together with the prescribed fee, and shall attach thereto the following:

(a) A copy of the Mining License to be extended and any related Permit to conduct Special Operations;

(b) An updated Mining Programme;

(c) Updated version of the documents required under section 30; and

(d) Such other documentation or information as the Commission may prescribe.

35.2 The Commission shall extend a Mining License for Construction Minerals if the concerned Licensee has submitted an application therefor in the prescribed form and accompanied by the prescribed fee and has, as of the date of such application, fulfilled the requirements of section 32, as applicable to the updated Mining Programme, and subsection 1 above.

35.3 Within three (3) months after receiving a complete extension application from an eligible applicant, the Commission shall either issue the concerned extension or provide the applicant with a written explanation why the Commission has decided not to issue the concerned extension.

35.4 At any time prior to the expiry of such three (3) month period, the Commission may in exceptional circumstances and in the exercise of his reasonable discretion extend such period for an additional three (3) months. In such case, the Commission shall immediately notify the applicant in writing of such extension and of the reasons therefor.

PART VI **PERMITS FOR SPECIAL OPERATIONS**

Section 36 Term and Scope

36.1 The term and scope of each Permit shall be reasonably established by the Commission in a manner that is directly related to the conduct of the Special Operations authorised by such Permit. The term of a Permit may be extended by the Commission upon application by the Permit Holder.

36.2 Notwithstanding any other provision of this Part VI, a Person who is already authorized by a valid License to conduct a Special Operation is not required to apply for or obtain a Permit to conduct such Special Operation.

Section 37 Application

37.1 A Person desiring to conduct a Special Operation shall submit to the Commission a completed application for the issuance of a Permit to conduct the concerned Special Operation. Such application shall be submitted in the prescribed format, together with the prescribed fee, and the following shall be attached thereto:

- (a) A certified copy of any License of the applicant to which the Special Operation relates;
- (b) The names and addresses of the applicant's Significant Owners and directors, if any;
- (c) The official registered address of the applicant in Kosovo;
- (d) A description of the technical, professional and managerial capabilities of the personnel to be principally responsible for the conduct of the Special Operation, including a copy of their respective curriculum vitae and all relevant diplomas, licenses and certificates;
- (e) A map showing:
 - (i) The area under application, defined by coordinates;
 - (ii) The location of any existing building, infrastructure, agricultural activity or other significant manmade improvement or surface feature within such area or within one kilometer from any of its boundaries;
 - (iii) The proposed route of access by the applicant to such area; and
 - (iv) The boundaries of each concerned Municipality;
- (f) All relevant cadastral documentation as prescribed by the Commission;
- (g) Completed applications for any approvals required to be issued by any other Public Authorities under the Applicable Law;
- (h) Surface Rights Agreements, having a duration of not less than the duration of the proposed Permit, between the applicant and all third parties having lawfully registered property rights to the surface area that the applicant proposes to use during the conduct of the Specially Operations or evidence of refusal or failure of such third parties to enter into such an agreement on reasonable terms;
- (i) The Special Operations Programme proposed to be undertaken by the applicant, which shall include:
 - (i) A description of the location, extent and duration of the proposed Programme and the methods, techniques and equipment to be employed; and
 - (ii) A work programme and a cost estimate;

(j) an Environmental Impact Assessment and all documents required under the Environmental Law in relation to the Specially Operations Programme prepared in each case by suitably qualified and experienced experts;

(k) A rehabilitation programme prepared in each case by suitably qualified and experienced experts;

(l) A performance bond in the prescribed format guaranteeing the availability of sufficient funds to carry out the rehabilitation programme, such bond to be in an amount equal to or greater than the estimated cost of such programme, including contingencies; and

(m) Such other documentation or information as the Commission may prescribe.

37.2 The Commission may, in the exercise of its reasonable discretion, exempt an applicant for a Permit from all or part of one or more of the requirements under this section.

Section 38 Application Processing

38.1 Within six (6) months after receiving a complete Permit application from an eligible applicant, the Commission shall either issue the concerned Permit or provide the applicant with a written explanation why the Commission has decided not to issue the concerned Permit.

38.2 At any time prior to the expiry of such six (6) month period, the Commission may in exceptional circumstances and in the exercise of its reasonable discretion extend such period for an additional six (6) months. In such case, the Commission shall immediately notify the applicant in writing of such extension and of the reasons therefor.

38.3 If the applicant has provided evidence that a third party has refused or failed to enter into a Surface Rights Agreement covering surface rights that are reasonably required by the applicant to pursue its Special Operations Programme, the Commission may make an application in accordance with the provisions of the Applicable Law to the competent Public Authority for the re-allocation of the required surface rights towards the conduct of the Special Operations. Such re-allocation shall only be effective if done in strict compliance with the Applicable Law.

Section 39 Criteria for Issuance

Upon receipt of a complete application by an eligible applicant for a Special Operations Permit, the Commission shall submit any documents relating to approvals that must be issued by other Public Authorities to such Public Authorities. The Commission shall issue the concerned Permit if the following criteria have been fulfilled:

- (a) The requirements of section 37 have been complied with;
- (b) The applicant's proposed Special Operations Programme is based on international practice;
- (c) The applicant has:
 - (i) The financial resources reasonably required to carry out its proposed Special Operations Programme, and
 - (ii) Is eligible under section 5;
- (d) The application and the applicant are otherwise in compliance with the present Regulation;
- (e) Each Public Authority from which an approval is required under the applicable law has either issued such approval or the time limit for issuing such approval has expired and the concerned Public Authority has not taken any action; and
- (f) Any required surface rights not covered by a Surface Rights Agreement have been lawfully re-allocated in accordance with the Applicable Law for the purpose of enabling the Licensee to exercise its rights and obligations under the Mining License.

Section 40

Special Permit Rights and Obligations

40.1 A Permit confers on the Permit Holder the exclusive right, subject to the provisions of the present Regulation and any relevant Surface Rights Agreement, to carry out the specified Special Operations, including, but not limited to, the right to:

- (a) Enter the Permit Area and take all reasonable measures on or under the surface for the purpose of carrying out the Special Operations Programme authorised by the Permit;
- (b) Erect the necessary equipment, plant and buildings for the purposes of transporting or processing of the concerned mineral;

(c) Sell or otherwise transfer rights to the concerned mineral or production; and

(d) Stack or dump any mineral or waste products in a manner provided for in the Special Operations Programme.

40.2 A Permit Holder shall:

(a) Unless the Permit provides otherwise, commence the concerned operations within three (3) months from the date the Permit was issued; and

(b) Demarcate and keep demarcated the Permit Area in such manner as the Commission may reasonably require.

40.3 A Permit Holder shall maintain:

(a) Complete and accurate technical records of his Special Operations;

(b) Copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, ore logs, analyses and tests and all other data obtained and compiled by the Permit Holder in respect of his Special Operations; and

(c) Accurate and systematic financial records on his Special Operations and such other books of account and financial records as the Commission may require; and if the Permit Holder is engaged in any other activity not connected with his Special Operations, he shall maintain separate records and books of account on his Special Operations.

40.4 A Permit Holder shall submit to the Commission:

(a) Within thirty (30) days from the end of each calendar quarter, a report of the volume/tonnage of minerals processed during that quarter;

(b) Within sixty (60) days from the end of each calendar year:

(i) An annual report for such calendar year providing: a summary of the results of all Special Operations; precise details on the tonnage, volume, composition, grade and value of minerals processed; precise details on the tonnage and volume of waste removed and the manner in which it was disposed of; and a detailed statement of expenditures, costs and persons employed;

(ii) Annual statements for such calendar year on expenditures, on accidents and safety at the work site, and on reclamation activities; and

(iii) An annual financial report showing the profit or loss and the state of the financial affairs of the Permit Holder at the end of such calendar year.

(c) Not later than September 30 of each calendar year, an updated Special Operations Programme for the following calendar year; and

(d) Such additional reports, records and other information as the Commission may reasonably require.

40.5 During the term of the Permit, the Commission shall keep the items referred to in subsection 4 above in strict confidence except to the extent that public access thereto is required by the Law on Access to Official Documents.

Section 41 Suspension of Operations

41.1 A Permit Holder having a Permit to conduct ongoing processing operations shall give written notice to the Commission three (3) months in advance if he intends to suspend or substantially reduce such processing. Such notice shall include a detailed justification for such suspension or reduction.

41.2 Every Permit Holder shall immediately inform the Commission if he is unable to perform an authorised Special Operation due to causes beyond his control.

PART VII **SMALL SCALE ARTISANAL MINING**

Section 42 Term and Scope

42.1 An Artisanal Mining License shall be subject to the same provisions as are applicable to a Mining License for Construction Minerals pursuant to section 29. Provided, however, that no Artisanal Mining License may authorize the exploitation of more than twelve thousand (12,000) cubic meters of Construction Minerals in any calendar year.

42.2 A Municipality seeking an Artisanal Mining License shall not be subject to the eligibility requirements specified in section 5.

Section 43
Application

43.1 An Artisanal Mining License may only be issued to a Municipality.

43.2 A Municipality desiring to undertake Artisanal Mining activities shall submit to the Commission a completed application for the issuance of an Artisanal Mining License. Such application shall specify the Construction Minerals and the area for which such License is sought. The area for which the License is sought must:

- (a) Lie wholly within the Municipality; and
- (b) Only involve or affect property that is being directly and lawfully administered by the Municipality.

43.3 The Municipality shall submit the application in the prescribed format, together with the prescribed fee, and shall attach thereto the following:

- (a) The name of the chief executive officer of the Municipality;
- (b) The official address of such chief executive officer;
- (c) A description of the technical, professional and managerial capabilities of the personnel to be principally responsible for the conduct of the Artisanal Mining Programme, including a copy of the respective curriculum vitae and all relevant diplomas, licenses and certificates;
- (d) A map showing:
 - (i) The area under application, defined by coordinates;
 - (ii) The location of any existing building, infrastructure, agricultural activity or other significant manmade improvement or surface feature within such area or within one kilometre from any of its boundaries;
 - (iii) The proposed route of access by the applicant to such area; and
 - (iv) The boundaries of the parcels, if any, into which the area has been or will be divided;
- (e) All relevant cadastral documentation as prescribed by the Commission;
- (f) Completed applications for any approvals required from other Public Authorities as may be required under the applicable law;

(g) Surface Rights Agreements, having a duration of not less than the duration of the proposed Artisanal Mining License, between the applicant and all third parties having lawfully registered property rights to the surface area that the applicant proposes to use during the conduct of the concerned Artisanal Mining Operations; or evidence of refusal or failure of such third parties to enter into such an agreement on reasonable terms;

(h) The Artisanal Mining Programme proposed to be undertaken by the applicant in the specified area, which shall:

(i) Include an updated Resource Estimate of the Construction Minerals to which the License is to relate, an estimate of expected mine life and such other data and reports as may be reasonably required by the Commission;

(ii) Specify the maximum number of personnel permitted to use such site;

(iii) Set out a detailed programme of measures that the Municipality commits to undertake to eliminate all illegal Artisanal Mining within the Municipality; and

(iv) Estimate the annual costs to the Municipality of establishing, maintaining and operating the proposed Artisanal Mining site and of terminating all illegal Artisanal Mining within the Municipality;

(i) An Environmental Impact Assessment and all documents required under the Environmental Law in relation to the Artisanal Mining Programme prepared in each case by suitably qualified and experienced experts;

(j) A mine closure plan and a rehabilitation programme prepared in each case by suitably qualified and experienced experts; and

(k) Such other documentation or information as the Commission may reasonably require.

43.4 The Commission may, in the exercise of its reasonable discretion, exempt a Municipality from all or part of one or more of the requirements under this section.

Section 44
Application Processing

44.1 Within six (6) months after receiving a complete Artisanal Mining License application from a Municipality, the Commission shall either issue the concerned License or provide the Municipality with a written explanation why the Commission has decided not to issue the concerned License.

44.2 At any time prior to the expiry of such six (6) month period, the Commission may in exceptional circumstances and in the exercise of its reasonable discretion extend such period for an additional six (6) months. In such case, the Commission shall immediately notify the applicant in writing of such extension and of the reasons therefor.

Section 45
Criteria for Issuance

Upon receipt of a complete Artisanal Mining License application from a Municipality, the Commission shall submit any documents relating to approvals that must be issued by other Public Authorities to such Public Authorities. The Commission shall issue the concerned Artisanal Mining License if the following criteria have been fulfilled:

- (a) The requirements of section 43 have been complied with;
- (b) Reasonable evidence demonstrating the existence of sufficient deposits or reserves of Construction Minerals to justify the proposed Artisanal Mining Programme have been provided by the Municipality;
- (c) The area and term for which the License is sought are not in excess of the area and term reasonably required to carry out the Municipality's proposed Artisanal Mining Programme;
- (d) The application is otherwise in compliance with the present Regulation;
- (e) The Municipality is not in violation of the present Regulation; and
- (f) Each Public Authority from which an approval is required under the applicable law has either issued such approval or the time limit for issuing such approval has expired and the concerned Public Authority has not taken any action.

Section 46
Municipal Rights and Obligations

46.1 A Municipality shall not allow or authorize any Artisanal Mining activities within its borders except in strict compliance within the terms of an Artisanal Mining

License that has been issued to such Municipality by the Commission. Each Municipality that has received an Artisanal Mining License shall be responsible for complying with the present Regulation and fulfilling all commitments made in its application for such License. Each Artisanal Mining site shall be maintained and operated by the concerned Municipality under the supervision of, and in accordance with the instructions issued by, the Commission.

46.2 In addition to the requirements of subsection 1 above, each Municipality having an Artisanal Mining License shall:

(a) Publish a daily fixed charge to be paid by each physical person desiring to use the site; such charge shall be established by the Municipality in an amount that is calculated, in the aggregate, as sufficient to cover its annual capital and operating costs incurred in connection with the establishment, maintenance, and operation of the Artisanal Mining sites; the Municipality shall regularly review and revise the amount of such charge as necessary;

(b) Collect the amount of the applicable fixed charge from each user in advance;

(c) Impose such restrictions on the use of the site as may be required by the concerned Artisanal Mining License;

(d) Restrict the use of an Artisanal Mining site to physical persons who

(i) Are primarily resident within the Municipality,

(ii) Have paid the applicable charge, and

(iii) Have complied with the restrictions governing the use of the site;

(e) Ensure that aggregate monthly site production and the daily production of mineral ore and materials generated by individual site users do not exceed the respective limits prescribed by the Commission;

(f) Ensure that, by the end of each day, each site user shall remove from the site his daily production of mineral ore and materials, provided that any such production not so removed shall become property of the Municipality;

(g) Ensure that the weight or volume of all mineral ore and materials produced daily by each site user in any day is duly measured and recorded in writing, with a copy of such record being provided to the site user;

(h) Provide any services and facilities approved by the Commission in an effective, safe and cost efficient manner;

(i) Implement in a diligent and efficient manner such programme of measures to eliminate illegal Artisanal Mining as the Municipality has committed to undertake in its application for the License;

(j) Establish and maintain full and accurate books and records, which shall be available at any time for inspection by the Commission, showing:

(i) The capital and operating costs incurred by the Municipality in establishing, maintaining and operating its Artisanal Mining sites and in undertaking its programme to eliminate illegal Artisanal Mining, and

(ii) The fixed charges recovered by the Municipality from site users and any other revenues accruing to the Municipality from such sites;

(k) Manage the Artisanal Mining sites and access thereto and the programme to eliminate illegal Artisanal Mining in accordance with applicable mining, safety, environmental and other standards and the terms and conditions of the License; and

(l) Pay royalties in accordance with the present Regulation.

46.3 Within four (4) months from the end of each calendar year, every Municipality that held an Artisanal Mining License during such calendar year shall submit to the Commission an annual report for such calendar year that:

(a) Includes audited accounts for such calendar year;

(b) Describes the Artisanal Mining activities undertaken at each site covered by the License, including individual and aggregate production levels for each mineral mined at the site;

(c) Evaluates the environmental impact of mining at each site;

(d) Contains proposals, if any, for the establishment of new Artisanal Mining sites and modifications to existing sites or parcel boundaries;

(e) Describes in detail the steps it has taken to implement its programme to eliminate illegal Artisanal Mining; and

(f) Accounts for all costs paid or incurred and revenues received or accrued in relation to the operation of Artisanal Mining sites.

46.4 No Municipality may undertake or have any commercial or other interest in any Artisanal Mining activity, except as otherwise specifically and explicitly provided for by the present Regulation.

Section 47
Authority to Exclude Users

The Commission shall have the authority to issue an order excluding any Person from an Artisanal Mining site if such Person intentionally or repeatedly fails to comply with the present Regulation, including instructions issued by the Commission. The concerned Municipality is required to take the necessary steps to ensure that such order is routinely and effectively enforced.

PART VIII
ROYALTIES AND CHARGES

Section 48
Royalties

The Commission, after consultation with the Ministry of Finance and Economy, shall issue a schedule of royalties that Licensees shall be required to pay in connection with the conduct of exploitation activities in Kosovo. Such schedule shall specify, where necessary, the formulae to be used in calculating the amount of royalties due.

Section 49
Deferments and Exemptions

49.1 Royalties shall not be due or payable on samples of minerals extracted which are reasonably required for the purpose of analysis or conducting other examinations.

49.2 A Mining Licensee may apply to the Commission for an authorisation to defer the payment of a royalty if, at the close of the period for which such royalty is due, such Licensee's Cash Operating Margin is less than zero. If the Commission determines that the Licensee's Cash Operating Margin is in fact less than zero at the close of the concerned period, the Commission may authorise the deferment of the royalty, in whole or in part, in accordance with this section 49. If the Commission grants such an authorisation, the royalty amount immediately due and payable for the concerned period shall be reduced to the extent necessary to increase the cash-operating margin to zero, and the balance shall be deferred.

49.3 Where the payment of any royalty is deferred:

(a) It shall be accumulated with any other outstanding deferred payments of royalty; and

(b) This accumulated outstanding amount shall become due and payable when the next regularly scheduled royalty payment is due taking into account the provisions of this section.

Section 50
Payment of Estimated Royalty

50.1 Where, for any reason, it is not currently possible to determine the amount of royalty due, the Commission may require the Licensee to pay an estimated royalty.

50.2 If the amount of such royalty is later ascertained, the Licensee shall be liable for any shortfall or, as the case may be, shall be entitled to a refund of any excess amount paid.

Section 51
Failure to Pay Royalty

If a Licensee fails to pay any royalty when due, the Commission may, by written order served on such Licensee, prohibit such Licensee from selling or otherwise disposing of any interest in any concerned mineral or production until all outstanding royalties have been fully paid or until arrangements have been implemented after being agreed upon by the Commission for the payment thereof.

Section 52
Administrative Charges and Fees

52.1 Every Licensee and Permit Holder shall pay to the Commission an annual maintenance fee as specified in a schedule to be issued by the Commission.

52.2 In addition, the Commission may levy such fees it deems appropriate to prescribe for the filing of a Licence or Permit application, or for providing any requested geo-scientific data or information or any requested service. The Commission shall ensure that any fees so established are:

(a) In an amount that is reasonably calculated to compensate the Commission for the costs of processing such an application or fulfilling such a request; and

(b) Otherwise in accordance with general international practice.

PART IX
MONITORING AND INSPECTIONS

Section 53
Authority to Obtain Information

53.1 To the extent necessary to perform the functions assigned to it by the present Regulation, the Commission shall have the general power and authority to:

(a) Issue an order to any Person or Public Authority requiring such Person or Authority to submit or grant access to data, information, documents, materials or other items of movable and/or immovable property that the Commission considers, in the exercise of reasonable discretion, relevant to the conduct of those functions; and

(b) Issue an order to any Person to provide written or oral testimony or information regarding any matter that the Commission may reasonably consider as required for the conduct of its functions.

53.2 An order issued by the Commission pursuant to this section shall be in writing and shall set forth:

(a) The purpose and legal basis for the order,

(b) The nature of the data, information, documents, items of movable or immovable property, or testimony required by the Commission,

(c) The period for compliance with the order, and

(d) A notice setting out possible administrative sanctions for the failure to comply with the order in a complete and non-misleading manner and including information about the right to appeal against the order and any such administrative sanctions.

53.3 If an order is directed to one or more physical persons, the Commission shall address such order to such physical person and shall deliver such order:

(a) Directly to such physical persons at their office or place of business or employment, or

(b) To their respective home addresses.

Physical persons to whom such order is directed shall be considered to have personally received such order at the moment of such delivery.

53.4 If an order is directed to a juridical person, the Commission shall address such order to a senior manager or official of the juridical person and shall deliver such order to the registered address of the central office of the juridical person.

Section 54
Obtaining Oral Testimony or Information

54.1 If the Commission issues an order requiring a physical person to provide oral testimony or information, such order shall set forth, in addition to the items specified in section 53:

- (a) The name and, if known, official title of the physical person,
- (b) The place and time of appearance to give oral testimony or information, and
- (c) A notice of the obligation under subsection 2 hereunder.

54.2 If, for good and compelling reasons, the physical person is unable to appear at the place and time specified in the order, he/she shall provide the Commission with a written statement of such reasons within a reasonable time period after receiving the order. If the Commission, in the exercise of reasonable discretion, determines that the reasons provided justify the re-scheduling of the appearance, the Commission may amend the order to specify a different place or time for such appearance.

Section 55
Obtaining Documents and Materials

55.1 If the Commission issues an order requiring a Person to submit documents, drafts or other materials, the Commission shall have the right and authority to require either the originals of such items or copies thereof. If the Commission decides to accept copies thereof, it shall require the concerned Person to certify that such copies are true and accurate copies of the originals. The Commission shall continue to have the right and authority to, at any time, require the submission of the originals.

55.2 At the request of a Person that submits documents, drafts or other materials, the Commission shall issue a written receipt evidencing the receipt of such items and materials.

55.3 If a Person submits originals of documents, drafts or other materials to the Commission, the Commission shall return such originals or materials to such Person at the conclusion of its review of such items.

Section 56

Authority to Inspect Property and Places of Business and Storage

56.1 If necessary to the conduct of an investigation into an alleged or suspected violation of the present Regulation, the Commission may apply to the concerned District Court for an order authorizing officials of the Commission to:

(a) Enter, without prior warning or special permission, any location or property used by a Person for business activities or storage, and

(b) Search and inspect items of movable or immovable property on or in such location or property.

56.2 The concerned District Court shall have the authority to issue such an order to the Commission if the court determines that the Commission has fulfilled the same evidentiary and other requirements that are applicable to the issuance of similar orders to the police. The concerned District Court may impose reasonable restrictions on the scope of such an order and the times during which it may be executed.

56.3 Nothing in this section shall be interpreted as limiting the authority of the Commission to conduct searches and inspections that have already been authorized under the terms of a License or Permit.

Section 57

Conduct of Searches and Inspections

57.1 A Licensee or Permit Holder that has already authorized, under the terms of a License or Permit, the Commission to conduct searches and inspections shall permit officials of the Commission to conduct the authorized searches and inspections and shall cooperate fully with such officials during the conduct of any such search and inspection.

57.2 All Persons are required to permit officials of the Commission who are in possession of a court order issued under section 56 to conduct the concerned search and inspection and to cooperate fully with such officials during the conduct of such search and inspection.

57.3 An owner, officer, manager or employee of the concerned Person shall have the right to observe the conduct of the search and inspection. Immediately prior to commencing a search and inspection, the officials of the Commission shall inform an owner, officer, manger or employee of the concerned Person of such right.

57.4 During a search and inspection, the officials of the Commission have the right and authority to immediately:

(a) Examine documents, drafts of documents, and other materials and objects relating to the activities of the concerned Person;

(b) Make or obtain, at the expense of the concerned Person, copies of such documents and drafts of documents and other written materials and items, the accuracy of which shall be certified by the senior manager or other duly authorized employee or officer of the concerned Person and the physical person actually preparing such copies;

(c) Examine data and databases kept in electronic form, whether in a computer or stored on other electronic media, and

(d) Make or obtain, at the expense of the concerned Person, printouts and electronic copies of such data and databases, the accuracy of which shall be certified by the senior manager or other duly authorized employee or officer of the concerned Person and the physical person actually preparing such copies.

57.5 Immediately after the conclusion of a search and inspection, an authorized official of the Commission shall prepare at the site where the search and inspection was conducted a report on such search and the inspection setting forth:

(a) The name of the concerned Person;

(b) The location or locations inspected;

(c) The time and place of the inspection;

(d) The name and position of the owner, officer, manager or employee who was informed of the right to observe the inspection;

(e) A detailed description of the course of the search and inspection and its results;

(f) A list of the documents and other materials obtained in the course of the search and inspection;

(g) If applicable, the name of any interpreter or translator who participated; and

(h) If applicable, the name and position of any physical person who obstructed or interfered with, or attempted to obstruct or interfere with, the conduct of the search and inspection.

57.6 The report shall be signed by an authorized official of the Commission. Such official shall immediately provide the concerned Person with a copy of the report. The original of the report shall be kept in the files of the Commission.

57.7 The handling of all documents, materials and other evidence obtained in the course of a search and inspection shall be governed by the same rules that must be followed by the police and the public prosecutor for the handling of similar evidence.

Section 58 Seizures

58.1 The Commission may seize documents, materials and other items that it reasonably believes to be of material evidentiary value. The Person affected by the seizure shall be informed thereof without undue delay.

58.2 Notwithstanding the right of the Person affected by the seizure to apply to the competent District Court for a review of the seizure and related actions and decisions taken by the Commission, the Commission shall apply within three (3) business days of such a seizure to the competent District Court for a review and confirmation of the legal validity of the seizure. The Person affected by the seizure shall:

(a) Be informed of the time and place of the proceedings before such court,
and

(b) Have the right to attend, be represented by legal counsel and present evidence and testimony.

58.3 The decision of the District Court on the legal validity of the seizure may be appealed to the Supreme Court. If the concerned District Court decides that the seizure was not legally valid, and the Commission immediately informs such court that it intends to appeal such decision, such court may – if it believes such action is necessary to ensure the integrity of the seized items or their presence in Kosovo pending such appeal – order that the seized items be sealed and impounded by the court until such appeal has been decided.

58.4 Unless the District Court or the Supreme Court issue an order specifying another disposition, all seized items must be returned to their owner upon the closure of the concerned investigation or within one year after their seizure, whichever occurs earlier. The concerned District Court or the Supreme Court may authorize the Commission to retain possession of seized items for a longer period if the court determines that this is necessary to avoid impairing or prejudicing the conduct of the concerned investigation or related judicial proceedings.

PART X
ADMINISTRATIVE SANCTIONS AND REMEDIES

Section 59

Imposition of Administrative Sanctions and Other Remedies by the Commission

59.1 If the Commission determines that any Person has violated a provision of the present Regulation, the Commission may, in the exercise of reasonable discretion and as appropriate under the circumstances, issue an order:

(a) Requiring the concerned Person to cease and desist from the conduct or activities constituting the violation;

(b) Declaring any agreement or decision constituting a violation to be null, void and unenforceable;

(c) Requiring the concerned Person to take any reasonably performable action that the Commission determines to be necessary to ensure that:

(i) The negative effects of such violation are eliminated or reversed, and

(ii) Such violation is not repeated;

(d) Imposing an administrative fine of up to 1,000 Euro per violation per day on any physical person who, whether through negligence or intentional misconduct, was centrally involved in the acts constituting or directly causing such violation; or

(e) Imposing an administrative fine of up to 10,000 Euro per violation per day on any Person, other than a physical person, involved in such violation.

59.2 Any administrative sanction imposed shall be without prejudice to prosecution for criminal liability under the applicable criminal law.

Section 60

Claims for Damages, Injunctions, and Other Remedies

If a Person violates a provision of the present Regulation or a decision or order of the Commission issued under the authority of the present Regulation, and such violation causes, or threatens to cause, material economic harm, including lost profits, or other harm to a third Person, the negatively affected party shall have the right to file a complaint with the court of competent jurisdiction, requesting such court to issue, as may be appropriate under the circumstances, an order requiring the violator to:

- (a) Pay compensation for such harm;
- (b) Cease the prohibited conduct or activity; and
- (c) Take positive action to cure the violation.

The court may in addition impose such other remedial measures as may be justified under the circumstances.

PART XI **MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS**

Section 61 **Mineral Resources Management Plan**

61.1 The Commission shall prepare, publish and submit to the responsible Ministry of Energy and Mining a draft Mineral Resources Management Plan, which shall set out the Commission's recommended objectives and implementation plan for the overall coordinated and sustainable exploitation of Mineral Resources in Kosovo which takes into consideration specific features and conditions of particular areas, specific occurrences of particular Mineral Resources and the requirements for their exploitation and commercial and industrial use.

61.2 After receiving the Commission's draft Mineral Resources Management Plan, the Ministry of Energy and Mining shall review, modify as it deems necessary or advisable, adopt and promulgate the Mineral Resources Management Plan. The Commission shall regularly review such plan and its implementation and shall, when necessary or advisable, make recommendations to the Ministry of Energy and Mining with respect to its modification or implementation.

61.3 During the preparation and implementation of spatial and urban plans, all Public Authorities shall take full account of and comply with the Mineral Resources Management Plan promulgated by the Ministry of Energy and Mining. Such Mineral Resources Management Plan shall prevail over any inconsistent spatial or urban plan.

61.4 In the period before the Ministry of Energy and Mining promulgates the Mineral Resources Management Plan, no Public Authority may approve or implement a spatial or urban plan without the consent of Ministry of Energy and Mining. Before providing such consent, the Ministry of Energy and Mining shall obtain the advice of the Commission. The Ministry of Energy and Mining shall withhold such consent if the Commission provides the Ministry of Energy and Mining with a written

explanation that demonstrates how such plan will interfere with the coordinated and sustainable exploitation of Mineral Resources of Kosovo.

Section 62 Administrative Appeals

Every decision of the Commission shall be appealable in accordance with requirements and provisions of the applicable law governing the appeal and review of administrative decisions.

Section 63 Existing Licenses

63.1 A License or Permit issued prior to the entry into force of the present Regulation shall continue to be valid if:

- (a) Such License or Permit was issued in accordance with the law in force on the date of its issuance;
- (b) Such License or Permit has not expired; and
- (c) The concerned Licensee or Permit Holder has not violated the terms of such License or Permit.

The Commission shall have the authority to review any such License or Permit to determine whether it was lawfully issued and whether its terms are being complied with.

63.2 An application for a License or Permit which was submitted prior to the date of promulgation of the present Regulation shall be processed in accordance with and subject to the laws applicable at the time of such submission.

Section 64 Public Money

All royalties, fees, charges and other items paid to or received by a Public Authority pursuant to the present Regulation shall become “public money” as defined in the Law on Public Financial Management and Accountability and shall be handled in accordance with Applicable Law.

Section 65
Applicable Law

The present Regulation shall supersede any provision in the Applicable Law, which is inconsistent with it.

Section 66
Entry into Force

The present Regulation shall enter into force on the 21st day of January 2005.

Søren Jessen-Petersen
Special Representative of the Secretary-General