

Information Circular 8514

Summary of Mining and Petroleum Laws of the World

(In Five Parts)

2. East Asia and the Pacific

By Northcutt Ely



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FOREWORD

This Summary of Mining and Petroleum Laws of the World represents a cooperative effort of the author and the Bureau of Mines that has extended over many years. Culminating research that began in the early 1950's, the original Summary was published as Bureau of Mines Information Circular 8017 in 1961. The dynamic mineral resource developments and new administrative policies adopted by many countries during the subsequent decade called for updating the material. The author, Northcutt Ely, is regarded as a leading authority in the field of international minerals legislation. His long experience with the legal aspects of natural resource development has been recognized by national and State administrative agencies in the United States. His guidance and counsel have been adopted in several countries that have undertaken revision or modernization of their mineral codes or minerals regulation policies.

For maximum distribution flexibility, this revised Summary of Mining and Petroleum Laws of the World is being issued in five parts. Global coverage will be achieved in Information Circulars covering each of the major geographical jurisdictions: Western Hemisphere, East Asia and the Pacific, Europe, Africa, and Near East and South Asia.

As the title implies, condensation of official legal documents has been extensive; only major features of the various laws are given. In this context the investor or operator contemplating activity in any foreign country is urged to seek qualified legal counsel, preferably in the country of his interest. Not only are mining codes subject to change, but laws that control corporate structure, labor, taxation, and monetary regulations as well as local habits and customs will also have significant effect on a mining or petroleum venture. Information on these can only be obtained by functional experience and direct communication with appropriate regulatory agencies. Mr. Ely has included readily available names and addresses of suggested correspondents in footnotes and bibliographic references.


Director



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(In Five Parts)

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Northcutt Ely^{1 2 3}

ABSTRACT

This volume summarizes mining and petroleum legislation in 25 jurisdictions of East Asia and the Pacific. Within these jurisdictions, primary attention is given to requirements that must be met in each country for acquisition of rights to permit development of mineral resources. Coverage includes: First, identification of the controlling laws or statutes governing minerals acquisition and reference to the administrative authority; second, analysis of the laws governing mines and quarries and their products; and third, analysis of laws applicable to natural gas, petroleum, and related materials. Where pertinent, sections dealing with historical background or administration have been added. In countries where minerals are subject to control of States or Provinces, those areas are considered separately from the central government.

INTRODUCTION

This Bureau of Mines Circular is the second of a five-part series revising the "Summary of Mining and Petroleum Laws of the World" published as Information Circular 8017 in 1961. (Part 1, IC 8482, covers the Western Hemisphere.) The author has sought to include all significant legislation applicable to minerals in each jurisdiction. Instances where this goal has not been fulfilled are due to lack of available source material from such areas as mainland China, North Korea, and North Vietnam or to apparent insignificance of the area as a present or potential producer of minerals. Other omissions include some small colonial or territorial areas whose mineral policies are administered under laws of the mother country.

¹Counsellor at law, Washington, D.C., and member of the Bar of the United States Supreme Court, the States of California and New York, and the District of Columbia.

²E. T. Hunt Talmage, III, Donald R. Allen, Charles P. Eddy, Suzanne Meyer, and Donald R. Davidson collaborated in the research and assisted in compiling this manuscript.

³Lester G. Morrell, mining engineer, Bureau of Mines, adapted the original manuscript for Federal publication.

Summaries of laws of the individual nations are necessarily brief, having been condensed for the most part from a great volume of original material, much of it translated from a foreign language. While the latest material has been sought, new laws and regulations are continually being enacted. For these reasons a caveat is appropriate; this text is intended only as an outline or guide. The reader who is concerned with investment or working conditions in a country is advised to ascertain the latest detailed provisions of laws currently in force and to seek assistance of counsel experienced in local jurisprudence.

Historically, many countries in East Asia and the Pacific shared a common origin in British common law concepts. Mineral rights passed with the surface estate and consequently some deposits remained in private lands. Today, however, this system has been largely replaced by a leasing and concession system whereby minerals are owned by the State which determines, upon application from private individuals, the nature and extent of their usage. This separation of mineral rights from surface rights also characterizes most other countries in East Asia and the Pacific, including those countries which were formerly under French influence; however, some countries allow the surface owner to retain rights to quarries.

The great bulk of mineral laws in the areas covered by this volume were enacted within the last two decades. Most of those enacted earlier have undergone substantial change in recent years. Reference has been made to offshore petroleum laws where they exist, but with recent discoveries of petroleum on the continental shelf of several countries new laws can be expected regulating the exploration and exploitation of these resources.

Throughout this volume equivalent currency values are based on the International Monetary Fund Schedule of Par Values, 50th issue, Washington, D.C., October 15, 1970.

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The author is greatly indebted for the invaluable assistance and comments received from a large number of Government officials, scholars, representatives of private industry, and members of the Bar engaged in mineral law problems of the various jurisdictions studied. In particular the author wishes to acknowledge the following:

Bureau of Mines, Department of the Interior, Washington, D.C.

Department of State, Washington, D.C.

Bureau of International Commerce, Department of Commerce,
Washington, D.C.

Kaiser Aluminum Chemical Corporation, Oakland, California.

Department of External Territories, Canberra, A.C.T., Australia.

Department of the Interior, Commonwealth of Australia, Canberra, Australia.

Department of National Development, Bureau of Mineral Resources, Geology and Physics, Australia.

Executive Director, Australian Mining Industry Council, Canberra, Australia.

Minister for National Development, Canberra, Australia.

Under Secretary, Department of Mines, New South Wales.

Under Secretary, Department of Mines, Queensland.

Director of Mines, Department of Mines, South Australia.

Director of Mines, Department of Mines, Tasmania.

Secretary for Mines, Department of Mines, Victoria, Australia.

Chairman, Mining Advisory Committee, Mines Department, Western Australia.

Under Secretary for Mines, Department of Mines, Western Australia.

Director of Mines and Water Resources, Northern Territory, Australia.

Director, Department of Geological Surveys, Honiara, British Solomon Islands.

State Secretary, Government of Brunei.

Commissioner, Ministry of Mines, Rangoon, Burma.

Director General, Mineral Development Corporation, Rangoon, Burma.

Director, Mines Bureau, Phnom Penh, Cambodia.

Solicitor-General, Crown Land Offices, Suva, Fiji.

Assistant Resident Commissioner, Tarawa, Gilbert and Ellice Islands.

Commissioner of Mines, Mines Department, Hong Kong.

Minister of Mines, Department of Mines, Djakarta, Indonesia.

Director of Mining Policy, Ministry of International Trade and Industry, Tokyo, Japan.

Director, Bureau of Mines, Republic of Korea.

Director, Service Central des Mines, Laos.

Chief Inspector of Mines, Kuala Lumpur, Malaysia.

State Attorney-General, Jesselton, Sabah, Malaysia.

State Attorney-General, Sarawak, Malaysia.

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Under Secretary, Mines Department, New Zealand.

Director of Mines, Republic of the Philippines.

Commissioner of Lands, Singapore.

Director, Department of Mines, Ministry of Economic Affairs, Taipei,
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Director-General, Department of Mineral Resources, Ministry of
National Development, Bangkok, Thailand.

Director-General, Bureau of Mines, Saigon, South Vietnam.

Attorney-General, Department of Lands, Ministry of Lands and Surveys,
Apia, Western Samoa.

AUSTRALIA

Commonwealth

The Commonwealth of Australia is a self-governing federation of six States and two mainland Territories, Northern Territory and Australian Capital Territory,¹ within the British Commonwealth of Nations. Almost all mineral rights are vested in the Crown, with the individual State governments as the Crown authority with respect to control of mineral ownership within its boundaries. The Commonwealth Government is the authority in the Territories; however, it has no control over mineral production within the States except in New South Wales where it controls coal production. The statutes of the individual States will be discussed separately, but there are certain characteristics which apply generally throughout the Commonwealth.²

From the settlement of Australia throughout most of the nineteenth century, grants of land in fee simple conveyed the ownership of all minerals with the exception of silver and gold. Only the owners of land had the power to grant the right to exploit minerals on their respective properties. However, beginning in 1884 the ownership of the minerals and the right to dispose of them was reserved to the Crown.

While the ownership of most minerals may vary where pre-1884 land titles are concerned, ownership of gold and silver is definite. With the exception of one strip in Western Australia where all minerals were alienated from the Crown, all gold and silver in the Commonwealth is owned by the Crown in the right of the State or Commonwealth.

Mining

A Miner's Right is one type of mining right in Australia. It confers a possessory right over land which is claimed in accordance with the regulations and was introduced to meet the circumstances prevailing in the early days of mining in Australia. It is one means of acquiring mining rights. Exploration licenses and mining leases are usually more important means for holding land for exploration and exploitation.

The States are generally divided into mining districts, and Wardens are the government officials charged with administration of the mining acts at the district level. Warden's Courts are established within the districts to hear disputes arising under the acts.

¹Due to the small size and lack of mineral production of the Australian Capital Territory, this territory is not included in this summary. The controlling law is the Mining Ordinance 1936-1966. For information write A.C.T. Services Branch, Department of the Interior, Canberra, A.C.T., 2601, Australia.

²For additional general information concerning mining activity in the Commonwealth of Australia write Department of National Development, Box 378, P.O. Canberra, A.C.T., 2601, Australia.

Land generally falls into two broad categories under State mining acts-- Crown lands and private lands. A Miner's Right is usually sufficient for entering and occupying Crown lands for mining purposes. However, prior to entering private land, it is necessary to secure authority from the Warden of the particular area. He may establish conditions and require compensation to protect the interests of the property owner.

Other types of mining rights vary from State to State and are discussed in the section on the individual State. Generally, these are of two principal types, already mentioned: Exploration licenses and mining leases. Leases are often used in large-scale operations. Also, some States provide for special leases for very extensive areas or where more difficult and costly exploration would warrant special lease conditions. Special leases are usually discretionary with the Governor or the Minister.

The Commonwealth Government encourages mineral production by certain tax advantages and subsidies. Prospecting expenses may be deducted in the year incurred with certain carry-forward provisions. Expenditures on plant and development of mining property may be deducted in the year expended or may be depreciated over the life of the mine. Subsidies paid under the Gold Mining Industry Assistance Act 1954-66 are intended primarily to sustain mines upon which communities in isolated areas depend for their existence.

Petroleum

Onshore

As with other minerals, ownership of petroleum is in the Crown. Full control of all onshore petroleum development is vested in the State governments and each has its own legislation, which is discussed in the paragraphs that follow. Generally, any company, syndicate, or individual proposing to engage in petroleum exploration must first satisfy the State government concerned that he has the financial resources to carry out the exploration.

In no State is a landowner entitled to any portion of the profits from the discovery of petroleum or natural gas on his property, and he may not refuse access to his property to any person with a right authorizing exploration or production. Certain lands, generally consisting of small homesites, businesses, and other sites in heavily populated areas, are exempted from exploration and development. Prior to entry on private land, agreement must be reached with the landowner as to compensation, rental, and other conditions of entry.

Until recently State and Territorial legislation provided for a three-title system for petroleum development. A permit authorized basic exploration, a license authorized exploratory drilling in a smaller area, and a lease or license authorized exploitation. However, some States have now adopted a two-title system, eliminating the second stage and allowing more intensive exploration in the permit stage (see Western Australia).

Offshore

An agreement among the Commonwealth Government and the governments of the six States resulted in the drafting of uniform legislation regulating petroleum development beneath the territorial sea and of the continental shelf. The Petroleum (Submerged Lands) Act 1967 has been uniformly adopted by the Commonwealth and all the States. The act is an attempt to avoid the disputes which have arisen between the State and Federal governments in other Federal systems over the offshore areas designated in the 1958 Geneva Convention on the Continental Shelf. It is currently in force in all Australia and the Territory of Papua and New Guinea and need not be discussed with the legislation of the separate States.

The act establishes a single offshore area from the low watermark outward to the limits defined by the Geneva Convention. A schedule appended to the act establishes the offshore areas which are to be within the jurisdiction of each adjacent State. The act also places administration of the designated offshore area in the hands of the adjacent State. At the same time, the basic agreement between the Commonwealth and the States insures that Commonwealth interests will be maintained. For example, joint Commonwealth-State approval is required in the granting of titles in order that the Commonwealth may properly perform its functions in the areas of external affairs, navigation, defense, and customs. In addition, provision is made for sharing the standard royalty of 10 percent at wellhead on the basis of 6 percent to the adjacent State and 4 percent to the Commonwealth.

Administration of the act is in the Minister of Mines of the respective State, the Minister for Territories for the Territory of Papua and New Guinea, and in the Minister for the Interior for the Northern Territory. In order to facilitate administration in the granting of titles, each State's area is to be divided by a system of graticular blocks. Each block is measured by 5 minutes arc of latitude by 5 minutes arc of longitude. This results in a block of about 30 square miles in Northern Australia reducing to the south until, south of Tasmania, the blocks are about 23 square miles.

A two-title system has been adopted for all offshore development--an exploration permit authorizing all phases of exploration including exploratory drilling operations and a production license authorizing exploitation.

Exploration Permit.--The maximum area of a permit is 400 blocks, or about 10,000 square miles. The minimum area is 16 blocks, or about 400 square miles. There is no statutory limitation on the number of permits which may be granted to any one company. Permits are granted for 6-year periods with a right of renewal for additional 6-year periods. However, the right of renewal extends to only half the area of the first permit. This surrender arrangement is designed to encourage companies to concentrate their exploration in the most promising area. An annual fee is assessed at A\$100 (1 Australian \$ = US\$1.12) per permit, or A\$5 per block, whichever is greater.³

³Petroleum (Submerged Lands)(Exploration Permit Fees) Act 1967, Commonwealth of Australia.

Production License.--If petroleum is discovered, the holder of an exploration permit has a preferential right to obtain a production license. After discovering petroleum, the permittee may designate and obtain official approval of a group of nine blocks or less as a "location." Within that location, the permittee may establish production rights on lesser number of blocks. For example, if the permittee designates a nine-block location, he may take out a primary production license on up to five blocks and pay a standard royalty of 10 percent of value at wellhead of all production.⁴ The remaining blocks revert to the Crown. As an alternative to reversion, the permittee may obtain a secondary license over one or more of the remaining blocks. The royalty on production under a secondary license is higher, varying between 11 percent and 12-1/2 percent. Licenses are valid for 21 years with a right of renewal if all conditions of the license have been met.

There is an annual fee for each license of A\$3,000 per block.⁵ The licensee must carry out approved work of at least A\$100,000 per block annually. This expenditure is required until petroleum is recovered. After recovery of petroleum the sum is reduced by the value of the petroleum produced.

The Commonwealth Government allows certain tax advantages to encourage petroleum production. A company is permitted to deduct the capital costs of both prospecting and production as soon as it begins to derive net income from the sale of petroleum. Capital cost is liberally defined for this purpose. Thus, there is no income tax on profits from the sale of petroleum until the capital expenditure has been fully recovered. The Commonwealth Government also encourages petroleum exploration by granting subsidies to operators for approved drilling and geophysical exploration operations in specified areas. The governing legislation is the Petroleum Search Subsidy Act 1959-1969.

New South Wales

Controlling Statutes

Mining in Australia's most populous State is regulated by the Mining Act, 1906, supplemented by the Coal Mines Regulation Act, 1912, and the Mines Inspection Act, 1901, all as amended. Petroleum Development is controlled by the Petroleum Act, 1955, and the Petroleum (Submerged Lands) Act 1967. (For offshore legislation see Commonwealth section as well as Petroleum under this section.)

Administration

The Department of Mines under the Minister of Mines is responsible for administration of the acts.⁶ The Governor has the power to exempt any lands from licensing, leasing, or from occupation under Miner's Right. Warden's Courts have original jurisdiction of disputes arising under both the Mining Act and the Petroleum Act.

⁴Petroleum (Submerged Lands) (Royalty) Act 1967, Commonwealth of Australia.

⁵Petroleum (Submerged Lands) (Production License Fees) Act 1967, Commonwealth of Australia.

⁶For information write the Under Secretary, Department of Mines, State Office Block, Phillip Street, Sydney, N.S.W. 2000, Australia.

Mining

The Mining Act specifically applies to a broad range of minerals which may be supplemented by proclamation of the Governor. Prospecting may be done under a Miner's Right, an Authority to Prospect on Crown Lands, an Authority to Enter Private Lands, or an Exploration License. Mining may take place under a Miner's Right or a Mining Lease.

Miner's Right

Any person may apply for a Miner's Right which entitles him to prospect and mine on Crown land open to occupation under Miner's Right. The term of a Miner's Right may vary from 6 months to 20 years, at the option of the applicant. A Miner's Right is renewable. On Crown land the holder may stake out an exclusive prospecting area of up to 600 by 600 feet for alluvial gold and up to 40 acres for other minerals except opal or platinum. The latter are restricted to an area of 400 by 400 feet. In all cases, the holder must mark out the boundaries of his prospecting area. The area may be held until minerals are discovered or until it is abandoned, but it must be worked continually by at least one prospector.

The holder of a Miner's Right may mark off a claim giving him the exclusive right to mine the area claimed. Where operations under a prospecting area reveal payable gold or mineral, the discovery must be reported and a reward claim marked out from the previously held prospecting area. The size and labor conditions vary with the nature of the claim. Of the more important, an alluvial gold claim is limited to 300 by 300 feet and must be worked by at least four miners. An ordinary mineral claim may extend up to 4 acres and must be worked by at least one man. Claims must be registered and the registration renewed annually. Failure to do so terminates the claim. If the claim is continually worked, it may be held indefinitely.

Authority to Prospect on Crown Lands

A complex of provisions within the Mining Act authorizes prospecting on more extensive areas. These titles are generally exclusive and provide secure tenure. The first, the authority to prospect on Crown land, places great discretionary power in the Minister. He may grant such authority to any holder of a Miner's Right and has full discretion to determine the area and the labor conditions. The maximum initial term is 12 months and successive renewals for a similar term may be granted.

Authority to Enter Private Lands

The Wardens of the districts have power to grant an authority to enter for large-scale prospecting on private lands. The maximum area is 1,000 acres and the authority is valid for up to 12 months with extensions possible not to exceed 12 months. Rent and compensation to the landowner are payable and these are assessed by the Warden prior to the grant of the authority. The Warden also fixes the labor and other conditions.

Exploration License

Any person may apply for an exploration license; however, stringent provisions in the Mining Act suggest that only large-scale exploration concerns will receive a license. It may be granted for areas up to 1,000 square miles and will be valid for 12 months with successive extensions of not more than 6 months on each occasion at the discretion of the Minister. Lands which are the subject of an exploration license are exempt from occupation under a Miner's Right or a lease. However, there may be more than one exploration license over the same land to search for different minerals. There is an annual fee of A\$0.50 per square mile.

Mining Leases

Minerals may be mined under an ordinary mining lease or a Special Mining Lease. Ordinary leases are limited to 80 acres with the following exceptions: Opal, one-half acre; gold, 25 acres; coal and shale, 640 acres. There are no area limitations on Special Mining Leases. All leases extend for a period of 20 years and may be renewed at the discretion of the Governor. A minimum labor force is required depending on the size and type of lease. All leases must be marked out, applied for, and registered.

The annual rental for ordinary mining leases is A\$0.50 per acre on Crown lands and A\$4 per acre for the surface area required on private lands. The rentals for other leases are fixed by the Governor on the recommendation of the Minister. Royalties are paid on a formula in the mining regulations.

Petroleum

In New South Wales the search for petroleum is governed onshore by the Petroleum Act 1955 and offshore by the Petroleum (Submerged Lands) Act 1967. The former Act provides for a two-title system--Petroleum Exploration Licenses and Petroleum Mining Leases and also for the Governor to exempt lands from licensing and leasing by publication in the Gazette. The latter Act provides for three titles--Exploration Permits, Production Licenses, and Pipeline Licenses. The area offshore the coastline of the State, designated "the adjacent area," has been divided into graticular blocks for the purpose of applications for Exploration Permits and Production Licenses.

Onshore

Petroleum Exploration License.--The Minister has authority to grant an exploration license for all petroleum prospecting on areas of 25 square miles to 5,000 square miles. The initial term of the license is 2 years and it may be renewed. A work program must be approved by the Minister. Exploratory drilling is permitted, and there must be continual exploration. There is an annual fee of A\$0.20 per square mile. The Minister has complete discretion in overseeing the operation, and if the circumstances dictate, he may order the licensee to apply for a lease.

Petroleum Mining Lease.--A petroleum mining lease is granted at the discretion of the Governor for periods up to 20 years. The maximum area of a lease is 25 square miles. A rig must be installed and drilling commenced within 6 months by a method approved by the Minister. There must be continual drilling. The Governor has authority to cancel any lease if its conditions have not been met. The annual rental is A\$20 per square mile. A royalty of 10 percent of the gross value of all production at wellhead must be paid to the Minister. However, the amount to be paid as royalty in any year may be reduced by the amount paid as rental.

Offshore

Exploration Permit.--The Minister may grant an Exploration Permit for an area of not more than 400 blocks nor less than 16. Under certain circumstances, the Minister may grant a lesser number of blocks. A deposit of A\$1,000 must be lodged with the application, together with a proposed work program and documentary evidence of finance and technical advisers. The initial term of a permit is 6 years with provision for successive renewals of 5 years subject to relinquishment of half the area held on each occasion. The annual fee is A\$100, or A\$5 per block, whichever amount is higher. The holder is authorized to explore for petroleum and to carry on such operations necessary for that purpose in the permit area. A security deposit of A\$5,000 is imposed.

Production License.--The Minister may grant a Production License to the holder of an Exploration Permit who has made a discovery of petroleum or natural gas. Where petroleum is discovered, the blocks surrounding a discovery block, up to a maximum of nine, may be designated as a "location" and the permit holder may apply for a license for a proportion of these blocks. The balance is thrown open to application.

In applying for license the holder of the permit furnishes a proposed program of work regarding each block and pays a fee of A\$200. He may also lodge a further application regarding the blocks not included in his primary application and in this case he is liable for paying a royalty for both licenses of not less than 11 percent and not more than 12-1/2 percent of the value at the wellhead of the petroleum.

Where blocks within a "location" become available for fresh application they are advertised in the Government Gazette. The applicants in this case are required to state the amount they are prepared to pay for the grant of a license and the rate of royalty they would be prepared to pay in excess of 10 percent of the value of the petroleum. In addition, a lodgement fee of A\$1,000 and a deposit of 10 percent of the amount to be paid for the license are required.

When granted, security in the sum of A\$50,000 for each license and an annual license fee of A\$3,000 per block are payable. Where the royalty rate has not already been determined it is prescribed at 10 percent. The term of a license may be 21 years with provision for further renewals of 21 years. Applications for renewal must be accompanied by a proposed work program and a fee of A\$200.

During the first year of the license, the holder is required to expend on exploration or operations for the recovery of petroleum a sum at the rate of A\$100,000 times the number of blocks in the license. In subsequent years the amount is calculated in relation to the value of the petroleum recovered.

Pipelines License.--An application to construct and/or operate a pipeline within the "adjacent area" only (pipelines on land are dealt with under the Pipelines Act 1967) is made to the Minister and is accompanied by details of the proposed design, construction and route of the pipeline, and also a fee of A\$1,000. A license may be granted for a term of 21 years and may be renewed for such term as the Minister deems desirable having regard to the license areas from which the petroleum is conveyed. Security required on this license is A\$20,000 and the annual license fee is A\$20 for each mile or portion thereof.

Queensland

Controlling Statutes

Mining in Queensland is regulated by the Mining Act, 1968, the Mining on Private Lands Act, 1909-1963, the Mines Regulation Acts, 1964-1968, and the Coal Mining Act, 1925-1967. (See explanatory note at end of this section regarding the Mining Act, 1968.) Petroleum development is controlled by the Petroleum Act, 1923-1967. (For offshore legislation see Commonwealth section.)

Administration

The Department of Mines under the Minister of Mines is charged with administration of the acts.⁷ The Governor has power to declare any land in the State a mining district and may declare any Crown land within such district to be a mining field. Warden's Courts are the courts of record with jurisdiction to hear disputes arising under the acts. Most decisions may be appealed to the regular courts or to the Minister. The enforcement of safety regulations is the duty of the Inspector of Mines.

Mining

The Mining Act applies to all minerals except petroleum and coal and classifies minerals broadly into gold and other minerals. Prospecting for minerals other than petroleum and coal may be done under a Miner's Right or an Authority to Prospect. Mining may be done under a Miner's Right or a lease.

Miner's Right

Any person may obtain a Miner's Right which entitles him to take up and occupy vacant Crown land for prospecting or mining. It may be for any period being not less than 1 year nor more than 10 years and is at the rate of A\$1.50 per annum. The holder of same may take up and hold any of the following:

⁷For information write the Under Secretary, Department of Mines, 2 Edward Street, Brisbane, Qld. 4000, Australia.

Prospecting area.....	Outside mining field--320 acres; within mining field--80, 40, 20 acres, depending on distance from nearest mine.
Reef claim.....	200 x 350 feet.
Alluvial claim.....	300 x 300 feet.
Precious or semiprecious stones claim.....	100 x 100 feet.

At least one man must work each area and the area may be held as long as it is worked, unless exemption is obtained from the Warden.

Authority to Prospect

An authority to prospect may be obtained by application to the Minister when the applicant intends to prospect an extensive area of land using large-scale prospecting methods. An authority is valid for all minerals except petroleum and coal. The holder may enter any Crown lands stipulated in the authority. Special permission must be obtained to enter private lands, and arrangements must be made with the landowner. The authority holder must prospect his area continuously on an appropriate scale, but otherwise the area, labor requirements, duration, and all other conditions of the authority are established by the Minister. Any discoveries must be reported to the nearest Warden within 14 days. The holder of an authority has priority in obtaining a lease over any land encompassed by his authority.

Mining Lease

A mining lease in Queensland entitles the lessee to prospect and mine a specified area. There are two principal types of lease: The Gold Mining Lease and the Mineral Lease. The Warden's Court in each district is charged with hearing each application for a lease. The Court in turn makes recommendations to the Minister who rejects it or recommends to the Governor that it be granted. A mineral lease may not extend beyond 320 acres. All leases carry a term of 21 years with a right of renewal. Annual rental for a mineral lease is A\$1 per acre. It appears that a lease is exclusive. The lease area must be worked by at least one man for every 10 acres. With the Minister's approval, there may be an expenditure of A\$600 per acre in lieu of the labor requirements.

In addition, Special Mining Leases may be granted by the Governor upon recommendation of the Minister where it appears that mining operations would be difficult and costly. The area may exceed that of a regular mineral lease.

In order to take any lease on private land, a permit to enter must be obtained from the Warden of the district and an agreement must be made with the owner of the land.

Royalties on minerals are paid by one of two methods. In the case of base metals such as gold, copper, and silver, the royalty is payable as a percentage of the profits. On other minerals the royalty is paid at a fixed rate per ton of mineral extracted. Rates for each mineral are established in the regulations with the minimum not being less than A\$0.03 per ton.

Petroleum

For purposes of the Petroleum Act, 1923-1967,⁸ the State of Queensland is divided into three parts by the twentieth and twenty-fourth parallels of latitude. Persons holding more than five leases or permits in any one division may not hold more than five leases in any other division. For this purpose, leases held by related or subsidiary companies are attributed to the primary company.

Queensland has adopted a three-title system: Authorities to Prospect, Prospecting Petroleum Permits, and Petroleum Leases.

Authority to Prospect for Petroleum

An authority to prospect for petroleum is granted in the same manner as that discussed previously for other minerals. Generally, the conditions are liberal but a large expenditure is required. Usually the principal requirement is that the area be continuously prospected. The holder may decide where he wishes to prospect within the boundaries of his authority.

Prospecting Petroleum Permit

A second prospecting title, the Prospecting Petroleum Permit, is available for areas up to 200 square miles. It is good for 2 years and the permittee must begin actual exploration within 4 months of the date of issue. In practice, the Prospecting Petroleum Permit is rarely used, and successful prospectors proceed directly to the lease stage, resulting in a de facto two-title system.

Petroleum Lease

A petroleum lease confers on the lessee the exclusive right to drill for, remove, and dispose of all petroleum within the lease area. However, the Minister may direct that no petroleum products be disposed of for use outside Australia. A lease covers a maximum of 100 square miles, and each lease carries a term of 21 years with a preferential right of renewal. Drilling may not be done within 200 feet of the boundaries of the lease if there is an adjacent lease or permit.

Prior to commencement of production, a minimum annual expenditure of A\$4,000 per square mile is required. After production commences the minimum annual expenditure is reduced by the value of production. In addition, rent must be paid at A\$20 per square mile for the duration of the lease. Royalty is computed at 10 percent of the value of production at the wellhead.⁹

⁸The Government advises that this act is under revision with consideration being given to deleting provisions relating to division of the State, limitations on the numbers of permits, and Prospecting Petroleum permits.

⁹Although the Mining Act, 1968, received Royal assent on December 23, 1968, it will not come into force until the regulations, now in the drafting process, have been approved. This is expected to occur early in 1970. This summary was prepared utilizing the Mining Act, 1898, with changes made by the Mining Act, 1968, as specified in the Australian Monthly Digest.

South Australia

Controlling Statutes

Mining in the State of South Australia is regulated by the Mining Act, 1930-1962. The controlling petroleum legislation is the Mining (Petroleum) Act, 1940-1968. (For offshore legislation see Commonwealth section.)

Administration

The acts are administered by the Department of Mines under the Minister of Mines.¹⁰ The Mining Act provides for the payment of subsidies and rewards by the Minister to encourage mining. He also may purchase boring equipment for rental to miners and has the power to direct government mineral exploration. Disputes under the acts are heard in Warden's Courts with appeal to the regular court system. For petroleum matters, a quasi-judicial Petroleum Advisory Committee is appointed by the Governor. Persons who believe they were unfairly prejudiced against by a decision or order of the Minister may object and have a full hearing before the Committee.

Mining

The Mining Act applies to all minerals except petroleum. Prospecting may be done under a Miner's Right, a Search License, or a Special Mining Lease for Prospecting. Mining may be done under a Miner's Right or a mining lease.

Miner's Right

Under the Mining Act a Miner's Right may be obtained upon application by any person over 16 years old or any registered company. It entitles the holder to prospect on Crown lands, to obtain mining tenures, and, with Warden's authorization, to enter and prospect on private lands. A Miner's Right is valid for 1 year and may be renewed annually. The holder may prospect any Crown lands and must report any mineral discoveries to the nearest Warden.

Mining may be pursued by any holder of a Miner's Right who has pegged out a claim. A person who pegs out a claim is the owner of that claim for 1 year. The claim may be renewed annually. A person may hold no more than one claim for each Miner's Right he holds, but he may hold any number of Miner's Rights. The size limit of a mining claim depends on the type of mineral being mined. For most minerals the maximum area is 40 acres; for precious stones it is 150 by 150 feet and for an ordinary gold claim it is 5 acres. Any claim must be worked by at least one man for each 20 acres.

¹⁰For information write the Director of Mines, Department of Mines, Box 38, Rundle Street P.O., Adelaide, S.A. 5001, Australia.

Search License

A search license may be granted for 1 year for an area not exceeding 5 square miles. There is nothing in the law or regulation to indicate that a search license is exclusive. The holder may prospect for precious stones, mineral phosphates, and rare minerals and earths, which have not previously proved payable in any part of the State. Private lands and lands held under a Miner's Right may not be prospected by the holder of a search license. The licensee must continuously employ one man for each 640 acres licensed.

Special Mining Lease for Prospecting

A special mining lease for prospecting may be granted by the Governor for more extensive exploration. All terms and conditions are determined at the Governor's discretion. Any discoveries in payable quantities must be reported to the Minister.

Mining Lease

Mining leases are of four types: (1) a gold lease with a maximum area of 40 acres; (2) a mineral lease with a maximum area of 40 acres; (3) a coal lease with a maximum area of 640 acres; and (4) a miscellaneous lease with a maximum area of 640 acres. In addition, uranium and thorium leases and other special leases may be granted at the Governor's discretion. Ownership of uranium and thorium is retained by the government. Leases are granted for 21-year terms except special leases which are limited to 2-year terms. The annual rental on gold and mineral leases is A\$0.10 per acre. Once the lessee has pegged his claim it cannot be leased to a second party.

The royalty payable on all mining products except those derived from a special lease is 2-1/2 percent of the gross amount realized from the sale of the minerals.

Petroleum

The Petroleum Act establishes a two-title system--Petroleum Exploration Licenses and Petroleum Production Licenses. Both titles are exclusive.

Petroleum Exploration License

A petroleum exploration license may comprise an area not exceeding 10,000 square miles and is valid for 5 years. During each of the first 2 years the licensee must expend a sum of A\$20 per year per square mile, and during subsequent years he must expend A\$30 per square mile annually. There is a carry-forward provision if an excess is spent in a prior year. A petroleum exploration license is renewable; however, an increasing scale of exploration expenditures is established for renewed licenses. Rent during the initial term of the license is A\$0.10 per square mile. All discoveries must be reported to the Minister.

Petroleum Production License

If a person holds an Exploration License encompassing an area where petroleum has been discovered, he is entitled to the grant of a petroleum production license. Discovery is required before a license is available. A production license is good for 21 years and confers on the licensee the exclusive right to conduct operations in the license area. There is an annual fee of A\$0.10 per acre. The Minister has power to require the licensee to continue operations if in his opinion petroleum of economic quality and quantity exists in the license area.

A royalty of 10 percent of the value at wellhead of all petroleum produced must be paid to the Minister.

Tasmania

Controlling Statutes

All mining and petroleum prospecting and exploitation in the island State of Tasmania is controlled by the Mining Act, 1919-1966. The act is specifically applied to a broad range of minerals including coal and oil, with power in the Governor to bring gems and precious stones under the act. The Governor also has power to exempt specific lands and minerals from production. (For offshore legislation see Commonwealth section.)

Administration

The Department of Mines under the Minister of Mines is responsible for administration of the act.¹¹ Broad power to adjudicate disputes under the act is placed in the Warden's Courts with appeal to the Supreme Court.

Mining and Petroleum

The Mining Act makes no distinction in the rights authorizing petroleum exploration and exploration for other minerals. However, special leases are provided for mineral exploitation and petroleum exploitation. The Miner's Right in Tasmania is not the broad authority it usually is in other States. A person must be at least 18 years of age to obtain any right.

Prospecting Rights

Under the Mining Act there are six classifications of rights authorizing prospecting: (1) A prospector's license covering up to 50 acres of Crown land and valid for 1 year may be obtained to establish and work a prospecting claim; (2) a special prospector's license may be granted for areas of Crown land up to 25 square miles if the applicant can satisfy the Minister that he is able to prospect the area effectively (all conditions of this right are established by the Minister); (3) an exploration license for large-scale prospecting and

¹¹For information write the Director of Mines, Box 124B, G.P.O., Hobart, Tasmania 7001, Australia.

mineral search on Crown and private lands may be issued by the Minister for specified minerals (all conditions of an exploration license are set by the Minister); (4) permits to enter and search on private lands are granted by the Director; (5) the owner and occupier of private land may consent to prospecting on such land; or (6) he may prospect on it himself.

Exploitation Rights

Rights authorizing development and production are of two principal types--Miner's Right claims and leases.

Any person over 18 years of age may apply for a Miner's Right entitling him to enter and claim up to one-half an acre of land for mining purposes. No person may hold more than one Miner's Right at a time. However, up to 10 men may mark a consolidated claim on the basis of one-half an acre per man. The claim must be marked out, posted, and registered. Within 48 hours of marking the claim, mining operations must be commenced and continued by one man per half acre. Miner's Rights terminate annually and must be renewed.

Mineral leases and oil leases are issued for periods of 21 years. Mineral leases are limited to 80 acres at an annual rental of A\$1 per acre. A mineral lease must be worked by one man per 10 acres (10 units of horsepower are counted as the equivalent of employing one man). Any number of adjacent mineral leases may be consolidated into one lease. The size and annual fee for an oil lease are established by the Minister. On an oil lease, an approved drilling unit must be installed and working within 6 months.

While the Mining Act authorizes regulations establishing royalty payments for production from mineral leases, none have been promulgated. The royalty payable on production from oil leases is 10 percent of the value at wellhead after production of the first 50,000 gallons.

The mining of the Savage River iron ore deposits is governed by special legislation under the Savage River (Iron Ore) Agreement Act, 1965. A lease has been granted to include mining, transport, manufacturing, and port loading facilities for a term of 30 years at an annual rental of A\$1 per acre. A royalty of A\$0.15 per ton of iron ore pellets exported is also payable.

Victoria

Controlling Statutes

Mining in Victoria is regulated by the Mines Act, 1958, and the Coal Mines Act, 1958. The governing petroleum legislation is the Petroleum Act, 1958, supplemented by the Mines Act, 1958.¹² (For offshore legislation see Commonwealth section.)

¹²Among the more important supplementary acts are the Extractive Industries Act, 1966, a minor amendment to the Mines Act, and the Pipelines Act 1967.

Administration

The Mines Department under the Minister of Mines administers the Acts.¹³ Disputes concerning rights to land are settled by a Court of Petty Sessions consisting of a stipendiary magistrate sitting alone. Appeal from this Court may be made to the County Court.

Mining

The Mines Act covers a wide range of specified minerals and others may be added by proclamation. Prospecting in Victoria may be done under a Miner's Right, a Search License, or an Exploration License. Mining may be done under a Miner's Right or a lease.

Miner's Right

Any person or incorporated mining company may obtain a Miner's Right which is the basic authority for staking, prospecting, and mining claims on Crown land and certain private land. A Miner's Right has a term of up to 15 years and entitles the holder to stake out up to 10 prospecting and mining claims. A mineral mining claim, good for all minerals except gold, may not exceed 3 acres and must be continuously worked by at least one man. Gold mining claims are somewhat smaller, the size and labor conditions varying with the nature of the claim. All claims must be worked continuously. Gold mining and mineral claims, with the exception of quartz prospecting areas and mineral prospecting claims, may be held indefinitely, provided the holder retains a current Miner's Right. The two exceptions are limited to a term of 12 months.

Search License

For prospecting larger areas of Crown land for any mineral except gold, a mineral search license may be obtained for a 12-month period. For radioactive materials the maximum area under a license is 6,400 acres; for iron the limit is 100 acres; and other mineral licenses are limited to 50 acres. The Minister may grant licenses for larger areas at his discretion. The annual fee is A\$5 per square mile. There are no labor requirements set forth in the Act.

In addition, two types of special search licenses are provided. A special license may be granted to prospect for uranium and thorium. And a license is available also to prospect for any mineral upon lands known as the Mallee Country. There are also special provisions for entering private lands.

Exploration License

Large exploration concerns or individuals may apply for an exploration license to cover an area not larger than 1,000 square miles. The license entitles the holder to search for tin, phosphate, lead, copper, gold, antimony, molybdenum, nickel, silver, titanium, zinc, and zirconium. It is valid for 2 years and may be extended for 1-year periods. A scale of annual fees is established in the Act. The licensee has to comply with expenditure covenants.

¹³For information write the Secretary for Mines, 15th Floor, Princes Gate Building, 171 Flinders Street, Melbourne, Vic. 3000, Australia.

Mining Leases

Victoria provides for gold mining leases and mineral leases with eligibility open to any person or corporate body. Both Crown land and private land may be covered by a lease. The maximum area of a mineral lease is 640 acres, and while no maximum area is specified for a gold mining lease the Minister has authority to establish limits. Leases are granted for 15 years and the lessee is entitled to renewal for periods not exceeding 15 years. Labor requirements and the amount to be spent in developing a lease are to be determined by the Minister. Chinese labor is expressly excluded.

Annual rental for a mineral lease is not less than A\$0.10 per acre nor more than A\$10 per acre and for an ordinary gold mining lease A\$0.25 per acre. Royalties are payable on mineral production from leases in accordance with an established table of royalties.

Petroleum

Petroleum prospecting in Victoria under the Petroleum Act, 1958, and the Regulations may be carried out under a Petroleum Prospecting License or a Petroleum Exploration Permit. Production is accomplished under a Petroleum Lease. The Governor has power to declare lands to be closed to exploration and development.

Petroleum Prospecting License

A petroleum prospecting license is exclusive for 4 years and may be renewed for 1-year periods. The area covered must not exceed 200 square miles per license. A work program must be approved by the Minister, and he has absolute discretion to determine if operations are being carried forward satisfactorily. There is an annual license fee of A\$0.50 per square mile.

Petroleum Exploration Permit

The petroleum exploration permit is directed toward more extensive exploration, covering an area of from 1,000 to 5,000 square miles. The application must contain a plan of the exploration to be accomplished. The term is 2 years and there is an annual rental of A\$0.20 per square mile. Surface geological work must be commenced within 3 months.

Petroleum Lease

Any licensee of land to be developed or any person holding property under lease adjacent to property he desires to develop may apply for a lease covering that property. The Governor has absolute discretion in granting leases. The lease conveys the exclusive right to drill for and remove petroleum for 15 years. Each lease may not exceed 100 square miles. The lease agreement with the Minister must provide that within 6 months drilling will be commenced and that it will be continued with reasonable diligence. There is an annual rental of A\$20 per square mile.

No royalty is payable until the average daily production from all producing wells upon the lease exceeds an average of 100 gallons per producing well. Thereafter, royalty is to be paid at 10 percent of the gross value of petroleum produced.

Western Australia

Controlling Statutes

Mining in Australia's largest State is regulated by the Mining Act, 1904-1965.¹⁴ Petroleum development is governed by the Petroleum Act, 1967. (For offshore legislation see Commonwealth section.)

Administration

The Mines Department under the Minister of Mines is charged with administration of the acts.¹⁵ Warden's Courts are established at all principal mining centers to hear disputes arising under the Mining Act. These are courts of record whose final decision may be appealed to the Supreme Court. Disputes under the Petroleum Act are heard by the nearest Local Court. There is a right of appeal to the Supreme Court and the Local Court may reserve any question of law for the Supreme Court. The Governor by proclamation may constitute certain areas as mineral fields or gold fields. He also has authority to appoint Wardens and to exempt lands from mineral or petroleum production.

Mining

All minerals are subject to the Mining Act, except those minerals located on private land that was granted prior to January 1, 1899. Prospecting may be carried out under a Miner's Right or a Temporary Reserve. Mining may be done under a Mining Claim or a Mining Lease.

Miner's Right

Any person or company desiring to prospect or mine on Crown land or private land must first obtain a Miner's Right. For entry on private land this must be supplemented by a Warden's permit and an agreement must be reached for payment of compensation. A number of Miner's Rights may be issued to one person, and a consolidated Miner's Right, in lieu of several Miner's Rights, may be issued to a corporation or cooperative body of persons. No person of African or Asian race may obtain a Miner's Right without the special authority of the Minister.

¹⁴Supplementary legislation includes the Mines Regulation Act; the Mining on Private Property Act, 1898; the Sluicing and Dredging for Gold Act, 1899; the Mining Tenements (Wartime Expenditures) Act, 1942.

¹⁵For information write the Under Secretary for Mines, Mines Department, Central Government Buildings, St. George's Terrace, Perth, W.A. 6000, Australia.

A person desiring to prospect under a Miner's Right may mark off and apply for a prospecting area of 48 acres outside the area of a gold or mineral field or 24 acres within a gold or mineral field. The prospecting area is good for 1 year and must be worked by one man per 12 acres within a gold or mineral field and one man per 24 acres outside a gold or mineral field. Upon discovery of minerals or gold, a mining claim or a mining lease may be obtained.

Temporary Reserve

For large-scale prospecting of designated minerals as determined by the Minister, the Mining Act provides for a temporary reserve of up to 300 acres for gold and for discretionary areas for other minerals. There is broad discretion in the Minister to determine fees, labor conditions, and other terms.

Mining Claims

For mining of minerals other than gold and coal a mineral claim may be obtained encompassing areas up to 300 acres. Only the holder of a Miner's Right may obtain a claim. After 3 months, the holder must employ three men for every 100 acres. There is no fixed term, but after 12 months the land may become the subject of a prospecting area. Annual rental is A\$0.25. Gold mining claims may be held for smaller areas under substantially the same conditions.

Mining Leases

The Mining Act provides for mineral leases and other ancillary leases, gold mining leases, gold dredging leases, and coal mining leases. A lease may be held by any person who is not an African or Asian alien. Exclusive mining rights are conferred on the lease holder. A gold mining lease may cover a maximum of 24 acres, except on alluvial lands of less desirable quality where the maximum area is 48 acres. Mineral leases may be granted for all other minerals and may cover a maximum of 300 acres. The duration of all leases is 21 years with a right of renewal for a similar term. Gold and mineral leases must be worked by two men for each 6 acres the first year, and thereafter by one man for each 6 acres with a minimum work force of two men. The rental for a gold mining lease is A\$0.50 for the first year and A\$2 per acre for each succeeding year. The annual rental for a mineral lease is A\$0.50 an acre.

The royalty on all minerals other than gold is prescribed by the Governor. There is no provision for royalty payment under a gold mining lease. However, if gold is discovered in ore produced under a mineral lease, and the gold is the most profitable product of the ore, then the royalty is A\$1 per fine ounce. This same royalty must be paid if gold in payable quantities is separately discovered on a mineral lease. In either of these situations the lease holder may avoid the royalty payment by taking up a gold mining lease for any portion of the land under an optional provision in the Mining Act. If gold produced under a mineral lease is not the most profitable product of the ore, the royalty is A\$0.10 per fine ounce.

Petroleum

Western Australia has amended its petroleum legislation to provide for a two-title system of Exploration Permits and Production Licenses. The Minister has power to exempt any lands from exploration and exploitation.

Exploration Permits

The Minister may invite applications for exploration permits by advertising blocks of available land by publication. A block is defined as a graticular section of 5 minutes of longitude by 5 minutes of latitude. In the northern part of the State this results in a graticular block of about 30 square miles reducing to about 25 square miles in the southern part. The Minister has discretion in granting of permits. A single application may be made for up to 200 blocks and must be accompanied by an application fee of A\$1,000. The permit is good for 5 years and entitles the holder to carry on all work necessary for exploration within the permit area. All petroleum discoveries must be reported to the Minister. There is an annual fee of A\$100 per permit or A\$5 per block, whichever is greater.

Production License

A production license entitles the holder to carry out operations for the recovery of petroleum. Any person holding an exploration permit may apply for a license. By a statutory formula the holder of a permit may designate a "location" and apply for a production license which allows exploitation on a portion of the location. (See the discussion in Australia, Commonwealth, Petroleum (Submerged Lands) Act 1967.) Within 2 years of the granting of the primary license, the permittee may apply for a secondary license covering additional blocks within the location. The license term for all licenses is 21 years and may be renewed for additional 21-year periods.

During the first year of the license the licensee is required to carry out a program of approved works, expending a minimum of A\$100,000 per block. The same expenditure must be made in subsequent years until petroleum is discovered. When petroleum is recovered the above sum is reduced by the value of the petroleum produced. Additional work may be required at the discretion of the Minister.

There is an annual fee of A\$3,000 for each block included in the license. Any petroleum recovered under an exploration permit is subject to a royalty of 10 percent of the value at wellhead. Royalties on production under a primary production license are to be determined by the Minister at between 5 and 10 percent of the value at wellhead and under a secondary production license at between 10 and 12-1/2 percent of the value at wellhead. If production from a well becomes uneconomic, the Minister has discretion to reduce the royalty.

Northern Territory

Controlling Statutes

The controlling mining law in the Northern Territory is the Mining Ordinance 1939-1969. Petroleum development is regulated by the Petroleum (Prospecting and Mining) Ordinance 1954-1968. (For offshore legislation see Commonwealth section.)

Administration

The Northern Territory does not have the status of a State within the Commonwealth Federal system but is governed directly by the Commonwealth Government. The Administrator of the Territory under the direction of the Minister for the Interior is responsible for administration of the laws and encouragement of development in the Northern Territory. The Director of Mines has immediate responsibility for administering the mining laws within the Northern Territory.¹⁶ Other officials include a Chief Warden and a Principal Registrar. The Minister has established an Oil Advisory Committee to assist with petroleum matters in onshore areas. Warden's Courts have original jurisdiction under the two Ordinances. Final judgments, with some exceptions, may be appealed to the Supreme Court.

Mining

Prospecting may be pursued under a Miner's Right, a Prospecting Area, or a Prospecting Authority. Mining may be carried out under a Miner's Right, a Mineral Claim, or a Lease.

Miner's Right

Possession of a Miner's Right is required before obtaining any mining tenements except leases. Any person over 16 years of age may obtain a Miner's Right. Marking off or "pegging" and subsequent registration of a tenement are the bases of the Mining Ordinance.

Any holder of a Miner's Right may prospect and mine an ordinary alluvial claim on Crown land. These claims may be pegged by up to 10 men. The maximum area per miner for gold, silver, or platinum is 50 by 50 yards, and for other metallic minerals 100 by 100 yards, for nonmetallic minerals 125 by 100 yards, and for precious stones 50 by 50 yards. They must be worked continuously or are subject to forfeiture.

Prospecting Area

Prospecting areas are designed to enable a prospector to prove the existence of and/or extent of gold and minerals in a particular area before taking up a lease or claim. The maximum prospecting area outside a proclaimed

¹⁶For information write the Director of Mines, Northern Territory Administration, Darwin, N.T. 5790, Australia.

gold field or less than 50 miles from a producing mine is 40 acres. Otherwise it is 20 acres. A prospecting area is valid for 1 year if it is properly worked by one man for each 20 acres outside a gold or mineral field and by one man per 10 acres within such field.

Prospecting Authority

For large-scale prospecting of gold and other minerals a prospecting authority may be granted covering both Crown and private lands. The area, term, and all other conditions are determined by the Administrator of the Territory.

Mineral Claims

Mineral claims for mining of all minerals may be held on areas up to 80 acres. A miner may hold any number of such claims. Each application must be advertised in a local paper and objections may be voiced. Each claim must be worked by at least two men. There is a rental charge of A\$0.25 per acre. The Administrator may order the holder to take out a lease. Two other types of claims, dredging claims and reward claims, are also available.

Leases

Gold mining leases for areas up to 20 acres, mineral leases for a maximum area of 40 acres, and special mineral leases for areas as determined by the Minister up to 25 square miles or more, if authorized by the Governor-General, provide the most secure form of mining tenure. Any person may qualify for a lease. Mineral leases and gold leases have a maximum term of 21 years with a right of renewal for further periods of 21 years, while a special lease may be granted for up to 42 years and for a longer period if authorized by the Governor-General. The initial labor conditions for the gold mining and mineral leases vary, but after the first year each lease must be worked by at least a number of men equal to the acreage of the lease divided by five. Annual rental for gold leases is A\$0.50 per acre for the first year and A\$2 per acre thereafter. On a mineral lease rental is A\$0.50 annually per acre.

A reward lease is also available to discoverers of payable minerals. The area, term, and most conditions of a reward lease are the same as for a gold or mineral lease. The principal benefit of a reward lease is the remission of 5 years rent if the lease is situated 10 miles or more from the nearest mine.

The royalty on all mineral products is payable by the lessee at the rate of 1-1/4 percent of the gross proceeds from the sale of all substances obtained from the lease except where the lease is in an Aboriginal reserve, in which case royalty is payable at twice the usual rate. Certain expenditures for treatment and transportation may be deducted.

Petroleum

The Petroleum (Prospecting and Mining) Ordinance which is limited to onshore areas provides for a simplified two-title system of Exploration Permits and Leases.

Exploration Permits

If the Administrator is satisfied with the financial standing and technical ability of the applicant, he may grant an exploration permit for an area up to 10,000 square miles. Larger areas may be granted with the approval of the Minister. The term is 5 years with extensions available up to a total term not exceeding 15 years. All discoveries must be reported.

Leases

An exclusive 21-year lease may be granted to a permittee who has complied with the conditions of his permit. The maximum area of a lease is 1,000 square miles or one-half the area of the permit, whichever is smaller. The lease may be renewed for 21-year periods. Approved work must be commenced within 6 months and continued to the satisfaction of the Minister. A standard 10 per cent royalty is charged.

BRITISH SOLOMON ISLANDS

The British Solomon Islands is a British protectorate of 10 large islands and four groups of small islands with no commercial mineral production except for some alluvial gold mining and traces of potentially exploitable low-grade nickel, copper, and manganese. Ownership of all minerals including petroleum is vested in the Government. Prospecting and mining are controlled by the Mining Ordinance of 1968 with accompanying regulations, while petroleum operations are regulated by the Petroleum Production Ordinance of 1959. The principal administrative authority is the Geological Survey Department.¹

Under the Mining Ordinance four types of mining rights are available: a prospector's right, a prospecting license, mining permits, and mining leases. Prospecting rights confer nonexclusive rights to prospect for 1 year any minerals except those which may be specifically excluded by the terms of the right.

A prospecting license conveys an exclusive right to prospect for certain minerals in an area not larger than 1,000 acres, although the Director of Geological Survey may add to or vary the list of specified minerals. Before a person may be granted a prospecting license he must be a holder of a prospecting right and shall have submitted an application, fees, and a performance bond. Prospecting licenses are limited to 4 years inclusive of extensions, and holders may not remove any minerals recovered thereunder unless written permission is obtained from the Director. The prospecting license is automatically canceled by the grant of a mining lease or permit.

Mineral exploitation rights are conferred by mining permits and mining leases. A permit is granted to holders of a prospector's right or prospecting license. It lasts for 2 years and may be renewed once for 1 year. Mining leases may only be granted to holders of prospecting rights, prospecting licenses, or permits to mine and have a duration of not less than 5 but not more than 20 years, with one 21-year renewal. Every application for a mining lease shall be made in a prescribed form and shall be accompanied by the prescribed fees, together with a deposit for the first half-year's rent. Although the mining lease is granted for specific minerals, the Director may alter or vary the lease so as to enable the lessee to mine other minerals not so specified.

Gold dealing is controlled by special provisions in the mining law which require that all persons who buy or sell gold shall first obtain a gold-dealer's license from the Director. Exportation of gold is permitted only by a licensed agency. There is a 5 percent ad valorem royalty on gold production. Other royalties are negotiated.

Under the Petroleum Production Ordinance, petroleum and natural gas, excluding coal and shale, may be mined by prospecting licenses and oil-mining leases. Licenses and leases are granted on such terms and conditions as the High Commissioner may determine, and they enable holders to obtain other ancillary rights necessary for petroleum exploitation. Applications for ancillary rights are made to the Chief Secretary to the Western Pacific High Commission.

¹For information write the Director of Geological Surveys, Honiara, British Solomon Islands.

BRUNEI

Brunei is a British-protected sultanate 2,200 square miles in size located on the northern coast of Borneo between the Malaysian States of Sarawak and Sabah and bordered on the north by the South China Sea. Relations with Britain are conducted by a crown-appointed High Commissioner, but the constitutional authority of the State is vested in the Sultan who presides over the Council of Ministers. Brunei has large deposits of commercially exploitable petroleum, which figures prominently in the economy; it also has very small quantities of coal and nonprecious stone.

Controlling Statutes

Under the Land Code of 1909 all uncultivated lands in Brunei are declared to be State-owned. The Council may alienate the surface rights of cultivated land on the condition that the land will remain under cultivation and that rent will be paid. The Land Acquisition Enactment of 1949 prescribes the procedure by which the State may reacquire alienated lands and grant rights thereon to private individuals or companies who propose to carry out the public purpose. Prior to reacquisition, the Council may authorize private individuals to enter alienated land to make surveys. The prospecting and mining of all minerals other than hydrocarbons in Brunei is governed by the Mining Enactment of 1920.

Petroleum mining, both onshore and offshore, is regulated by the Petroleum Mining Enactment of 1963 as amended by the Petroleum Mining (Amendment) Enactment of 1969 which prescribes the procedures and forms to be followed in applications for petroleum mining agreements. Income tax provisions for petroleum are governed by the Income Tax (Petroleum) Enactment of 1963, as amended by the Income Tax (Petroleum) (Amendment) Enactment of 1969. Other legislation covers various Petroleum Production Regulations, State papers determining rents, royalties and pipeline transport of crude or refined oil, and the extension of Brunei's claim over the natural resources of the seabed and subsoil adjacent to its coasts in the Proclamation Over the Continental Shelf (1964).¹

Mining

Prospecting Licenses

A prospecting license may be issued by the Council for any land, including lands alienated for other purposes, not already under a prospecting license or mining lease. Prospecting is defined as operations connected with the search for minerals below 3 feet in depth. An application for a prospecting license must specify the area to be prospected and the minerals sought. If the license is issued, the Council establishes its duration. However, before any license may be issued, the applicant may be required to file a minimum cash security or bond of B\$100 (1 Brunei \$ = US\$0.33).

¹For information write to State Secretary, Government of Brunei.

In accepting a prospecting license, the licensee impliedly covenants: (1) To pay the specified rent and royalties and to conduct operations in an orderly and skillful manner; (2) not to enter occupied land without the consent of the occupier or of the Government and to pay for any damage that he may cause; (3) to indemnify the Government against all claims caused by the granting of the prospecting license; (4) not to transfer any interest under his license without permission of the Government; and (5) to remove all his surface installations upon completing operations. Breach of the obligations in the license may result in its cancellation. The licensee's only appeal is to the High Commissioner, whose opinion is final.

A prospecting license authorizes the holder to conduct prospecting operations and allows him to recover any minerals found and to use such surrounding surface area as is necessary for his operations. The license also gives him a right to a mining lease.

Mining Lease

Subject to statutory restrictions, the Sultan in Council may issue a mining lease. A map or sketch of the desired area must accompany an application for a mining lease. A premium may be charged for the lease but only if the premium was a specific provision of a prior prospecting license.

The Mining Enactment forbids the granting of a mining title to land that has been alienated under the Land Code without the sanction of the Sultan in Council. The Mining Enactment, like the Land Acquisition Enactment, does, however, authorize the Sultan in Council to reacquire alienated land for mining purposes upon compensation of the holder. The Sultan in Council is also required to approve a lease for more than 5 square miles of area.

The lessee is required to commence work within the time specified in his lease and may not suspend mining operations for a period of more than 12 consecutive months. The lessee must also pay specified rents and royalties and observe all other terms and conditions of his lease.

A special form with specified conditions has been established for a coal mining lease. Under a coal mining lease, the lessee must assume the responsibilities as listed for other minerals, and in addition he must maintain certain health and safety standards. He must allow inspections by authorized officials, report all accidents, keep accounts and working plans, and not assign or sublet his lease without prior permission. If he discovers another mineral, the lessee must report it immediately to the appropriate official; whereupon he obtains a preferential right to a lease for that mineral, unless the mineral is oil or a precious stone. The State retains a 6-month option to buy all surface equipment and buildings from the lessee at the expiration of the lease, but if the State does not exercise its option, the lessee has the right to enter the land 6 months after the expiration to remove these structures and equipment.

Petroleum

Brunei's petroleum policy, while formerly granting only rights to British companies, favors private foreign investment by any person regardless of nationality. Mining rights may be contracted for both onshore and offshore claims by the Sultan in Council. First, written application must be made to the Mentri Besar and accompanied by two copies of official State maps delineating the boundaries of the areas for which the petroleum agreement is sought. Second, a Petroleum Agreement must be signed which follows standardized forms and contains the terms and conditions of the Model Petroleum Mining Agreements exhibited in the Petroleum Enactment of 1963.

Petroleum Mining Agreements

Onshore and offshore agreements over specified lands authorize exclusive rights in companies to search and recover any petroleum found lying therein as well as exclusive rights to refine, store, transport, and sell any petroleum recovered. Onshore companies may appropriate and use water, enter adjacent lands useful for mining operations, erect offices and buildings, and dig gravel or cut timber which is found on the scheduled lands.

Onshore mining agreements last 38 years, while offshore agreements last 40 years. Extensions for both types of agreements may be granted for 30 years, respectively, upon 1-year notice before the expiration of the agreement. Unless otherwise agreed, companies must relinquish 50 percent of the original onshore area after the first 8 years and 75 percent of the original onshore area after 15 years. The same relinquishments must also be made for offshore areas, except that the expiry periods are 10 and 17 years. Waiver of these provisions in order to effect development of a field may be obtained upon written request to the Mentri Besar and in no case is a company required to relinquish a producing area which forms a part of a petroleum field. Selection of areas to be surrendered rests with the company. After surrender, companies will be granted wayleaves (easements) over such areas for operating pipes, telephone lines and powerlines, and passage between lands which may be required.

Companies are obligated during the first 8 years of an onshore agreement, or 10 years for offshore areas, to spend certain amounts, depending upon the acreage held, and shall remit any balances due within 6 months after the first and second 4-year periods (five for offshore) after signing the agreement. After the 8- or 10-year periods, companies then remit to the Government semi-annual rental payments calculated on the basis of acreage held. Additionally, holders of onshore agreements must make an annual payment of B\$0.43 per acre for surface rental. Payment of surface rentals is also made semiannually.

In all agreements the Government reserves the right of entry and the right to alienate scheduled lands for public purposes. Company operations must be conducted according to accepted standards of petroleum practice, and must insure that all persons working in the area will be safe and that all streams, reservoirs, and coastal waters will be free from pollution. Operators must keep accurate and detailed books and records of all petroleum

operations, including records and surveys of drilling, casing, strata, and minerals or water encountered while drilling. Additionally, companies must submit annual reports of all exploration and development and must inform the Mentri Besar semiannually of expected production and sale of crude oil and natural gas for the forthcoming four 1/2-year periods. At all reasonable times the Government reserves the right to check operations for state of repair and accounts for accuracy. Companies may not transfer or assign their interest without Government approval and must endeavor to train and employ Bruneii nationals in and for every phase of company operations and management.

Termination of the agreement occurs when payments are not made, or if the company fails to comply with any of its obligations. Upon expiration of the agreement, the company shall deliver to the Government all buildings, plants, pipelines, machinery, and other assets necessary for the continued production of oil free of charge. The State retains a 6-month option to buy all movable assets from the company at the expiration of the agreement. All disputes over the contract must be settled by arbitration.

Fiscal Provisions

Due to recent tax legislation, Brunei's oil laws have been modernized along "OPEC" lines. Royalties on crude and natural gas are 12-1/2 percent for wells onshore and up to 3 miles offshore. The rate for wells lying between 3 and 10 miles offshore is 10 percent, while the rate is 8 percent for oil recovered more than 10 miles offshore. Profits are shared equally with the State and are calculated on the basis of posted prices for comparable crudes in the Persian Gulf, with adjustments for quality. The amounts received by the Government as royalties constitute part of its 50-percent share. The yearly surface rental payments may be deducted from the gross royalties paid quarterly to the State.

Annual income taxes of 50 percent of chargeable profits must be paid to the State. Allowable deductions include expenses for normal operations such as land rents, interest on capital loans, bad debts and losses, capital expenditures, and royalties on exported crude. Royalties paid to the Government as part of its 50-percent share may be deducted from income taxes, but royalties allowable against chargeable profits may not be deducted. Determination of which companies are subject to tax is made by the Collector of Revenue. Companies disputing an assessment may file with the Collector a notice of objection in writing to review and revise the assessment. If the notice of objection raises a dispute, the case will automatically be referred to a Price Review Committee whose determination is final and conclusive. Appeal from the determination of the Price Review Committee may be made to the High Court.

BURMA

Controlling Statutes

The Union of Burma gained its independence from Britain on January 4, 1948. Since March 2, 1962, the country has been ruled by a Revolutionary Council, which vested full legislative, executive, and judicial powers in its Chairman.

With the passage of the Enterprise Nationalization Law in 1963, the Revolutionary Council announced its intention to take over all industry, with the eventual goal of virtually eliminating private enterprise and completely terminating foreign investment. Later, in 1965, the Socialist Economic System Construction Rights Act was passed. This reserved to the Government the right to set up any economic undertaking as a new nationalized enterprise and to nationalize, take over temporarily, or prescribe rules and regulations for all or part of an enterprise. At this writing no comprehensive mining or petroleum legislation is known to exist.

Administration

The Mineral Development Corporation, nominally a part of the Ministry of Mines, controls mineral production and marketing, each mining operation being conducted as a separate government corporation. The People's Oil Industry, apparently a subordinate organization, handles these activities in the petroleum sector. The Geology, Petroleum, and Mining Advisory Council advises the Minister of Mines on technical matters, submitting plans for prospecting and extraction of oil, minerals, and other materials.¹

It is estimated that 95 percent of the mines are currently under government control. Government policy calls for takeover of the remaining privately operated mines as their leases expire.

Petroleum operations are completely nationalized. However, foreign governments have on occasion undertaken individual projects on a contract basis.

¹For further information contact Director General, Mineral Development Corporation, 241/251 36th Street, Rangoon, Burma.

CAMBODIA

Controlling Statutes

The Mining Law of December 16, 1968, governs mining and petroleum operations in Cambodia. It covers exploration and exploitation of all natural deposits on land and on Cambodia's continental shelf (as defined in the 1958 Geneva Convention on the Continental Shelf). The 1968 law abrogated all previous legislation and canceled exploration and concession rights granted before its passage.

Administration

The Department of Mines in the Ministry of Industry is the agency concerned with the administration of the law.¹

The administrative authorities alone are competent to determine the area and duration of permits and concessions. The civil courts have jurisdiction over disputes between concessionaires arising from encroachments upon concessions.

Mining

All minerals belong to the State. The Council of Ministers may designate zones as forbidden, within which no mining operations may be performed, or as reserved, within which concessions can be obtained only by special permit or may be exploited only by the State. The State has a monopoly of exploitation and sale of precious and semiprecious stones and metals.

Permits and concessions are granted only to Cambodian nationals. However, the Council of Ministers may by decree grant exceptions in favor of aliens having the requisite technical and financial capabilities. Cambodian Government employees may not obtain mining rights.

Two mining rights are authorized by the 1968 law: (1) the exploration permit and (2) the mining concession. Exploration permits confer the right to explore for the minerals specified within the area granted, subject to previously obtained rights of third parties.

Permittees must begin work within 1 year of the grant of the permit. They must keep a work plan, allow government inspection, and submit an annual report and survey. They must construct a landmark on the plot according to the specifications of the law.

A permit is an exclusive prospecting right within the area and with respect to the minerals stipulated. It is granted by the Minister in Charge of Mines under conditions established by decree of the Council of Ministers. If forest land is included, the consent of the Minister of Agriculture is necessary. A permit must cover an area forming a square oriented along true

¹For information contact Service National des Mines, Phnom Penh, Cambodia.

north-south and east-west directions, of which no side may exceed 5 kilometers. It runs for 3 years and may be renewed for a similar period if sufficient work has been performed. It is considered an indivisible, real property right and Ministerial approval is required prior to any assignment or transfer. Any transfer or assignment must comprise the entire area.

Mining concessions embody a real estate right distinct from ownership of the soil. They confer the exclusive right to exploit the specified minerals within the area granted by the concession. Holders may dispose freely of the minerals, subject to the right of the Government to requisition certain minerals when the public interest requires such action.

Holders of concessions are subject to many of the same obligations as permittees. Thus, they must keep a work plan and records, allow government inspections, report accidents in the prescribed manner, and avoid operating near certain specified public areas.

Mining concessions can be obtained by auction under conditions defined by law or by holders of exploration permits upon proof that the mineral for which the permit was granted has been discovered in commercially exploitable quantities. Permittees must request a concession at least 3 months before the expiration of their permits. After receiving an acceptable application, the Minister conducts a 3-month public investigation, during which third parties may register their objections. If a forest area is involved, the preliminary advice and consent of the Minister of Agriculture is necessary.

The decree which grants the concession annuls the rights under the exploration permit which forms its base. It states the area and exploitable substances covered by the concession. The term is likewise fixed by the decree, subject to a minimum of 4 years and a maximum of 50 years, depending on the importance of the minerals and their probable commercial value. A concessionaire who is judged by the administration to have carried on sufficient operations may request two renewals of a minimum of 5 years and a maximum of 25 years.

A fee must be paid for grants and renewals of permits and licenses. Mining concessionaires pay an annual tax as well as an ad valorem tax called "proportional rent" on minerals extracted. All taxes are fixed by the decree of the Council of Ministers granting the concession.

Holders of exploration permits may renounce their permits, but such action must be accepted by the Minister. Mining concessions may be forfeited if operations cease for more than 1 year or if the concessionaire fails to pay taxes or to comply with prescribed procedures.

Granting of concessions for substances useful for atomic energy is subject to special provisions to be fixed by decree of the Council of Ministers. Insofar as they are not contrary to those special provisions, however, the general provisions of the Mining Law apply. The State may expropriate concessions on discovery of substances useful for atomic energy.

The 1968 law indicates that special laws will apply to exploitation of quarries, defined as deposits and materials useful in construction or in improving the nature of the land. Nitrates, alkaline salts, and phosphates are not regarded as quarry materials.

Petroleum

The special provisions of Articles 80-84 of the 1968 Mining Law apply to hydrocarbons. Other provisions of the law, described in the previous section, apply insofar as they are consistent.

The two petroleum rights are called "Permit H" and "Concession H." The exploration permit is granted after investigation by decree of the Council of Ministers. The original term is 5 years, but extension of the permit is possible if the permittee has fulfilled his obligations and promises to make investments at least equal to those made during the original term. The area of the permit is fixed by the granting decree.

The hydrocarbon concession is likewise granted by decree of the Council of Ministers. The conditions of the concession are fixed by a special model concession appended to the granting decree. The contractual obligations of the concession will determine the tax on production.

The term of a concession is 40 years, with the possibility of renewal for an additional 25 years. The area of a concession must be located entirely within the area of the exploration permit. No person or entity may obtain directly or indirectly exploration or exploitation rights to a total area exceeding 5,000 square kilometers onshore or 10,000 square kilometers offshore. However, these limits may be waived by decree of the Council of Ministers.

On expiration or cancellation of a concession, the area and installations thereon revert to the State free of charge.

CHRISTMAS ISLAND (INDIAN OCEAN)

Christmas Island, an Australian Territory, is located 875 miles northwest of Australia and 815 miles south of Singapore. The economy of the island is based entirely on the mining of phosphate. There is no private ownership or leasing of land.

Australia and New Zealand acquired an equal share of the phosphate industry after purchase of the lease rights in 1948. Agreement was reached for management of the industry with the Christmas Island Agreement of 1958 (found in the Christmas Island Agreement Act 1958 of Australia). Under the agreement, the Christmas Island Phosphate Commission was established, and it was given full and exclusive license to mine phosphates and other minerals. The Commission consists of three members: Australia and New Zealand appoint one member each and one member jointly.

The British Phosphate Commissioners act as managing agents for the Christmas Island Phosphate Commission.

FIJI

Controlling Statutes

Mining in the Fiji Islands, a British Crown Colony, is controlled by the Mining Ordinance of 1965, the Quarries Ordinance of 1939, and the Mining Regulations of 1966. Petroleum exploration and production are controlled by the Oil Mines Ordinance of 1915 and the Oil Mines Regulations of 1930. The Petroleum Ordinance of 1939 controls the transportation and storage of petroleum.

Administration

The ordinance is administered by a Director of Mines appointed by the Governor. The administrative agency is the Department of Lands, Mines and Surveys which is subject to the directions of the Minister for Natural Resources to whom the Governor has delegated the power conferred upon him by the Mining Ordinance.¹ The Director rules on all disputes and grievances. His decision may be appealed to a Mining Appeals Board and then to the Supreme Court. Alternatively, disputes may be settled under the Arbitration Ordinance of 1965.

Mining

All minerals in the Fiji Islands are reserved to the Crown regardless of the ownership of the property where they are located. Also, all minerals obtained under a prospecting right belong to the Crown. The Mining Ordinance covers all minerals except clay, gravel, sand, and construction stone, and it applies to the entire colony. Certain inhabited lands, farmlands, and water and forest reserves are closed to prospecting and mining. The Governor has authority to close additional lands by proclamation and to grant exclusive prospecting licenses and mining leases over any lands so closed.

Prospecting may be done under either a Prospector's Right or a Prospecting License, and exploitation may be accomplished under either a Permit to Mine or a Mining Lease.

Prospector's Right

The prospector's right is the basic prospecting and mining authority and may be obtained by any person over 21 years of age. The holder may enter any open lands for prospecting purposes. The right is valid for 1 year, and a new right may be obtained if application is made at least 30 days prior to expiration of the old right. Application for a prospector's right must be made to the Director on a special form and must be accompanied by an application fee of F\$2 (1 Fiji \$ = US\$1.15). If the prospector enters private land, he must compensate the landowner for any damages to the surface.

¹For information write the Director of Mines, Department of Lands, Mines and Surveys, Suva, Fiji Islands.

Prospecting License

For exclusive prospecting on any open area up to 1,000 acres, a prospecting license may be obtained by the holder of a prospector's right. The licensee has the same rights and privileges to prospect as under a prospector's right and in addition he may maintain heavy machinery and construct passageways. A single license may include an area up to 1,000 acres, and any number of licenses may be held by one person up to a total area of 3,000 acres.

Prior to applying for a license, the area must be marked out and a plan of the area submitted. The licensee must diligently pursue his prospecting and make periodic reports to the Director. The duration of the license is determined by the Director, and the license is automatically canceled by the grant of an exploitation right. The Director may terminate a license for a number of offenses, including violation of the license provisions.

The Director, with the approval of the Minister, also has power to grant special prospecting licenses under such terms and conditions as the Minister may think fit and over areas of not less than 5 square miles.

Permits to Mine

The holder of a prospecting right may mark out an area and apply to the Director for a permit to mine. The maximum areas which may be granted under a permit to mine are the same as for a mining lease. The duration of a permit is 2 years and it may be extended at 1-year intervals. If the Director determines that the mineral bearing qualities of the land warrant a lease, he may cancel the permit and require the holder to obtain a lease.

Mining Lease

A mining lease may be granted to the holder of a prospector's right after he has marked off the desired area and submitted his application to the Director. There is no statutory requirement for discovery. The duration of a lease is not less than 5 years nor more than 21 years, and it may be renewed for an additional 21 years. The maximum area of leases for precious minerals is 100 acres and for other minerals the maximum area is 320 acres, but with the approval of the Minister leases may be granted over larger areas. With the consent of the Minister, the Director is authorized to grant special mining leases over any area regardless of size.

Under Fiji law holders of mining tenements may qualify for other rights necessary to mining operations, such as water rights, building permits, and licenses for road access and/or construction.

Fiscal requirements include payment of application fees, exploration fees, production fees, and royalties. These may vary with the type of mineral and are set forth in the Mining Regulations.

Petroleum

Control of exploration, prospecting, and mining of all petroleum and natural gas is vested in the Colony but is subject to regulation by the Governor. Rights that may be authorized are exploration licenses, prospecting licenses, and mining leases.

Exploration licenses permit holders to enter private or public lands in order to explore surface areas to a depth of 50 feet. Prospecting licenses allow entry on privately or publicly owned lands to bore, dig, mine, or remove crude oils discovered within the area of the license. Licensees shall pay royalties to the Government for all petroleum recovered. If privately owned property is damaged on account of prospecting operations, licensees must fully compensate the owners thereof.

Prospecting licensees are eligible to receive a mining lease from the Governor in Council wherever oil is discovered. Obligations under the lease include the payment of the prescribed rents, royalties, and fees to the Accountant-General and the working of all bores according to such regulations as may be issued by the Governor in Council. Application procedures, the forms and terms of exploration or prospecting licenses and mining leases, the form of bonds required of applicants, the conditions and duties of license and lease holders, the amount of fees, rents, or royalties payable to the State, and the required rents or royalties to private and native landowners as compensation for loss or use are all determined by the Governor in Council in regulations which he may periodically issue. Wherever private or native lands are made the subject of a mining lease, compensation by the Accountant-General out of surface rents paid by lessees must be made. The Governor in Council shall determine the proper amounts of compensation to be paid and shall allow for the loss of crops, improvements, and buildings if lands are acquired by compulsory acquisition.

Only British subjects or companies registered in the British Empire are eligible to receive petroleum licenses or leases. Control or management of oil operations in Fiji, directly or indirectly, by alien companies or personnel is not allowed.

GILBERT AND ELLICE ISLANDS (OCEAN ISLAND)

Ocean Island is an island in the British Crown Colony of the Gilbert and Ellice Islands. Phosphate mining constitutes the Colony's only commercial mineral activity and is its principal source of government revenue and export earnings. The phosphate is mined and exported by the British Phosphate Commission, owned by the Australian, British, and New Zealand Governments. The phosphate is exported mainly to Australia, with lesser quantities exported to New Zealand and the United Kingdom.

The phosphate is mined by a contract labor force drawn from the other islands of the Colony. It is expected that phosphate reserves on Ocean Island will be exhausted by 1976.

After deducting production costs, the full proceeds of extraction are divided between the Ocean Island landowners in the form of royalties and the Colony Government in the form of taxation, in proportions to be agreed by Her Majesty's Government. The original inhabitants of the island now reside on Rebi Island in Fiji.

HONG KONG

Controlling Statutes

Chapter 285 of the Laws of Hong Kong (revised edition 1964) consisting of the Mining Ordinance, the Mining (General) Regulations, and the Mines (Safety) Regulations govern mining in Hong Kong. There is no petroleum legislation but part II of the Mining Ordinance declares that control of mineral oils is vested in the Crown. The Radiation Ordinance, chapter 303, includes provisions regarding prospecting and mining for radioactive minerals but no corresponding regulations have been made.

Administration

Mining activity is administered by the Commissioner of Mines, the Superintendent of Mines, and appropriate lesser officials, all of whom are appointed by the Governor.¹

Disputes are settled by arbitration under the Arbitration Ordinance, chapter 341, by the Mining Compensation Board, or by the Commissioner, depending on the matter at issue.

Mining

The Crown owns and controls all minerals. Three mining rights are available: prospecting licenses, mining licenses, and mining leases. Applications for prospecting and mining licenses are made to the Superintendent. Licenses are issued by the Commissioner after prescribed payments have been made. Mining leases are issued by the Land Officer on the advice of the Commissioner.

Mining licensees and lessees must conduct operations in a safe and workmanlike manner, keep registers and make periodic returns, report all accidents, allow government inspection, and obtain the Commissioner's consent before diverting or taking water. In addition, they must employ at least five men for every 10 acres or part thereof covered by the right, although this requirement may be suspended or reduced by the Commissioner.

Prospecting licenses confer the right to enter Crown land and, with the owner's permission, private land, and to make all excavations necessary to prove the mineral-bearing qualities of the soil. The Regulations require a minimum expenditure of HK\$10 (1 Hong Kong \$ = US\$0.165) per acre per month, but this may be suspended or reduced by the Commissioner. Minerals obtained during prospecting belong to the Crown, and the Commissioner must sanction their retention or disposition beyond the extent necessary to make test samples.

Prospecting licenses apply to the area and minerals specified therein. A license lasts for 6 months and is renewable for successive 6-month periods up

¹For information contact Commissioner of Mines, Mines Department, Buckingham Building, Nathan Road, Kowloon, Hong Kong.

to a maximum of 5 years. The right conferred is exclusive, but the Governor may grant a license for a different mineral if such action will not prejudice the original holder. Licensees who have pursued their work with diligence have preferential status in obtaining mining licenses or leases.

Mining licenses specify the area and minerals for which they are granted and confer the exclusive right to mine the minerals specified in the licensed area. The Mining (General) Regulations specify the rentals and royalties to be paid.

If the mineral-bearing qualities of the area are sufficient, the Land Officer may grant a mining lease. Applicants, however, must first show command of working capital sufficient to insure proper development and working of the designated area.

Mining leases specify the area and minerals involved; they run for 21 years and may be renewed by the Land Officer for up to the same period. The Governor in Council may authorize the grant or renewal of a lease for a term of more than 21 years.

Lessees may enter Crown land or private land with the owner's permission, and mine surface or subsurface minerals; they must compensate owners of surface rights for any disturbance or damages.

Licensees or lessees may dispose of "specified minerals," as determined by order of the Governor, only to holders of Authorized Buyers Licenses. With the Commissioner's permission, they may dispose of minerals other than those enumerated in the lease.

The Crown collects rentals of HK\$5 per acre per 6-month period on mining licenses and HK\$5 per acre per year on mining leases. In addition, it charges a royalty of 5 percent of the value of the minerals at the time they are sold or disposed of by or on behalf of the person by whom they were won.

The Commissioner may cancel a prospecting license or a mining license should the holder be convicted of an offense, breach the terms of a license, or discontinue mining or prospecting operations without consent. The Land Officer may similarly revoke a mining lease.

INDONESIA

Controlling Statutes

The Basic Mining Law, No. 11 of 1967, governs mining in Indonesia. Indonesian petroleum law consists of a series of regulations and decrees. Their provisions generally apply both to land and to the continental shelf defined as all submarine areas from the coast seawards probably containing natural riches.¹ Law No. 37 of 1960 sets up the basic form for the development of natural resources in Indonesia. Government Regulation No. 39 of 1960 classifies petroleum as a strategic mineral and thus limits the development right to the Government. The Petroleum and Natural Gas Law No. 44 of 1960 deals with the rights and duties embodied in a mining authority.

In addition, there are various regulations and decrees which set forth provisions for individual contracts or ratify work contracts between State enterprises and private groups. Finally, Law No. 19 of 1960 outlines the status and organization of the State enterprises, which may acquire mining and petroleum rights. Radioactive materials are regulated by Law No. 31 of 1964.

Administration

The Ministry of Mines is responsible for mining administration. The Minister is assisted by a Technical Committee in Charge of Foreign Participation in Mining in dealing with matters related to foreign investment in mining. Regional Governments regulate mining for minerals classified as neither "strategic" nor "vital."

The Ministry of Mines also supervises petroleum administration. Presidential Decision No. 69 of 1968 exclusively authorizes the Minister to sign all production contracts for petroleum development from January 1, 1968. The Director-General of Oil and Gas is responsible to the Minister and heads Pertamina, the State-owned oil company. The Petroleum and Natural Gas General Management Board coordinates government activities in petroleum and natural gas.²

Disputes regarding contracts between State agencies and companies in both the mining and petroleum sectors are submitted to a Board of Arbitration consisting of one member appointed by each of the parties and an umpire.

Mining

According to the Indonesian Constitution and the mining law, mineral resources are national property controlled by the State. The State has exclusive mining rights.

¹Draft petroleum regulations governing offshore petroleum operations are under consideration by the Government.

²For further information contact Minister of Mines, 3 Menteng Raya, Djakarta, Indonesia.

Under the conditions stipulated in the mining law, the Government may grant a Kuasa Pertambangan or mining authorization to a State enterprise, a national private business, or an Indonesian citizen. Foreign companies interested in mining must enter into a "contract of work" with holders of mining authorizations or with the Government represented by the Ministry of Mines. If necessary during the general survey and exploration stages, a foreign company may retain its foreign corporate status. However, the company must incorporate under Indonesian law before the start of construction and development work.

Holders of mining authorizations or their contractors have the right to enter and occupy the area covered by the project and to conduct all operations of exploration, development, construction, mining, processing, storage, and transportation as may be necessary to bring the project into production.

Contracting companies have the control and management of all activities under the agreement and assume all the risks involved. They are expected to employ and train Indonesian nationals so that at the end of 5 years Indonesians hold at least 75 percent of the positions in each job classification. Companies must offer stock for sale in rupiah to Indonesians in each year following the start of commercial production.

Companies are obligated to make annual financial and quarterly progress reports; submit a summary of all findings within 1 year of the completion of exploration; compensate holders of land rights; and do the maximum amount of mineral processing in Indonesia before export.

Contracts are negotiated between the company and the holder of a mining authorization and approved by the Minister and the Government. In case such agreements deal with the development of strategic minerals, such as tin and nickel, ratification by the legislature is necessary. Companies must show their ability to finance the project and post a security bond.

Agreements cover several stages of work: a general survey stage, which is to last 12 months with a similar extension period available; an exploration stage, which is to last 36 months and may be extended for 24 months; a 12-month evaluation stage; a 36-month construction stage; and an operation stage. The agreements are to last 30 years from the start of the actual operation period of the project and may be renewed on terms to be negotiated by the Government and the company.

During the first three stages, the company must periodically relinquish rights and duties on nonprospective parts of the area. The company has the right to apply on a priority basis for the right to mine, process, or market any other minerals discovered.

Companies pay the usual fees charged by the local land registration office for the use of the land and also are subject to exactions such as sales tax and specified royalties. Contracts generally include detailed provisions on remission of foreign currency. Presidential Instruction No. 18, 1968, on Tax Concessions for Foreign Investment in Mining, provides for mitigation of

taxes for foreign investors in mining. It establishes a corporate tax ranging from 35 to 48 percent, depending on the commodity mined and the number of years the corporation has operated under the regulation.

Companies may suspend operations in whole or in part if they are not or do not appear to be profitable. Contracts may be terminated after consultation with the Minister. The Minister may cancel a contract for breach of its conditions or those of the mining law. In addition, the mining law gives the Minister discretionary power to cancel mining authorizations for an agreed-upon compensation when he believes it to be in the interest of the State.

Petroleum

Mineral oil and natural gas are national assets, controlled by the State. The only petroleum right granted by the Government is the Kuasa Pertambangan or mining authorization. This is an all-inclusive right to explore and develop an area. It does not include surface rights.

State enterprises alone may obtain a mining authorization for petroleum development. However, State enterprises are authorized to contract with either Indonesian or foreign private groups with regard to the actual working authority where a project has not been or cannot be completed by the enterprise itself. Such contracts must be ratified by the legislature.

These contracts between the State enterprises and the private interests which actually do the mining thus determine the shape of the petroleum industry in Indonesia. While these contracts vary in each individual instance, their basic provisions may be generally summarized.

Mining undertakings may include exploration, exploitation, refining and processing, transportation, and marketing of oil and gas. Oil companies which contract with State enterprises for such undertakings must operate so as to further the Indonesian petroleum industry. This includes employment and training of Indonesian nationals so that they will hold 75 percent of the positions in each job classification as soon as possible. Companies must also make available for domestic consumption a percentage of their production equal to their percentage contribution to total Indonesian production, although no company is required to contribute more than 25 percent of its total production. Companies with refining facilities may be required to refine oil on stated terms.

Companies must also make minimum annual exploration expenditures as specified in the contracts and furnish the Government with annual financial summaries. If necessary, they must compensate holders of land rights. Some contracts contain provisions prohibiting suspension of operations for more than a stated period of time. Clauses providing for eventual Government take-over of the company's assets are also generally included.

The boundaries of a mining authorization are determined by the Government on the proposal of the Minister. The contracts with oil companies specify the area involved, which may later be enlarged with the consent of the Government.

The concessions granted to the State enterprises have no specified duration. The terms of the contracts with the companies vary. For old areas, those worked under rights granted by previous legislation, the term is 20 years, with governmental consideration of extension 2 years before expiration of the term. For new areas the term is 30 years, but 25 percent of the original area must be relinquished after 5 years and again after 10 years. The Government, however, may waive this relinquishment requirement to the extent appropriate to insure economic development of petroleum reserves.

The holder of a mining authorization must pay the State certain fixed charges. The contracting company pays the Government 60 percent of its profits, but this includes most taxes and other exactions. The minimum total receipts of the Government are to equal the gross value of 20 percent of the total quantity of crude oil produced. Companies may also pay a bonus for the grant of new areas. In addition, contracts usually contain elaborate provisions dealing with currency and the conversion of currency.

The holder of a mining authorization may return all or part of his mining area by written notification to the Minister, who must approve the return. Oil companies may relinquish their rights and be relieved of obligations under their contracts by giving written notice to the Government and the State enterprise.

Foreign investments are controlled by the Foreign Capital Investment Law, No. 1 of 1967. A Decree of the Cabinet Presidium, April 28, 1967, contains specifications for procedures to be followed in making applications for foreign capital investment.

Draft regulations to govern offshore petroleum activity, cited as amendments to Mining and Police Regulations Stat. 1930 No. 341, are under consideration by the Government. Essentially they would require an operator to keep the Directorate of Oil and Natural Gas informed of all exploration and drilling operations. Representatives of the Directorate would strictly supervise these activities. Exploitation activities would require governmental approval.

JAPAN

Controlling Statutes

The Mining Law (No. 289 of 1950), as amended up to 1967 with regulations thereunder, controls exploration and exploitation of 41 enumerated minerals, including petroleum and natural gas. The Mine Safety Law, 1949, provides for the supervision and enforcement of safety regulations.

Administration

The Chief of the Bureau of International Trade and Industry administers the Mining Law, including the settlement of disputes between holders of mining rights.¹ The Mine Safety Bureau and subordinate Safety and Inspection Divisions share responsibility for implementing the Mine Safety Law.

Persons dissatisfied with the Chief's administration of the Mining Law or with orders issued thereunder may enter protests with the Minister of International Trade and Industry. Persons dissatisfied with the Minister's decision may institute suit in the courts.

The Mining Law outlines a procedure for settling disputes over compensation for mining damage. Thus, when the Chief receives a plea for intermediation from the parties, he designates five or less intermediators from a panel to resolve the conflict. Settlement through the courts is also available.

Mining

Under the Mining Law, the Japanese Government assumes the exclusive power to grant mineral rights. Minerals may be prospected or mined only under mining rights or mining leases granted by the State. The law lists 41 minerals, including petroleum and natural gas, for which mining rights are granted. The right to mine other kinds of minerals accompanies land ownership under the provisions of Article 207 of the Civil Law.

Only Japanese citizens and public companies incorporated under Japanese law may own mining rights. However, exceptions to this rule may be made by treaties with other countries. Under the provisions of the Foreign Investment Law, Law No. 163 of 1950, a foreign investor must obtain validation if he intends to acquire stock or a proprietary interest in a Japanese corporation.

Mining rights are either prospecting rights or digging rights. The former confers the exclusive right to perform the preliminary operations necessary to confirm the existence and value of minerals. It lasts for 2 years and may be renewed twice for the same period upon payment of ¥1,500 (1 yen = US\$0.278) for each extension. Rights for petroleum also last for 2 years. However, they may be renewed three times for the same period.

¹For information contact Chief, Mineral, Oil and Coal Mining Bureau, Ministry of International Trade and Industry, Tokyo, Japan.

Digging rights embody the exclusive right to mine minerals of known existence and value. Such rights have an unlimited duration. Only the digging right can establish a mortgage or lease.

Prospecting and digging rights carry practically identical rights and duties. Upon application and permission from the Chief of the Bureau of International Trade and Industry, both the prospecting and digging applicant and the Bureau may enter another's land in order to make surveys or spot investigations. Under this right of entry, holders may cut bamboos and trees if necessary. They must, however, follow prescribed notice procedures and compensate landowners for all damage caused.

Holders of mining rights may also use or expropriate another's land for activities such as constructing necessary facilities or digging pits and wells. Procedures therefor are outlined in the Mining Law and must conform to the provisions of the Land Expropriation Law, No. 219 of 1951. The provisions regarding use and expropriation of land apply as well to water.

Right holders must file and follow an operation plan. Digging-right holders shall apply to the Chief of International Trade and Industry for approval. Prospecting holders must begin work within 6 months of the grant of the rights, and may not suspend operations for more than 1 year. Prospecting right holders must keep a progress table of the results of their prospecting. All holders must establish and maintain a mining office in or near the mining area.

A mining right must cover a minimum of 15 hectares for coal, petroleum, natural gas, and asphalt. The minimum area is 1 hectare for dolomite, limestone, silica stone, feldspar, pyrophyllite, talc, and fire clay, and 3 hectares for all other minerals. The maximum area in all cases is 350 hectares, but this limit does not apply when necessary for rational mineral development.

Applications for mining rights as well as operational plans are filed with the Chief of the Bureau of International Trade and Industry, who must consult with local authorities before acting. The Land Coordination Commission may provide that a tract shall not be covered by a mining right if such exclusion is in the public interest. Applications for prospecting rights must specify the minerals and area covered, must be accompanied by a map of the proposed mining area, and must include a filing fee of ¥3,000. Applications for digging rights must also contain a description of the mineral deposit and must be accompanied by a filing fee of ¥4,500. Priority of consideration goes to applications first in time. Mining rights become effective only upon registration and payment of the registration tax. Owners of mining rights may also be required to make a security deposit to cover potential damage compensation claims. Corporate business profits are subject to a corporation tax, an enterprise tax, a mine product tax, a mine lot tax, and prefectural and municipal inhabitants taxes. Special provisions apply to foreign corporations.

The Chief of the Bureau of International Trade and Industry may cancel a mining right if the holder fails to commence operations within 6 months of registration or suspends work for more than 1 year; if he fails to work

according to the operation plan previously submitted to the Government; if he fails to obey the provisions of the Mine Safety Law; or if he fails to follow the directions of the Chief regarding the increase or decrease of the mining area. The Chief may also cancel or limit mining rights if he finds that their continuation would damage public welfare or injure other right holders.

A mining lease is a contractual agreement between the holder of a digging right and the party desiring to exploit the mineral and is valid only upon Government approval. Such a lease grants the right to exploit a specific mineral deposit for a period not exceeding 5 years from the date of registration. Upon application jointly by the lease holder and the digging-right holder, it may be renewed, at the Government's discretion, for another period not exceeding 5 years. The initial fee for establishment of a mining lease is ¥3,000 and the fee for the extension thereof is ¥1,500.

With the Bureau's permission, holders of mining leases may enter and use such surface property as is necessary to obtain the minerals sought. Lessees are held liable for damages to public or private property and a security deposit is required to insure payment of compensation.

Potential lessees must submit their applications to the Chief of the Bureau of International Trade and Industry. Applications must be accompanied by a statement of the reasons for the agreement. The lessor must be the original holder of the mining right upon which the lease is to be based. The lease will be approved only if it is necessary to mine the remaining minerals or to insure the economic exploitation of the minerals. Upon approval, the lessee acquires the rights of the original grantee for a maximum of 10 years.

A mining lease may be canceled by the Chief of the Bureau of International Trade and Industry when the lease holder fails to begin work within 6 months or suspends operations for 6 months; conducts operations other than those in the plan submitted to the Government; fails to comply with the Mine Safety Law; or fails to give security for damage to neighboring lands as determined by the Chief of the Bureau.

Under the Atomic Energy Basic Law, Law No. 186, 1955, as amended, nuclear source materials may be exempted from the provisions on mining rights and leases contained in the Mining Law. The Minister of International Trade and Industry is given statutory power to grant subsidies to private owners of mining rights, to accelerate the operations of mining companies, and to make awards to persons who contribute to the program. The Power Reactor and Nuclear Fuel Development Corporation Law (No. 73, 1967) provides for the creation of the Power Reactor and Nuclear Fuel Development Corporation (partly Government-owned), which may expropriate other's lands (but not mines) to increase exploitation of nuclear minerals. However, an individual who owns a mining right is still free to prospect and mine nuclear minerals under the mining law.

The law concerning Temporary Measures for Reconstruction of the Coal Mining Industry, 1967, authorizes the Japanese Government to assume a part of the debts of coal mining companies which were incurred to improve their facilities and management.

Petroleum

The provisions of the Mining Law also govern the grant of mining rights and leases for petroleum and natural gas. The Petroleum Industry Law, 1962, regulates petroleum refining and supply operations.

The Japan Petroleum Development Corporation Law, 1967, established a corporation wholly owned by the Japanese Government to extend financial and technical assistance to private firms engaged in the development of petroleum resources. It operates under the supervision of the Minister of International Trade and Industry.

SOUTH KOREA

Controlling Statutes

The Mining Law, Law No. 234 of 1951, as amended by Law No. 1061, and the Mining Law Enforcement Decree and Regulations of 1952 govern both hard mineral and petroleum operations in South Korea. The Law makes no distinction between resources on land and on the continental shelf and governs exploitation of minerals in both cases. A separate petroleum law is apparently under consideration. The Mining Encouragement Decree, No. 1234 of 1963, provides for subsidies and loans of equipment. The Mine Safety Law of 1963 and the Mine Safety Enforcement Decree and Regulations, both of 1964, contain rules for mining operations. The Extraordinary Coal Mine Development Law of 1961, as amended, and the Provisional Coal Mine Promotion Act, promulgated in August 4, 1969, No. 2136, provides for the development of coal resources.

Administration

Responsibility for the administration of the Mining Business Law rests with the Ministry of Commerce and Industry.¹ The Minister may delegate part of his authority to Provincial Governors in accordance with a cabinet decree. A wholly owned government entity, the Korean Mining Development Corporation, was established in 1967 to assist private-sector mines.

A Mining Business Mediation Committee hears protests filed by any person dissatisfied with the application of the law. The Minister renders a decision on the protest after obtaining the Committee's decision. The Petition Law applies except as otherwise provided by the Mining Business Law. Disputes regarding compensation for mining damage are referred to the appropriate district court.

Mining and Petroleum

The Mining Business Law lists 58 ores, including petroleum and natural gas, which are subject to its provisions. Minerals may not be mined without a mining right which may be issued only by the Government. Mining rights may be held by citizens of the Republic of Korea, by juridical persons created under Korean law if Korean citizens hold a majority interest, and by foreign individuals or corporations which are specifically licensed by the Government.

The law provides for only one type of mining right. There is no right analogous to an exploration concession. "Mining" as used in the law thus encompasses mining, milling, smelting, and "other pertinent businesses," and therefore, mining rights encompass the right to mine and possess registered minerals and to conduct milling, smelting, and related operations.

A holder of a mining right may use or expropriate land belonging to others for storage, transportation, or similar purposes. To do so, he must

¹For information contact Director, Bureau of Mines, Ministry of Commerce and Industry, Chongno-Ku, Seoul, Republic of Korea.

apply to the Minister, who must hear the views of the landowners affected. Unless otherwise prescribed, the Land Expropriation Law applies. A holder has similar rights to the use of water.

A holder must commence operations within 1 year of the registration of his claim. Before doing so he must formulate a business plan and have it approved by the Minister. Later, he must submit to the Minister a report on mineral production, a copy of an underground survey map, and a mining business record. Operations must conform to the provisions of the Mine Safety Law and Regulations.

A mining claim is a quadrilateral area bounded by lines of latitude and longitude 1 minute apart, except where geographical conditions or existing mine lots make such a unit area unfeasible. This measurement is not required for certain minerals. There is no limit on the number of mining claims an individual may hold. The term of a mining right is limited to 25 years, but the Minister may grant a 25-year extension.

The Minister receives applications for mining rights. He may refuse to grant a right if he finds that exploitation of minerals in the claimed area would harm the public interest or be economically worthless. Applications first in time have priority. It is possible to file for rights for different kinds of minerals in the same area where it is feasible to conduct concurrent operations. The holder of a mining right may apply for permission to mine minerals within this claim other than those for which he is licensed.

Fees in accordance with a Cabinet decree must be paid upon filing an application, request, or report. The registration tax payable by holders of mining rights is likewise prescribed by Cabinet decrees. The Mining Encouragement Decree sets forth the procedures by which the Minister may issue subsidies to holders of mining rights for certain specified minerals. It also provides a procedure for making loans of equipment.²

The Minister may cancel rights which were erroneously granted and may modify or cancel rights deemed harmful to the public interest. He may also cancel mining rights if the holder fails to start mining operations within 1 year; if there is no mineral production after 3 years; if the operations plan is not approved; or if the holder mines an unauthorized mineral.

"National mining" is authorized and governed by the provisions of the Mining Business Law. Such mining, also under the control of the Minister, is carried out by corporations established under separate laws. Citizens of Korea may invest in these corporations, but the Government must be the majority shareholder.

²The Foreign Capital Inducement Law, Law No. 1802, 1966, offers special concessions to foreign private investment.

LAOS

Controlling Statutes

The basic mining legislation of Laos is comprised of Royal Ordinances No. 42 of January 26, 1959, and No. 161 of May 26, 1959, supplemented by Decrees No. 274/PC, 275/PC, and 278/PC, all of August 19, 1959, and Decree No. 125/CAB-PLAN of June 15, 1959. Other statutes enacted prior to 1959, including Law No. 57-26 of September 30, 1957 (concerning fiscal provisions), as amended by Law No. 65/15 of October 27, 1965, Ordinance Law No. 135 of May 23, 1958 (regulation of quarries), and the Ministry of Planning Decree of December 25, 1957 (exempting specified minerals and geographical areas from the public domain), are also in force.

Administration

The Central Mine Service of the Ministry of Planning and Cooperation is generally in charge of the administration of the mining laws.¹ Applications for research permits are submitted to the Provincial Governor (le Chaokhoueng), and the President is responsible for the issuance of concessions.

Mining

Mineral deposits are classified into two categories: mines, which includes petroleum, and quarries, which are regulated by Ordinance Law No. 135. Deposits of construction materials, peat, and materials used for soil improvement (except nitrates and phosphates) are considered quarries. All other mineral deposits are classified as mines.

Mineral deposits are part of the national domain and the State has reserved the rights to deposits of magnetite, gold, and lead ores as well as to all deposits in two large areas. Property rights to areas and minerals, which are not reserved to the State, are reserved to the discoverer.

A personal authorization, as set forth in Decree No. 125, is a prerequisite to the granting of a mining right. A personal authorization costs K15,000,² is valid for 5 years, and may be renewed under the same conditions as the original application. Personal authorizations may be granted to foreigners only if a reciprocal mining agreement exists between Laos and the applicant's country. Persons who are citizens of countries which do not have reciprocal agreements with Laos, however, may be able under Article 14 of Royal Ordinance No. 161 to legally associate themselves with the holder of a research permit if the prior approval of the Minister of Planning is obtained.³

¹ For further information write Directeur de Service Central des Mines, Ministère du Plan et de la Coopération, Vientiane, Laos.

² Par value of the Laotian kip (K) not yet established.

³ It is understood the United States does not have such a reciprocal agreement with Laos.

Three types of mining rights are obtainable in the following order: Exploration Permit, Exploitation Permit, and Mining Concession. Fulfillment of the conditions of a prior permit is a prerequisite to the issuance of any subsequent permit.

Exploration Permit

Applications for an exploration permit are made to the Provincial Governor and must be accompanied by a K15,000 fee. The holder of a permit is given the exclusive right to explore for all the minerals enumerated in the permit. A permit may cover a square block, the sides of which may not be longer than 3 kilometers. The sides must also be aligned in a north-south and east-west orientation.

The permit is not transferable except with the permission of the Minister of Planning, is valid for 3 years, and is not renewable except under certain conditions. The holder must show that he has done adequate annual work or his right may be revoked. Upon discovering an exploitable deposit the holder is given a finder's right which is inheritable. Upon a showing of adequate financial resources, he also has the right to obtain an exploitation permit.

Exploitation Permit

This right authorizes production for the area and minerals specified in the original exploration permit. It is valid for 10 years and under certain conditions is renewable for an additional 5 years. The holder must make an annual report of his activities to the Service Central des Mines, and the permit may be revoked for insufficient activity or work stoppage.

Mining Concession

The concession is a right granted by Presidential Decree upon the recommendation of the Service Central des Mines to whom the application must be made. A fee of K30,000 must accompany the application. The right may be granted to any prior holder of an exploration or exploitation permit who has fulfilled his previous obligations. The concession area may contain not less than 100 nor more than 900 hectares and must be in the shape of a rectangle whose sides are oriented north-south and east-west. The longer side may not be more than four times the length of the shorter side. Fiscal provisions include an annual surface rent of K30 per hectare on that area that is larger than 5,000 square meters and a royalty of 5 percent of the value of the extracted product.

Quarry minerals and minerals found in the waterways of Laos may be obtained upon the grant of an authorization from the Service for Public Works. Such authorization is valid for 6 months. There is a fee of K5 per cubic meter of minerals extracted from quarries, but a minimum payment of at least K50 must be made during each authorization.

Petroleum

Before a person may obtain a right to explore or exploit petroleum resources, he must obtain a special authorization which is issued under provisions and requirements similar to those of a personal authorization. There are two kinds of petroleum rights--the Exploration Permit and the Concession.

Exploration Permit

The permit gives the holder the exclusive right to search for hydrocarbons within the area stipulated in the permit. The permit is valid for 5 years and is renewable for further 5-year terms. The holder is required to surrender one-half of the remaining area of the permit upon each renewal. To preserve his right the holder must show adequate annual work. Upon discovery of an exploitable deposit, the holder has a right to a concession.

Concession

Upon a showing of adequate financial and technical qualifications, the holder of an exploration permit will be granted a concession. The concession is valid for 40 years and is renewable. The holder of a concession must make an annual report describing the activities carried out and the amount of petroleum extracted. The fiscal provisions are similar to those of a mining concession.

MALAYSIA

The 11 Malay States of the Federation of Malaya and the British Colonies of Singapore, Sarawak, and Sabah united to form the Federation of Malaysia on September 16, 1963. In August 1965, Singapore withdrew from the Federation. In 1966, the Government announced that Sabah and Sarawak would be known as East Malaysia and the 11 States as West Malaysia.

West Malaysia, Sabah, and Sarawak each have their own mining and petroleum legislation. The Income Tax Act, 1964, and the Petroleum (Income Tax) Act, 1967, govern taxation throughout Malaysia.

West Malaysia

Controlling Statutes

The Mining Enactment (F.M.S. Cap. 147) of 1929, as amended, governs mining activity in the 11 Malay States of West Malaysia. It incorporates by reference parts of the Land Code. The Petroleum Mining Act of 1966 deals with petroleum and is supplemented by the Petroleum Mining Rules, 1968, which contain model Petroleum Agreements for onshore and offshore lands. The Continental Shelf Act of 1966 governs exploration and exploitation of the continental shelf.

Administration

Several officers are involved in the administration of mining. The Ruler in Council has the power to lease the land of the 11 States for mining purposes. The Department of Mines headed by the Chief Inspector of Mines and his subordinates oversee the actual working of the mines. The Collector of Land Revenue processes applications and issues and administers licenses and leases. In addition, each State in the Malay Federation has its own Land Office to collect office and survey fees.

The "appropriate petroleum authority" considers all applications for exploration licenses or petroleum agreements. For onshore land, this authority is the ruler or governor of the State where the area is situated. For offshore land, the authority is the Paramount Ruler. Applications for petroleum rights are made to the appropriate minister of the State.

All rights with regard to the continental shelf are exercisable by the Government of the Federation, acting through the Minister of Lands and Mines.¹

Complaints in connection with mining operations are lodged with the Senior Inspector of Mines who is vested with the powers of a magistrate of the first class and who may conduct a hearing if he thinks one is justified. Any decision made by the Senior Inspector may be appealed to the Supreme Court.

¹For further information contact Chief Inspector of Mines, Department of Mines, Gurney Road, Kuala Lumpur, Malaysia.

Alternatively, one of the parties may at any time petition to move the hearing to a civil court.

Disputes over provisions of petroleum exploration licenses are settled according to the Arbitration Ordinance of 1950. The model petroleum agreements included in the Petroleum Mining Rules of 1968, on the other hand, outline separate arbitration procedures.

Mining

The State owns all minerals. Mineral rights are separate from surface rights but the Mining Enactment covers both State-owned and alienated land. State land may be leased only to an individual at least 21 years old, to a company which has complied with the Companies Enactment, or to a company authorized by the British Crown. There are three important rights: the Prospecting License, the Mining License, and the Mining Lease.

Prospecting License

To prospect on his own land or on private land with the permission of the owner, a prospector need only give one week's notice to the Senior Inspector of Mines. To prospect on State land, a prospector must obtain a license from the Collector of Land Revenue of the district wherein the land lies. The Collector may also issue a permit to prospect on State lands with whatever restrictions he deems appropriate. A permit does not convey any right to receive a mining lease, whereas the license establishes a priority right to obtain a mining lease over all land covered by the license.

A prospecting license confers on the holder the exclusive right to prospect in the area specified by the license for the minerals covered by the license. The maximum area allowed varies greatly by State, but there is no limit to the number of licenses an individual may hold. A license usually is valid for 6 or 12 months, depending on the policies of each State. The Ruler in Council may grant extensions at the holder's request if prospecting is being carried out satisfactorily.

A licensee must carry out his operations in accordance with the program approved by the Senior Inspector of Mines, and he must keep his work open to inspection and submit monthly reports of work done. The Senior Inspector must be satisfied with the work. Generally, this means that work which adequately tests the qualities of the land regarding the specified mineral will be approved. The license shall be canceled if the licensee fails to make a bona fide commencement of prospecting within 3 months from the date of issuance of the license, if he ceases to work within the area for the period specified, or if he breaches any provision of the enactments.

One month prior to the expiration of the license, the prospector must render a full account of the results of his operations to the Senior Inspector and to the Director of Geological Survey. Upon completion of operations, the licensee must fill in all pits and shafts. Licensees may remove and dispose of minerals obtained during prospecting upon payment of the appropriate royalties and export duties.

Mining License

The Collector with the approval of the Ruler in Council may issue to an individual a mining license which entitles the holder solely in his individual capacity to mine all metals and minerals other than oil and oil shale within the specified area. Such licenses are nontransferable and expire on the 31st of December of the year of issuance. Licensees may work only in such manner as may be approved by the Senior Inspector.

Mining Leases

A mining lease entitles the holder to mine, remove, dispose of, and dress (but not to smelt except in the case of gold) all minerals and metals, except oil and oil shale, which are on or beneath the surface of the designated area. He may use such portions of the surface of the land as the Senior Inspector may determine are necessary to the mining operation.

The lessee is obligated to begin operations within 1 year of the date of issuance of the license; to employ not less than such number of laborers as specified in the license; to maintain the mining operation so that work does not lapse for 12 months or more; and to keep complete books and allow inspection. He must obey the safety provisions of the Mining Enactment. In addition, the lessee must report any discovery of oil or oil shale and surrender the land involved for just compensation should the Ruler in Council require it.

The lease itself specifies the area of the concession. The Senior Inspector sets the term of a lease. He has discretion to renew a lease for any number of additional terms for whatever length he desires. There is no provision regarding the number of leases which can be held by an individual.

Applications are filed with the Collector, who prepares the lease and submits it to the Ruler in Council for approval. A survey is required before a lease may be granted, but an applicant may perform mining operations until the survey is completed and the lease is granted under an interim mining certificate issued by the Collector.

The Land Offices in each State in the Malay Federation charge individual survey and office fees. There are also application fees. Royalties are published from time to time in the Government Gazette.

A prospecting license may be canceled by the Ruler in Council upon proof of breach of any of its conditions or of any provision of the Enactment. Mining licenses and leases may likewise be forfeited for breach of their conditions or covenants. When a lease is terminated, the land reverts to the Ruler of the State and is subject to release.

Petroleum

Both the Petroleum Mining Act of 1966 and the Continental Shelf Act of 1966 are silent as to the ownership of petroleum. The former act, however, prohibits exploration, prospecting, or mining for petroleum upon any land

except by virtue of petroleum concessions issued pursuant to the act. For purposes of the act, petroleum does not include coal or bituminous shales or stratified deposits from which oil can be extracted by destructive distillation.

Any person may apply for a petroleum concession. Holders of petroleum rights must compensate owners of alienated lands for any damage caused by their entry.

There are two major petroleum rights--exploration licenses and petroleum agreements. In addition, oil prospecting and mining licenses issued under earlier enactments remain in effect.

An exploration license grants only the right to search for petroleum and does not include the right to petroleum or the right to drill wells for production. Several licenses may be issued for the same area of land, but an exploration license may not be issued for an area already covered by a petroleum agreement. Should a petroleum agreement be issued for an area of land, all exploration licenses for that land become invalid and no compensation is paid to licensees.

Licensees must maintain complete maps and records, keep operations open to inspection, follow workmanlike and safe oilfield procedures, and plug wells on or before termination of the license.

Applications for licenses must be accompanied by the prescribed fees and maps, as well as evidence of intent to carry out exploration work on a serious basis and, if requested, of technical and financial qualifications. The original term of a license is 2 years. One-year extensions are obtainable upon a showing that the licensee carried out exploration work on a reasonable scale. There is no limit to the area of a license or to the number of licenses which may be held by an individual.

Licensees must report discoveries of petroleum or petroleum-bearing strata to the appropriate Minister of the State. Licensees may at any time apply to the appropriate petroleum authority for a petroleum agreement for the whole or any part of the area held under their exploration license.

Holders of petroleum agreements may explore for, work, refine, and dispose of petroleum, erecting and maintaining such facilities as may be necessary. They must proceed with due diligence to carry out exploration and development work at a reasonable and economically justifiable rate. They must also operate in a workmanlike manner, so as to prevent waste and pollution, keep financial records and samples of seabed and strata, and use their best efforts to train and employ Malaysian citizens. In addition, holders are subject to a minimum annual expenditure requirement ranging from M\$200,000 (1 Malaysian \$ = US\$0.327) in the first year of the agreement to M\$3,000,000 in the 15th and subsequent years.

There is no limit on the number of agreements an individual may hold. Single petroleum agreements may cover no more than 4,000 square miles, except that the area may be larger if two or more "contiguous areas" (as defined) are involved.

Application procedures approximate those for exploration licenses, except that the agreement must be executed within 6 months of the date of approval of the application.

Petroleum agreements run for 40 years. This term is divided into exploration and development phases. Discovery of petroleum, which must be reported, triggers the change from the first to second phase. The exploration period is to last at most 10 years, but a 5-year extension for 25 percent of the original area may be obtained.

Holders pay the Government an annual use fee which varies with the age of the license. These fees, however, may be deducted from royalties or reduced by exploration expenditures, depending on the area involved. Royalties are 12-1/2 percent of the value of crude oil, casinghead petroleum spirit, or natural gas.

The Petroleum (Income Tax) Act, 1967, as amended, applies to companies engaged in oil production and provides for an expensed royalty and 50 percent profits tax based on tax reference prices.

The Model Petroleum Agreements call for compulsory surrender of 50 percent of the original area after 5 years and 75 percent after 10 years, but this requirement may be waived if the Minister is convinced that the remaining area is too small to permit effective development.

Petroleum agreements terminate if no petroleum has been discovered after 10 years or after 15 years if an extension has been granted. The Minister may revoke a license in case of bankruptcy, breach of its terms or conditions, or arrears in payments.

All rights to the continental shelf and its natural resources, for purposes of exploration and exploitation, are vested in the Federation.

The Minister of Lands and Mines may determine eligibility requirements for rights for minerals other than petroleum and may issue licenses to explore for and mine minerals of any specified kind in any specified area. The provisions of the Petroleum Act, 1966, control licensing and concession privileges for petroleum on the continental shelf.

Sabah

Controlling Statutes

Prospecting and mining of minerals other than mineral oil in Sabah is regulated and controlled by the Mining Ordinance of 1960, as amended. The Land Ordinance provides that the Governor may grant leases and licenses for exploitation and exploration of mineral oils and includes models of these leases and licenses.

Administration

The Collector of Land Revenue and the Director of Lands and Surveys share responsibility for issuance and administration of mining rights. The Chief Inspector of Mines supervises mining operations in the State. The Governor, as mentioned previously, grants oil concessions.²

Persons aggrieved by orders of decisions of the Collector may appeal to the Director, whose decision is final. The model oil mining licenses and leases provide arbitration procedures.

Mining

All coal, minerals, precious stones, and mineral oils are reserved to the State or its licensees. State land may be alienated only to adult individuals and companies complying with Sabah law or authorized by the Governor to hold land.

There are three major mining rights: prospecting permits, prospecting licenses, and mining leases. Prospecting permits entitle the holder to enter the land and do what is reasonably necessary to test the mineral-bearing qualities of the land. They confer no right to obtain a license or lease. The Collector issues permits upon payment of the prescribed fee. Such permits are good through December 31 of the year of issuance.

A prospecting license grants an exclusive right to prospect for the minerals specified within the prescribed area. In addition, it confers a prior right to a lease for a block of land in the license, but there is no right to select or receive a lease for an area of more than 1,000 acres.

Holders of a prospecting license have the right to do what in the opinion of the Collector is necessary to test the mineral-bearing qualities of the land. They have no right to enter non-Crown lands or lands that are the subject of a mining lease. They must keep adequate records and allow government inspection.

Prospecting licenses are granted by the Director upon application to the Collector. The licenses specify the area and minerals involved. They run until December 31 of the year of issuance but may be renewed by the Director if he is satisfied that such action is justified.

Mining leases confer the right to work, remove, and dispose of minerals; to use the land for buildings; and to cut timber, although it may not be removed beyond the boundaries of the leasehold.

A lessee must maintain boundary markers, begin mining within 6 months, and allow inspection and access to adjacent land. He may not stop work for more than 6 months.

²For further information contact State Attorney-General's Chambers, Jesselton, Sabah, Malaysia.

The Governor may alienate Crown land for mining for such periods and on payment of such royalties and other conditions as may be specified in the lease.

If the lessee discovers mineral lodes, beds, or similar formations in land being worked for alluvial deposits, the Governor may require him to work these discoveries. The lessee must immediately report to the Director discoveries of oil or any mineral of economic value other than that for which the lease was granted.

Permits and licenses may be canceled by the Collector or Director on proof of breach of the provisions of the Ordinance or the concessions. Breach of the covenants renders a lease liable to forfeiture. In addition, the Chief Secretary may close a mine for reasons of public health and safety.

Petroleum

Oil prospecting licenses and leases may be issued under Section 24 of the Land Ordinance, which includes models of both petroleum rights.

According to these models, licenses confer rights to prospect and mine petroleum on the land involved, as well as to build facilities necessary to conduct the licensed operations. A licensee must keep records and maps and allow inspection. He is also subject to minimum expenditure requirements.

The original term of a license is normally 10 years, with a 2-year renewal available. Provision is made for 50 percent relinquishment after 5 years, with a further surrender of up to 75 percent of the original area. A license conveys a right to a mining lease for up to 300 square miles of the licensed area or more, if warranted.

Oil mining leases convey the right to work, refine and store petroleum, and to build the facilities necessary to do so. A lessee is obligated to keep records, allow inspection, and employ and train as many Malaysian citizens as possible. The Government reserves the right of preemption in case of national emergency. It also has the right to buy a lessee's equipment at a price to be set by specified procedures. The term and renewal period of a lease is 30 years.

Licensees and lessees must pay an annual rent which increases with the age of the right. Royalties for licenses and leases are the same: 12-1/2 percent for oil and 5 percent for natural gas. Both rates are lower for offshore production.

Licenses and leases may be terminated for noncompliance with their provisions or if they are under the control of a citizen of a nation which does not grant reciprocal rights to Malaysian citizens.

Sarawak

Controlling Statutes

The controlling mining law in Sarawak is the Mining Ordinance of 1949, as amended. This incorporates by reference certain sections of the Land Code. The controlling petroleum law is the Oil Mining Ordinance, which covers the continental shelf as well as all the lands of the Sarawak State.

Administration

The Chief Inspector of Mines heads mining administration in Sarawak. A number of inspectors serve under him. All inspectors are appointed by the Governor, who has the power to review the administrative decisions of all mining officials. The Director and the Superintendent of Lands and Surveys share responsibility for surveying, recording, and issuing mining tenements. The Governor in Council grants petroleum concessions.³

Any officer may vary the decision of a subordinate officer, but no appeal to a court of law is provided.

Mining

The State owns all minerals. All minerals except oil and oil shale are included under the Mining Ordinance. Certain common materials such as sand and limestone are not minerals within the meaning of the Ordinance. Nevertheless, according to the Land Code, the State has the right to these substances and may extract them from alienated land on payment of compensation for damage.

A mining lease may be issued only to an adult or to companies complying with State law and regulations. Nonnatives may not hold rights in the Native Area Land, Native Customary Land, or Interior Area Land.

All land is subject to the right of the State or its licensees to prospect for minerals, subject to payment of compensation for disturbance or damage. The lessee of alienated land, or a person with his written consent, may prospect such land on 1 week's notice to the Inspector of Mines.

The State issues both general and exclusive prospecting licenses. A general prospecting license conveys the right to prospect and test the mineral-bearing qualities of any land. The license is personal to the holder and all servants or agents must have a license. An exclusive prospecting license entitles the holder to an exclusive right to prospect the designated area for the specified mineral and to a prior right to receive a mining lease for any part of the area.

There is no limit to the number of prospecting licenses which an individual may hold. The Governor sets the conditions to which licenses are subject, as the Ordinance establishes no limits on area, duration, or renewal.

³For further information contact State Attorney-General's office, Kuching, Sarawak, Malaysia.

A mining lease specifies the minerals and area the holder is entitled to mine. It does not entitle the holder to carry on underground operations. Rather, a separate license for this must be obtained from the Chief Inspector of Mines. Hydraulic mining also requires a special license. Panning and fossicking permits are available.

Lessees have the exclusive right to mine, remove, and dispose of the specified minerals and to do all reasonable things necessary for the proper conduct of this activity. They may remove timber and other building material for the purposes of their mining operation but not beyond the boundaries of the leasehold without a special permit. Lessees are obligated to keep records and allow inspections, begin operations within 1 year, employ the prescribed number of workers, and follow safety regulations.

There is no limit on the area which may be covered by a lease, nor is there a provision regarding the number of leases which may be held by an individual. The Governor specifies the term of the lease, but it may not exceed 21 years. The Superintendent may renew it; however, no single term may exceed 21 years.

If, in the course of working superficial deposits under a mining lease, more substantial deposits in the form of lodes, beds, pockets, or stockworks are discovered, the lessee must report the find to the Superintendent and work the new deposits in a proper and workmanlike manner or surrender that part of the lease containing the new deposits. If oil or oil shale is found, that part of the leasehold containing the new discovery must be surrendered. In the event of a surrender in either of the above cases, appropriate compensation will be paid for any loss sustained, excluding the loss of the new discovery. The discovery of any mineral other than the one covered by the license must be reported to the Superintendent, but the licensee does not thereby become entitled to a lease to mine for that mineral.

A prospecting license may be canceled for failure of its holder to obey the Ordinance. A lease may be forfeited for breach of its conditions and covenants. Rental fees are determined by the Governor in Council.

Petroleum

There are three major petroleum rights: oil exploration licenses, oil prospecting licenses, and oil mining leases.

Licenses or leases may be issued to any person or to any company incorporated in Sarawak. Alien companies must appoint a qualifying company as a holder. No license or lease may be granted to a citizen of a country not offering reciprocal privileges to Sarawak firms.

Oil exploration licenses are necessary to prospect for oil. The Ordinance does not specify whether such licenses grant an exclusive right with respect to the licensed area. Licensees have a prior right to production concessions.

Licenses must cover at least 8 square miles. Their initial period may not exceed 2 years. They may be renewed for any number of 1-year periods. An oil exploration license for the continental shelf runs for 4 years, and is renewable for any number of 2-year terms.

Applications, made to the Minister of Lands and Mines, must include nationality of applicant, evidence of his financial ability, a plan of the area, and a fee.

Prospecting licenses specify the area and proposed plan of development, and apparently grant an exclusive right to that area. Such licenses authorize surveys and test drilling and require due diligence in carrying out the licensed scheme of development.

The licensed area must be between 8 and 200 square miles. The initial term is limited to 4 years, with one additional 12-month period available. Oil prospecting licenses for the continental shelf run for 8 years, with unlimited 4-year renewals available. There is no limit on the number of licenses which may be held by an individual.

Oil mining leases may be issued only for land which is adjacent to land already held under lease by the applicant; or for land for which the applicant holds an oil prospecting license; or for land which was included in an earlier, but now expired, oil mining lease of another party.

The leased area must be between 4 and 100 square miles. The lease runs for an initial term of 30 years and may be renewed for a similar term. The concession specifies rentals and royalties.

NAURU

Nauru, a small island in the Central Pacific, gained full independence in 1968 after 80 years of foreign rule. Since 1947 it had been administered by Australia under a United Nations trusteeship and Australian currency is still employed.

Phosphate deposits, the only natural resource on the island, have been exploited since 1906. There are sufficient reserves to last until 1995. The British Phosphate Commissioners by an agreement incorporated into the Land Ordinance 1921-1956 had the right to lease any phosphate-bearing land and mine the phosphate. However, Nauru has purchased the assets of the British Phosphate Commissioners and will operate the industry from July 1, 1970.

Under a trust fund arrangement to invest the phosphate income on behalf of the islanders, it is estimated that when the phosphate is depleted, there will be a fund accumulated of about \$400 million which should yield an annual income of about \$24 million (the present population is 3,100).

NEW CALEDONIA

The French Overseas Territory of New Caledonia is comprised of the island of New Caledonia and its dependencies, the Isle of Pines, the Loyalty Islands, Huon Islands, and Chesterfield Islands.

Controlling Statutes

The basic law governing mining and petroleum development in New Caledonia is Decree No. 54-1110 of November 13, 1954, applicable to all French Overseas Territories, as amended by decrees of the French Republic and regulations of the local Assembly. The most recent laws are French Decrees No. 69-4 of January 3, 1969, and No. 69-598 of June 10, 1969, which also contain special provisions applicable to deposits of nickel, chromium, and cobalt.

There is no separate petroleum legislation in the Overseas Territories. Petroleum is dealt with under Articles 19 through 25 of Decree 54-1110 of November 13, 1954. In general, the provisions of the November Decree, which relate to the granting of "A" prospecting permits, exploration permits, and concessions in reserved zones apply equally to the granting of petroleum rights.

Administration

Under the Decree of November 13, 1954, the French Government is represented in the territories by the Head of the Territory, who is the depository of the powers of the Republic. The Minister of the French Overseas Territories and the Minister for Industrial and Scientific Development, members of the French Metropolitan Government, issue general directives and review the acts of the local authorities. The mining laws are administered by the Director of the Mines Service,¹ who is given the authority to grant search permits. The denial of an application may be appealed to New Caledonia's Ministry in Charge of Mines. For petroleum, potash salts, and fissionable materials, search permits are granted at the discretion of the French Metropolitan Government.

The Territory is classified into three types of areas: (1) closed zones, in which prospecting and exploitation are suspended for reasons of public interest; (2) open zones, in which ordinary prospecting permits are awarded by priority of application; and (3) reserved zones, in which prospecting permits are awarded at the discretion of competent authorities. The classification is determined by the Government Council at the proposal of the Minister of Mines, except that all fissionable materials, liquid or gaseous hydrocarbons, bitumens, asphalts, potash, nickel, chromium, and cobalt are, by law, within reserved areas.

Mining and Petroleum

Mineral substances are divided into two basic categories, quarries and mines. Quarries, which are considered the property of the surface owner,

¹For further information write Directeur, Service des Mines et de la Géologie, Noumea, New Caledonia.

include deposits of construction materials, fertilizers, and similar substances with the exception of phosphates, nitrates, alkaline salts, and other salts found in association in the same deposit. All other mineral substances not classified as quarries are classified as mines. Mines are not the property of the surface owner and may only be exploited under permit or concession granted by the State. No company may receive an authorization or a mining right unless the company is incorporated in accordance with the laws of France or the laws of another European Common Market country and has a President and majority of the Board of Directors who are citizens of a Common Market country.

Personal Authorization

No natural or juridical person may prospect for substances or become the holder of a prospecting or exploitation permit or concession without first securing a personal authorization (autorisation personnelle). Except for fissionable minerals, gas and petroleum, potash, nickel, chromium, and cobalt, which require the consent of higher authorities, the authorization may be granted at the discretion of the Head of the Territory. The personal authorization, which is required for prospecting or exploiting the above minerals, is granted by the Minister of Industrial and Scientific Development after consultation with the Minister of the French Overseas Territories and on the recommendation of the Head of the Territory.

The personal authorization is granted for a limited duration, generally 5 years, may include one or more substances, and is for a limited number of concessions and permits, not to exceed an area of 2,000 square kilometers. Before the granting of a personal authorization, special conditions may be imposed on enterprises which the Government considers especially important to the industrial development of the French Republic. Generally, these conditions concern the control of the company, conduct of operations, exports, transportation, and refining.

The right to explore for and exploit minerals from mines can be acquired only through a search permit, an exploitation permit, or a mining concession. Permits or concessions are granted for one or several minerals. Different individuals may hold permits or concessions for different minerals in the same area.

Search Permits

Prospecting may be conducted only by the holder of a search permit. There are three types of search permits: "A," "B," and "ordinary." "A" and "B" permits cover areas classified as reserved, while "ordinary" permits cover open areas. Applications for search permits must include the area, minerals, length and number of renewals wished, as well as maps, work plans, and proof of technical competence. The first applicant to register with the competent administrative bureau for an "ordinary" prospecting permit has priority over subsequent applicants.

The permit gives its holder an exclusive right to prospect and explore for a specified mineral over a designated area, which must be a square or a

number of contiguous squares with sides 1 kilometer in length and oriented north-south and east-west. The precise location of the area must be in relation to a noticeable and immovable geological formation which is designated the "pivot point." The permit is considered a personal estate right, which may be transferred to another holder of a personal authorization with permission, or relinquished, but it cannot be mortgaged or subdivided.

"A" search permits are valid initially for a period not exceeding 3 years, but may be renewed twice for periods not exceeding 3 years each. The number of renewals possible and the reduction in permit area which shall occur upon each renewal shall be set forth in the permit. These renewals are of right if the holder has satisfied his obligations under the permit. Reduction in the area of a permit, within limits not exceeding one-half its original size and provided for in the act instituting the permit, may be imposed prior to a renewal. Exploration for petroleum, gas, nickel, chromium, and cobalt must be carried out under "A" search permits.

"B" search permits carry the same obligations and the same area requirements as an "ordinary" search permit. The "B" permit has an initial duration of 2 years and may be renewed twice for 2 years each time, provided that a specified minimum amount of discovery work has been undertaken in the preceding period. Upon special application to the Ministry in Charge of the Mines, the permittee may be granted permission, for each period of validity, to sell or otherwise dispose of the minerals recovered during the prospecting period. The holder of a prospecting permit who discovers an exploitable mineral deposit is entitled to an exploitation permit or concession.

Concessions and Exploitation Permits

An application for a mining concession or an exploitation permit must give the precise boundaries of the area applied for, maps locating the area and the workings, geological information, a detailed summary of prospecting operations, and the appropriate fee.

For exploitation permits the area must be a square, with sides 1 kilometer in length, oriented north-south and east-west. The concession area must be larger than 4 hectares and rectangular, with sides oriented north-south and east-west and the longside not more than 5 times the length of the short side. Without permission by decree of the French Republic, no person or company is allowed to hold concessions and exploitation permits covering more than 2,000 hectares.

The exploitation permit gives its holder exclusive rights to exploit the designated minerals for a period of 4 years and may be renewed four times for 4-year periods each. The concession gives its holder exclusive rights to exploit the designated minerals for a period of 75 years and may be renewed for periods of 25 years.

A holder of an exploitation permit or a concession may be authorized to occupy the necessary land inside or outside of his permit or concession and to acquire surface rights. He must pay compensation to the surface owner,

however, in the amount of twice the usual net income from the area actually occupied or he may permanently displace the surface owner by paying a lump sum of twice the normal sale price of the area taken. Authorized occupation of land in the public domain is free.

The conversion of an exploitation permit into a concession may be required of a permit holder whenever his deposit appears to be of sufficient importance. Failure of the permit holder to apply for the concession within the prescribed period may result in annulment of the exploitation permit.

An exploitation permit may not be mortgaged but may be transferred or leased if prior authorization is obtained. A mining concession gives rise to a real property right of limited duration which may be mortgaged. It may also be assigned, transferred, or leased if prior authorization is obtained. Authority for the issuance, transfer, and granting and forfeiture of the exploitation permits and concessions deriving from "A" search permits lies with the Minister of Industrial and Scientific Development after consultation with the Minister for Overseas Territories on the recommendation of the Head of the Territory.

If prospecting or exploitation activity is insufficient or if taxes are not paid promptly, concessions may be declared forfeited and exploitation permits canceled.

Fissionable Minerals

The French Decree of October 30, 1945, established the Atomic Energy Commission, which is an autonomous agency of a scientific, technical, and industrial nature placed directly under the authority and control of the Head of the French Government. Article 21 of the Decree provides that permits may be granted only with the consent of the Commission, which also sets minimum activity requirements for permittees. Any fissionable minerals discovered must be reported to the Government, and the exploitation of such minerals is closely controlled.

Fiscal Provisions

The fee for a personal authorization is CFPF5,000 (1 CFP franc = US\$0.01). The application fee for a search permit is CFPF2,000, for an exploitation permit CFPF4,000, and for a concession CFPF3,000. Concessionaires are subject to pay an annual tax at a rate per hectare increasing with the total area owned. An additional tax must be paid by holders of concessions or exploitation permits if there has been insufficient exploitation. Specified production requirements determine if there has been insufficient exploitation.

NEW HEBRIDES

New Hebrides consists of several principal islands and a large number of smaller islands. They are administered by a joint British-French condominium established by Protocol Agreement in 1906.

Controlling Statutes

The primary statute governing mining activities is the Joint Mining Regulation (Regulation No. 2 of 1957). This regulation is supplemented by several joint rules and amendments, the most important of which include the Condominium Joint Rules, No. 1 of 1957; Joint Rules No. 11 of 1958; Joint Rules No. 12 of 1958 (occupation of land); the Mining (Royalties) Joint Rules of 1959; and Joint Regulation No. 7 of 1968 which amends No. 2 of 1957.

Administration

The French and British Resident Commissioners are empowered to grant licenses and leases by joint decision upon applications made to the Department of Mines. The Joint Administration (the Resident Commissioners and their appointed officers) is responsible for the supervision of mining activity.¹

Mining and Petroleum

Mineral deposits are divided into two categories: (1) mines, which include petroleum and (2) building, roadmaking, and fertilizing materials (but excluding phosphates, nitrates, and associated salts, which are considered mines). All unextracted mineral deposits classified as mines are the joint property of the Resident Commissioners. Title to such deposits is thus distinct from surface ownership.

Notification of intention to carry out mining activities on property, where the surface ownership is by the natives, must be given to an Agent of the District. Any agreement between a licensee or lessee of a mining right and a native for the rent or purchase of property must be submitted to the National Advocate for comments, and such agreement must be approved by the Resident Commissioners.

A prerequisite to the obtaining of a mining right is the possession of a personal authorization. Such authorization may be issued to any person who maintains a representative in the capital of New Hebrides. The authorization is issued for a limited area, covers one or more specified minerals, is valid for 5 years, and is renewable. It may be revoked at the discretion of the Commissioners, but such revocation shall not cancel mining rights already granted. The 1957 regulations limited a personal authorization to 100,000 hectares, for which the fee was £150 (1£ = US\$2.40). This was amended by Joint Regulation 7 of 1968. There is now no limit to the number of 100,000-hectare blocks a personal authorization may cover, and a single fee of £150 only is payable.

¹Further information may be obtained from Chef du Service des Mines du Condominium, P.O. Box 45, Vila, New Hebrides.

Prospecting License

A license is an exclusive right to explore in the area and for the stipulated minerals. The right is personal and cannot be shared, leased, or mortgaged. It may, however, be transferred, but such transfer is subject to any restrictions that the Resident Commissioners may impose.

The license is valid for 2 years and may be renewed for two additional 2-year terms. Renewal is automatically granted upon request of the licensee, unless there has been insufficient activity. The licensee, during the term of the right, is subject to a minimum work expenditure provision. The exploration area granted in the license shall be a square with sides oriented north-south and east-west, with a minimum length of 500 meters and a maximum length of 10 kilometers. There are no restrictions on the number of prospecting licenses that any one party may hold.

The Commissioners may authorize the licensee to dispose of minerals produced during exploration. The holder of a prospecting license has a right--upon timely application and a showing of an adequate deposit--to obtain a mining lease.

Mining Lease

The lease is a real property right of limited duration distinct from surface ownership. It gives the lessee an exclusive right to prospect and exploit all or a part of the area and minerals enumerated in the prospecting license. The right may be mortgaged, leased, ceded, or, subject to prior government approval, it may be merged or divided.

A mining lease is valid for 25 years and renewals of equal length may be granted. The area granted must be in the shape of a square or rectangle, oriented north-south and east-west, and must have a minimum area of 15 hectares.

Fiscal Provisions

A fee of £150 must accompany an application for a personal authorization. It will be returned if the application is not granted.

Prospecting licenses are subject to an annual rent which increases from 2 pence per hectare during the original 2-year period to 10 pence per hectare during the second renewal period.

Mining leases are subject to an annual rent of 6 shillings per hectare per year. In addition, a royalty is assessed on the value of any minerals extracted. The royalty rate on each mineral is determined by the Resident Commissioners (for example, the royalty rate on manganese is 6 percent). The Commissioners may also require the holder of a mining right to deposit a guarantee, the amount to be fixed by the Commissioners, which is refundable at the cessation of mining activity.

NEW ZEALAND

Controlling Statutes

New Zealand is a self-governing member of the British Commonwealth of Nations. The following laws have been enacted by its Parliament to regulate prospecting, mining, and working conditions in mines:

1. Mining Act, 1926, which governs all mining not specifically provided for in another act.
2. Petroleum Act, 1937, for the prospecting and mining of oil and natural gas.
3. Coal Mines Act, 1925, for the coal mining industry.
4. The Atomic Energy Act, 1945, for the mining, treatment, and disposition of uranium ore and other fissionable materials.
5. Iron and Steel Industry Act, 1959, for the prospecting and mining of iron sands.
6. Bauxite Act, 1959, for the prospecting and mining of bauxite clays.
7. Continental Shelf Act, 1964, for prospecting and mining over the continental shelf.
8. Quarries Act, 1944, for the operation of quarries.

Prior to 1873, all Crown land deeded in fee simple included all the mineral rights except gold; however, since that time all grants have expressly reserved the mineral and other subsurface rights to the Crown. The Governor-General, acting on the advice of his Minister, has authority to exempt Crown lands from mining or prospecting. Otherwise all Crown lands and private lands are open to mining, subject only to prior tenements and preexisting (pre-1873) ownership. In the latter case authority to mine must be obtained from the owner.

Certain lands have been set aside for the benefit of the Maori (natives). The lands are either owned outright by the Maori or administered by the Maori land courts. All land grants by the Maori subsequent to 1888 reserve the mineral rights to the Maori, and these lands may be opened for prospecting and mining only by the Maori land court.

Administration

The overall administration of the acts is in the hands of the Mines Department through the Minister of Mines.¹ Under the Mining Act, 1926, the

¹For information write the Under Secretary, Mines Department, P.O. Box 6342, Te Aro, Wellington, C. 2, New Zealand.

Governor-General is authorized to create mining districts and establish Warden's Courts. He may also appoint Wardens, Inspectors of Mines, Mining Registrars, and other officials to inspect and police mining activity. The Warden's Court has original jurisdiction over all disputes regarding mining matters in its district and the adjacent area if outside of a mining district, with a right of appeal to the Supreme Court.

Under the Petroleum Act, 1937, administrative control is centered directly in the Minister. He has authority to hear most disputes arising under the act, and only his lack of jurisdiction may be questioned in the regular courts. Certain disputes may be settled under the Arbitration Act, 1908. The Minister may bring suit for collection of fees and royalties; and he may compel appearance before a Magistrate's Court to show cause why a license should not be revoked.

The Mining Act, 1926, and the Coal Mines Act, 1925, and the regulations thereunder control the working of mines and provide for mine safety requirements. Mine managers, officials, and miners are liable for prosecution for breach of the regulations. The acts also provide for the Government to use funds to encourage the mining industry. This can take any form, including granting of rewards and maintenance of mining schools. The Quarries Act, 1944, contains similar provisions regulating the working of quarries and providing for safety and for the certification of Managers.

The Companies Act, 1955, requires foreign corporations to have on record in New Zealand all details of incorporation, including ownership structure and financial statements.

Mining

The basic authority for prospecting under the Mining Act, 1926, is the Miner's Right. A Miner's Right may be obtained from a Warden, Mining Registrar, or at specified Post Offices throughout the country, and is good for 1 year. Any person over the age of 14 years may obtain a Miner's Right. This right does not confer any element of title but is merely a personal qualification to prospect for any metals or minerals on Crown lands open for mining. The holder of a Miner's Right is under no obligation other than to use reasonable care in any work done under the right. Exclusive prospecting rights are conferred by a Prospecting License or a Mineral Prospecting Warrant. Exploitation of minerals may be accomplished under either a Claim or a Mineral License.

Prospecting Warrant

The holder of a prospecting warrant has the nonexclusive right to prospect for any material over an area stipulated in the application. The right is valid for 1 year and is not renewable. The holder may, however, submit a new application covering the same area, and such application shall have priority over competing applications, so long as the prior holder had satisfactorily followed the terms of the expired warrant.

Prospecting License

A prospecting license conveys the exclusive right to prospect for any metal or minerals on a specified area of Crown land or other land open to mining. The owner's consent is required before entering private land. There are two types of prospecting license: ordinary licenses, covering a maximum of 1,000 acres, and tunnel licenses, consisting of 150 yards on each side of the tunnel. The holder is obligated to work continuously on the licensed land and to report any discoveries made. The term of a prospecting license is 1 year, and although it is not renewable, a new license may be obtained over the same area. The licensee has priority in obtaining a mineral license over the land included in his prospecting license. A tunnel license is valid for 2 years and may be renewed annually if the conditions of the license have been fulfilled during the prior term of the grant. There is an annual fee of NZ\$0.10 (1 NZ\$ = US\$1.12) per acre.

Mineral Prospecting Warrant

A mineral prospecting warrant is an exclusive right granted with the consent of the Minister for larger prospecting operations on areas up to 10,000 acres. It is issued only for prospecting specified minerals, and it may cover any open Crown land and private land with the owner's consent. The holder has a right of priority in obtaining a mineral license over the land. He must begin continuous prospecting within 3 months and has a duty to survey the land if it exceeds 20 acres. The warrant is valid for a period of 5 years and, while not renewable, a new warrant may be obtained for the same area and minerals. There is a deposit of NZ\$100 for the first 1,000 acres and NZ\$50 for each additional 1,000 acres. Annual rent is payable based on a schedule in the regulations.

Claims and Mineral Licenses

A claim may be taken up by the holder of a Miner's Right. An ordinary claim and an extended claim convey the exclusive right to mine gold, which is defined to include both gold and silver or any mineral containing either. Ordinary claims include areas up to 1 acre, while extended claims include areas up to 5 acres. Special claims, extending up to 100 acres, may be granted for the mining of all minerals found within the boundaries of the claim. The three principal classifications of claim are further divided into either alluvial, dredging, river, quartz, or sea beach claims. Different administrative rules apply to each type of operation. There is no limit to the maximum number of claims which may be held by one person; however, the total area of one person's holdings may not exceed six areas for ordinary claims or 100 acres for extended claims. If required, however, application may be made to the Minister by the licensee, for authority to mine gold or any other metal or mineral not specified in the license.

A mineral license may be obtained for mining minerals other than gold on areas up to 1,000 acres.

Both claims and mineral licenses may be obtained by marking the desired area and applying to the Warden. The holder of a prospecting right has priority in obtaining the development right. There is no established duration for the claim, but reasonable restrictions may be imposed. A mineral license shall not exceed a term of 42 years and is not renewable. The prior licensee may, however, reapply for the same right, and his application has priority over competing applications if he has satisfactorily performed his obligations under the prior license. The holder of a claim or license is obligated to begin work within an initial period of from 48 hours to 2 weeks from the date of the grant and to continue work for the duration of the right. The holder is under a duty to prevent waste or damage to the surface. He has the right to apply to the Warden for water-race licenses, tramway licenses, and other easements. A mining privilege is subject to default by decree of a Warden's Court when there is misuse or abandonment of the area, failure to pay rent or royalty, or failure to meet the labor conditions or any other conditions of the privilege.

There is an annual rental for claims of NZ\$0.20 per acre the first year and NZ\$0.75 per acre each year thereafter. There is no royalty on production from a claim. Rental for a license is NZ\$0.25 per acre per year. Royalties are established in the license. The Government has authority to extend financial assistance either by a loan or a grant to the holder of a mining privilege. Rewards may be paid for new discoveries.

Special tax provisions are provided to encourage the industry. New Zealand and foreign mining companies engaged in mining one or more of an inclusive group of minerals listed in the Tax Act are taxed on a taxable income equal to the dividends paid to shareholders. Until the total dividends paid since the company began exceed twice the amount of the company's paidup capital, taxable income is one-half of the dividends paid during the tax year. From then on taxable income is the full amount of the dividends paid to shareholders. This permits full recovery of capital before tax is paid on the entire amount of the dividends.

The Coal Mines Act, 1925

The principal coal mining rights granted under the Coal Mines Act are coal prospecting licenses and coal mining leases. These may be granted under two separate parts of the Act. Titles may be granted by the Mining Warden, with the consent of the Minister of Mines, under part I of the Act over Crown land. Under this part, a prospecting license entitles a holder to prospect within a defined area for a period of 1 year. There is a right of renewal for a further period not exceeding 1 year. A license may be exchanged for a lease but not necessarily over all the land subject to the license.

The holder of a coal mining lease may mine coal within a defined area by open-cast or underground methods depending on the terms of the lease. The term of a lease may restrict mining to one or more coal seams or within specified depths. The duration of a lease is generally 10 years with a right of renewal.

The holder of a coal prospecting license must pay annual rental of NZ\$0.25 per acre, and the holder of a coal mining lease must pay NZ\$0.50 per acre. There is a royalty of NZ\$0.10 per ton on salable coal mined, subject to reduction by the amount of rent paid.

Under part III of the Act, which concerns the operations of the State Coal Mines, the Minister may grant both coal prospecting licenses and coal mining agreements over Crown lands owned by the State Coal Mines, on such terms and conditions as he thinks fit.

Bauxite Act, 1959

This Act applies to the development of bauxite in certain designated bauxite areas. In these areas the right to prospect for and mine bauxite is vested in the Crown. The Minister may either develop the bauxite for the Government or he may grant the right to do so to private parties. The holder of such a grant has the right to reasonably enter and develop the bauxite and has a duty to pay royalty. The Government has a right to condemn land which is essential for development of bauxite but must pay reasonable compensation to private owners. The Bauxite Act was special-purpose, short-term legislation and lapsed in January 1970.

Iron and Steel Industry Act, 1959

This Act applies to the development of iron sand in certain designated iron sand areas. This area presently is limited to a coastal strip extending from the west coast of North Island to the west coast of South Island. In this area the right to prospect for and mine iron sand is vested in the Crown. The Minister can either work the iron sand for the Government or grant prospecting or mining rights subject to the payment of royalties to the Government and of compensation to the landowner.

Atomic Energy Act, 1945

This Act vests the ownership of all fissionable substances in the Crown and gives the Government full control of their prospecting and mining. Private persons are forbidden to possess fissionable substances without consent of the Government. The basic provisions of the Mining Act, 1926, apply to prospecting and mining of these materials. Written consent of the Minister is required for the disposition of fissionable substances. The Government must be notified of any discoveries. There are incentives for discovery of uranium in the form of rewards and grants.

The Continental Shelf Act, 1964

The Act applies to natural resources of the seabed and subsoil of submarine areas adjacent to the coast of New Zealand but beyond the territorial limits as defined by the 1958 Geneva Convention on the Continental Shelf (outward to a depth of 200 meters or, beyond that, where exploitation of resources is possible). The right of exploration and exploitation of all natural resources, defined to include all minerals and all living organisms in

constant physical contact with the seabed, is vested in the Government. The Act provides for the Petroleum Act, 1937, to apply to any petroleum development in the area. The law places absolute discretion in the Minister to grant licenses for prospecting and mining of any minerals. The royalty is to be established in the license. The safety regulations of the Mining Act and the Coal Mining Act are the only provisions of those Acts to apply to the Continental Shelf Act.

Petroleum

All petroleum within the territorial limits of New Zealand and the areas of the Continental Shelf as defined by the Continental Shelf Act, 1964, is the property of the Crown. The Petroleum Act, 1937, places full discretion in the Minister in the granting of licenses and gives him authority to exempt certain lands from exploration and exploitation. These include lands designated as public reserves. In addition, the permission of the landowner must be secured before a license holder may enter certain private lands. An agreement must be reached for compensation of the owner prior to entry.

The Minister has authority to carry on petroleum production and marketing operations for the Government. However, he must obtain licenses on behalf of the Crown prior to doing so. The Minister also may direct a mining license holder to have some or all of his production refined in New Zealand if he determines the existence of a domestic need and the capability to refine the product economically.

Petroleum operations are divided into two phases: a Prospecting License covering exploratory activities and a Mining License for exploitation activities. Certain regulations are common to both licenses. Each applicant must establish financial and technical qualifications. Either license may be terminated if the Government believes the licensee has not complied with the terms of his license; license areas may be extended at the Minister's discretion; and transfer of licenses is prohibited without the consent of the Minister.

Prospecting License

A prospecting license conveys exclusive exploration rights over land and territorial sea areas up to 200 square miles. The duration of the initial term of a prospecting license is 5 years and this may be renewed for an additional 5 years for a maximum term of 10 years. One person or company may hold any number of licenses. The Minister has discretion to grant a license for an area in excess of 200 square miles over a continuous area within the continental shelf.

The licensee must begin a geological, geophysical, or similar investigation of the licensed area within 3 months. He is obligated to begin drilling within 3 years, or within the term of the license for licenses over the continental shelf, and must continue drilling one well until it is productive or he proves to the Minister's satisfaction that it is unsuccessful. The Minister has discretion to modify these conditions. The Minister may require a deposit of up to NZ\$2,000 as security for compliance with the terms and conditions of

a prospecting license if he sees fit. Land covered by a prospecting license may not be granted for a petroleum mining license to any person other than the prospecting license holder (except with his consent).

Mining License

Conversion of the prospecting license to a mining license is guaranteed if the holder has complied substantially with the conditions of the license. The Minister is required to specify all future obligations in the prospecting license, and no modifications or additional conditions may be imposed at the time of conversion to a mining license.

The maximum area of a license is 100 square miles; however, any number of licenses may be granted to the same person or company. The initial term of a license may not exceed 42 years, but it may be renewed up to a total term of 63 years. The licensee must develop the area in accordance with good oilfield practice.

There is a security deposit on a mining license of NZ\$40 per square mile with a minimum deposit of NZ\$500. The annual rent is NZ\$20 per square mile, and it may be deducted from the annual royalty. Royalty is based on a "selling value" and is to be agreed upon by the licensee and the Minister or, if necessary, by arbitration under the Arbitration Act, 1908.

Special tax incentive provisions are provided for New Zealand petroleum companies but not for foreign companies. In general, the taxable income of New Zealand companies is the amount of dividends paid during the tax year. However, for New Zealand companies, no tax is payable until total dividends paid exceed the total amount of "irrecoverable expenditures" of the company. "Irrecoverable expenditures" include the total amount spent on development in New Zealand less the selling value of assets.

PAPUA AND NEW GUINEA

Controlling Statutes

Papua, an Australian Crown colony, and New Guinea, a United Nations trusteeship under Australian Administration, have shared a common Australian territorial administration and a common House of Assembly since 1949. The territorial administration also includes the smaller islands of the Bismarck Archipelago, Bougainville, Buka, and some of the smaller Solomon Islands.

Separate mining laws, enacted before union, are in force in Papua and New Guinea. Laws enacted since union generally apply with equal force in Papua and New Guinea. The controlling legislation in New Guinea is the Mining (New Guinea) Ordinance 1928-1966 and the Mines and Works Regulations Ordinance 1935-1962. In Papua the Mining Ordinance 1937-1965 is controlling. The ordinances of Papua and New Guinea are basically the same and will be discussed together. The Mining Development Ordinance 1955-1960 applies to both territories.

There is no petroleum production in either Papua or New Guinea; however, the Petroleum (Prospecting and Mining) Ordinance 1951-1967 has been enacted to control any petroleum development in both. The Petroleum (Submerged Lands) Act 1967 of the Commonwealth of Australia is specifically adopted by the Petroleum Ordinance (see Australia summary). Except as indicated, the following discussion applies to both Papua and New Guinea.

Administration

The mining and petroleum legislation is administered by the Department of Lands, Surveys and Mines, through the Division of Mines.¹ The Administrator of the Territory grants most development rights. The Geological Branch of the Department, staffed by Australian Officers, works closely with the Division of Mines.

Wardens of the gold and mineral fields are appointed by the Administrator of the Territory to issue miner's rights, grant and register claims, and hear applications for mining tenements. Disputes are settled by Warden's Courts with a right of appeal to the Supreme Court. Inspectors of Mines are appointed to exercise control over the physical operation of mines and mine safety.

The Petroleum Advisory Board, composed of officers of the public service of Papua and New Guinea and the Oil Advisory Committee, composed of technical officers of the Australian Department of National Development, provide advisory assistance on petroleum matters.

¹For information write the Secretary, Department of External Territories, Hobart Place, Canberra City, A.C.T., 2601, Australia.

Mining

Under the ordinances all minerals, no matter where located, are reserved to the Administration. The ordinances apply to all minerals with a special section pertaining to coal production. The Administrator may proclaim any land where minerals have been discovered as a mineral field or a goldfield. Such a proclamation closes the area to use by all persons except holders of miner's rights. The land is opened to prospecting, mining, and settlement by miners under a miner's homestead or a miner's homestead lease.

Miner's Right

The miner's right may be granted for periods up to 10 years, and it entitles the holder to occupy any open Crown or Administration land for prospecting and mining to make necessary improvements to carry on mining operations. Both Papua and New Guinea impose racial restrictions on the availability of a miner's right. With some exceptions, African, Asian, and Polynesian aliens and aboriginal natives are precluded under the ordinances from holding miner's rights. However, by separate enactment, indigenous inhabitants enjoy all the rights conferred by the mining ordinances upon the holder of a miner's right.

The holder of a miner's right may file an unlimited number of mining claims. The maximum size of a claim and the work obligation depend on the type of mineral. A claim must be registered, and it is considered as abandoned if it remains unworked for more than 30 days without a legal excuse.

Large-scale prospecting may be carried out under a Prospecting Authority; and exclusive mining rights may be obtained under a Mining Lease or a Special Mining Lease.

Prospecting Authority

The Administrator may grant a prospecting authority to any person eligible to hold a miner's right. It entitles the holder to carry on large-scale prospecting for a specific mineral or minerals on any land specified. The maximum area of a prospecting authority is 10,000 square miles, and it is subject to an initial term of 2 years, which may be extended at the Administrator's discretion. The Administrator may impose any conditions he sees fit, including expenditure of a certain sum of money on an approved works program and a security deposit. Although the prospecting authority is otherwise exclusive, the same area may be subject to both a primary authority and a secondary authority. The holder of the secondary authority must in no way interfere with the operations of the primary holder, but he otherwise may prospect the area subject to the conditions imposed by the Administrator. When the authority relates to private land, the holder must pay an occupation fee of 5 percent of the unimproved capital value of the land covered by the authority.

Mining Lease

The Administrator may grant a mining lease to any person eligible to hold a miner's right. Leases may be granted for any land not the subject of

another prospecting or mining right; however, they are not usually granted for alluvial mining. Mineral leases may be granted for areas up to 160 acres in Papua and 100 hectares in New Guinea. A gold mining lease ordinarily may not exceed 25 acres in Papua or 20 hectares in New Guinea. All leases are subject to labor, health, safety, and operations requirements.

Special Mining Lease

For extensive mineral deposits which require a large investment, the Administrator may grant special mining leases. They may include areas up to 25 square miles and carry an initial term of 42 years with 21-year renewals available. Mining leases may be issued only for specific minerals. Rent, royalty, and all other conditions are to be determined by the Administrator.

In addition, "leases for mining purposes" may be granted for ancillary purposes such as roads and waterworks.

Nonindigenous producers must pay a royalty of 1-1/4 percent of the value of all minerals produced. Indigenous persons pay no royalty on the production from mining claims, but pay a 1-1/4 percent royalty on production from leases. Annual rental for all mining purposes on Crown land is A\$1.00 (1 Australian \$ = US\$1.12)² per acre. For prospecting on private land the owner must be paid an "occupation fee" of 5 percent of the inimproved value of the land or A\$1.00 per acre, whichever is greater. For mining on private land the occupation fee is 5 percent of the value of inimproved land or A\$2.00 per acre, whichever is greater. For large-scale prospecting permits, the rate is paid only for lands actually occupied.

The Mining Development Ordinance authorizes various forms of assistance including loans, drilling assistance, and road construction. The Australian Government is authorized to pay subsidies to gold producers.

The Mining (Bougainville Copper Agreement) Ordinance 1967 provides special tax incentives to Bougainville Copper Pty. Ltd. to develop the copper industry of Bougainville. There are special provisions to benefit the natives of the island.

Petroleum

The Petroleum Ordinance 1951-1967 provides for a three-stage system of Prospecting Permits, Exploration Licenses, and Exploitation Leases. All offshore development is regulated by the Petroleum (Submerged Lands) Act 1967 of the Commonwealth of Australia.

Prospecting Permit

The prospecting permit is directed toward reconnaissance operations. The initial term is 12 months, and this may be extended at the Administrator's discretion. Only one permit may be held by any one person but it may cover three

²Australian currency is used in Papua and New Guinea.

separate areas. Reconnaissance work must be commenced within 6 months and reports must be submitted every 3 months. The Administrator may cancel a permit if the permittee fails to comply with its terms. Other terms and conditions are subject to the discretion of the Administrator on the approval of the Minister.

Exploration License

An exploration license entitles the licensee to carry on all necessary prospecting operations including drilling. The initial duration of the license is 2 years, and this may be extended up to a total of 8 years. The maximum license area is 2,500 square miles. Reports of operations are required every 3 months, and the Administrator must be notified of any discoveries.

Exploitation Lease

The licensee is eligible for an exploitation lease if he can establish that he is financially and technically qualified to carry on exploitation operations. The maximum lease area is 500 square miles. It has an initial term of 21 years and may be renewed for successive terms of 21 years. The lessee must install at least one drilling rig and commence drilling operations within 6 months. Drilling must continue until production is obtained or the Administrator determines the well is unsuccessful. The lessee must furnish an annual report of operations.

Fiscal provision relating to prospecting permits include an application fee of A\$100 and a security bond. For an exploration license there is an application fee of A\$20, a granting fee of A\$25, a security bond of not less than A\$5,000, and an increasing scale of annual rentals rising to A\$1.00 per acre in the 6th year. For an exploitation lease there is a security bond of not less than A\$10,000 and annual rental of A\$15 per square mile the first 5 years, A\$30 per acre the next 5 years, and A\$50 per acre thereafter. The royalty is 10 percent of the value of all production at wellhead.

PHILIPPINES

Controlling Statutes

The Philippines Republic gained full independence from the United States in 1946; however, some United States influence remains in its minerals laws. The controlling mining legislation is the Mining Act of 1936 and the Coal Lands Act of 1917. Petroleum development is regulated by the Petroleum Act of 1949.

Administration

The Department of Agriculture and Natural Resources under the Secretary is the government department charged with administration of mining and petroleum. Within the Department, the Bureau of Mines has direct responsibility under the Acts.¹ The Bureau of Mines has exclusive jurisdiction over the disposition of the mineral lands of the public domain. Within the Bureau there is an administrative unit for petroleum lands and laws and a technical advisory board.

The Mining Engineering Law of 1965 regulates mining engineering and provides for licensing and registration of personnel of mines and quarries. The Act creates a Board of Examiners for Mining Engineers and provides for certificates of registration for engineers.

The Director of the Bureau of Mines is vested with quasi-judicial power to hear and determine conflicts relating to mining claims. The Mineral Lands Administration Division of the Bureau of Mines is charged with the task of investigating disputes arising out of mining locations. Decisions or orders of the Director may be appealed to the Secretary. Within 30 days of the Secretary's decision the matter may be taken either to the Court of Appeals or the Supreme Court as the case may be.

Disputes under the Petroleum Act, with the exception of conflicts between applications which are resolved by competitive bidding, are settled by the Secretary. His decisions may be reached with the intervention of arbitrators. The party adversely affected may appeal to a court of competent jurisdiction.

Mining

The basis of mineral ownership and development is established in Article XIII of the Philippine Constitution, which provides that "all agricultural, timber, and mineral land of the public domain, water, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State." The Constitution goes on to provide that disposition, exploitation, development, or utilization of these resources is limited to Philippine nationals, or corporations or associations at least 60 percent controlled by Philippine nationals. No license, lease, or concession is constitutionally permissible for an initial period in excess of 25 years, renewable for an additional 25 years.

¹For information write the Director of Mines, Department of Agriculture and Natural Resources, P.O. Box 1595, Manila, Philippines.

By an Executive Agreement of 1946, United States citizens are given the same privileges as Filipinos until July 1974. However, the Laurel-Langley Agreement of 1955 limits these privileges to corporations at least 60 percent of whose capital stock is owned or controlled by United States citizens and organized under Philippine law.

The Mining Act encompasses the development of all inorganic substances found in a solid, liquid, gaseous, or intermediate state. The President may establish mineral land reservations on the public domain, and these lands may be opened or closed to mineral exploration as the President may determine. If land has been declared a mineral reserve, it may be disposed of only for mining purposes.

Prospecting

Any qualified person may prospect on public and private lands without a license or permit. However, in the case of private lands the prospector must reach agreement with the surface owner prior to entry. If agreement cannot be reached, the Director may assist. If they continue to disagree, the competent court of first instance will decide all issues. Certain lands closed to prospecting include mineral reserves closed to mining, lands covered by mining claims, lands covered by leases, and lands near buildings and other private and public works. A prospector may prospect for himself or for his employer; however, a proper power of attorney must be given by the employer.

The right to locate a mine is based on the discovery of a mineral or minerals. Within 30 days of the date of discovery, the prospector must complete the process of establishing a mining claim. There are detailed steps for locating, marking, and recording claims. The claim holder may occupy and prospect his claim, but for exploitation he must first obtain a temporary permit or a lease.

Claims

Mineral lands and mining claims are classified into five principal groups: (1) metals; (2) precious stones; (3) fuels; (4) salines and mineral waters; and (5) construction materials, clays, and other nonmetals. These groups may be further subdivided into placer or lode claims. The maximum area available as a single claim and the total maximum areas, which may be leased to an individual or an entity, are as follows:

Mineral group	Single claim size, hectares ¹	Maximum number of claims or lease area	
		Individual	Corporation
		Claims	
Metals (lode).....	9	150	150
Metals (placer):			
Individual.....	8	50	-
Corporation.....	64	50	-
		Hectares	
Precious stones.....	4	40	320
Fuels ²	-	-	-
Salines.....	4	24	192
Nonmetals (lode).....	9	450	450
Nonmetals (placer):			
Individual.....	8	400	-
Corporation.....	64	-	3,200

¹For both individual and corporation unless otherwise noted.

²See sections on coal and petroleum.

An application for a lease must be filed within 3 years or else the claim is treated as abandoned. The claim also may be abandoned by written notice to the mining recorder.

Lease

Exploitation may be done only under a lease. Application for a lease is made to the Director of the Bureau of Mines. Publication of the application is required and adverse claims may be filed. (Settlement of disputes is discussed under Administration.) All proceedings are stayed until settlement is reached. If no adverse claims are filed, a temporary permit may be granted, allowing production within a limited period until the lease is issued. Leases are valid for up to 25 years and may be extended to a total period of 50 years. (The maximum area of leases are set forth in the above table.)

A lease conveys the right to extract all mineral deposits within the boundaries of the lease. If the lease covers private lands, compensation must be paid to the owner for any exploration, occupation, and use of his land. The work obligation depends upon the type of lease. For example, for metals or nonmetals the holder must perform at least P400 (1 peso = US\$0.256) worth of labor for each claim included in the lease area and for precious stones and salines he must perform P200 of labor for each claim in the lease area.

If the lessee at any time fails to comply with the mining laws, regulations, conditions of his lease, or fails to pay rental or royalty, the lease is subject to termination. Failure to perform the labor requirements is treated as an abandonment of the lease. Once a lease is terminated the land is opened to prospecting and claims.

Annual rental is paid on the basis of P1 per hectare. The royalty for all minerals is 1-1/2 percent of the actual market value of the gross production. Rents and royalties are deducted from gross income in computing income tax.

Special tax incentives are provided for the mining industry. Legislation passed in 1965 exempts new mines and all old mines being reopened from all taxes except income tax for the first 5 years of operation. For income tax purposes there is a percentage depletion allowance of 23 percent for most minerals and 15 percent for earth substances and building materials. The percentage depletion may in no case exceed 50 percent of net income or net profit, whichever is lower.

The Gold Mining Industry Assistance Act provides incentive by two methods: (1) it guarantees that newly mined gold will be purchased by the central bank at the official world price and (2) direct subsidies are paid to gold producers based on the amount of production and production costs.

The mining industry is also promoted by a 1966 act creating a special fund in the Bureau of Mines for use in examining and evaluating mineral deposits needed in the development of Philippine industries. Another act provides for a Metal Industry Development Center for economic advice, training, and research.

The Investment Incentive Act of 1967 insures that the basic rights and guarantees provided in the Constitution will be given to all investors in the Philippines. Foreign investors are allowed to repatriate the entire proceeds from liquidation of investment and earnings from investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance. The Act provides for freedom from expropriation, except for public use or in the interest of national welfare and defense upon payment of just compensation. Under the Act, certain areas of investment are to be declared as preferred, and non-Philippine nationals may register and invest in these areas if Philippine nationals are unable to fill the measured capacity.

The Corporation Law regulates corporate activity in the Philippines. The Corporation Law was amended in 1967 to allow a foreign or domestic mining corporation to own as much as 40 percent of one other mining corporation.

Coal Lands Act of 1917

The basic principles contained in the Coal Lands Act are similar to the leasing provisions of the Mining Act. However, the claim location procedure is not applicable to coal deposits. A block of not less than 50 nor more than 1,200 hectares may be leased to an individual or corporation upon approval by the Secretary. The initial term cannot exceed 25 years but the lease may be renewed for a maximum total term of 50 years. A performance bond is required at the rate of at least P5 per hectare. Rental for coal lands is P2.5 per hectare per year for the first 10 years and P5 annually thereafter. The rent can be credited against the royalty of 25 centavos per metric ton of output. A person or corporation may not hold more than six blocks nor more than 1,200 hectares in one province.

A revocable coal permit may be obtained for small-scale operations on areas not in excess of 4 hectares. The qualification and application

procedures are the same as for a lease, and the privileges and obligations are also similar to those for a lease. The term of a revocable permit is for a period of 10 years, renewable for another term. No more than three permits may be held at the same time.

Petroleum

As stated in the mining section, all petroleum rights are specifically reserved to the State by the Constitution; and development of petroleum resources is limited to Filipinos or corporations having at least 60 percent Philippine capital, with the exception granted to United States citizens. The Petroleum Act of 1949 adopts the provisions of the Constitution and expressly extends the State's right outward to the limits of the continental shelf. The President has power to establish petroleum reservations, which may be exploited by the Government itself or by contract with private parties.

For purposes of granting concessions, all lands are classified as "free areas" or "national reserve areas." National reserve areas are lands which previously have been the subject of a concession. New concessions may be granted over national reserve areas only after the Secretary of Agriculture and National Resources has released the area by publication. Free areas constitute all remaining land not already under a concession or a petroleum reservation. These lands are always open to application for a concession. The country is divided geographically into six petroleum regions based on geological characteristics. The purpose of petroleum regions is primarily administrative--to prevent one concessionaire from holding a monopoly in any one sector of the country, yet to allow a maximum area large enough to be attractive to major oil companies. The regions are: Caguyan Valley (No. 1); Central Valley (No. 2); Palawan-Mindoro (No. 3); Western Visayan (No. 4); Eastern Visayan (No. 5); and Mindanao-Sulu (No. 6).

Applications for concessions are filed with the Petroleum Division of the Bureau of Mines. If the application is in order, it is published; and a concession is granted if there are no adverse claims. Adverse claims are disposed of by a system of competitive bidding, with the concession going to the bidder whose offer is most beneficial to the State.

Exploration Concessions

There are two types of exploration rights: (1) the nonexclusive exploration permit and (2) the exclusive exploration concession. The nonexclusive permit is a minor type of reconnaissance permit which allows surface geological or geophysical work but does not allow drilling. It is valid for 2 years and it may be renewed at the Secretary's discretion for 2 additional years. There is no limit as to size, but the permit carries no priority or preferential right to the area covered. The permittee may enter private land with the owner's consent. There are no taxes or rental, but an application fee of P100 is required.

The exclusive exploration concession is the principal exploration right and it conveys complete and exclusive power of exploration, including drilling

rights. It may be granted for areas of 20,000 to 100,000 hectares. One person or entity may hold up to a maximum of 1,000,000 hectares but not more than 500,000 hectares may be in one petroleum region. Generally, exclusive concessions may be granted over any area not already covered by a concession. The original term is 4 years and it may be extended at the Secretary's discretion for additional 3-year terms up to a total term of 25 years.

The applicant must first establish that he is financially and technically competent. Once the concession is granted, the concessionaire must submit a program of work to the Director. Work obligations are imposed in terms of an increasing scale of obligatory expenditures, varying from 50 centavos per hectare the 1st year to P3 per hectare during the 10th year.

Exploitation

A person holding an exploration concession may select for exploitation purposes one or more parcels from anywhere within the exploration area. These parcels may not exceed one-half the total area of the exploration concession. An exploitation concession may also be granted to any other person who discovers petroleum and registers with the Bureau of Mines. The maximum size of an exploitation concession is 50,000 hectares. No single person or entity may hold under concession more than 250,000 hectares in one petroleum region or more than 500,000 hectares in the entire country. The initial term of an exploration concession is 25 years, and it may be renewed up to a total maximum of 50 years.

The exploitation concession conveys the exclusive right to drill and extract petroleum within the boundaries of the parcel. Drilling must start within 1 year and must continue in accordance with good oilfield practice. Additionally, at the beginning of each calendar year the concessionaire must submit a program of proposed exploitation work to the Director of the Bureau of Mines. All obligations including fiscal provisions are fixed and may not be changed during the duration of the concession.

The concessionaire may be required to refine in the Philippines any portion of the petroleum produced. He may also be required to construct a refinery if his daily production exceeds 10,000 barrels and his reserves are such that he is capable of maintaining this level of production for 15 years.

An exploration or exploitation concession may be renounced at any time by the concessionaire. The Secretary may cancel an exploration concession for failure to perform the work obligations, and an exploitation concession may be terminated by the Secretary for failure to perform the work obligations, failure to pay royalties, and suspension of production without approval of the Secretary.

The Petroleum Act also provides for pipeline and refining concessions. Both are granted for 25-year periods renewable for total terms of 50 years. A refining concession holder has a preferential right to refine his own products. Both concessions may be renounced at any time.

Fiscal provisions have been modified to encourage petroleum development. While all applications must be accompanied by a fee, all taxes imposed by the Petroleum Act on exploration concessions were repealed in 1966. A royalty is assessed at 12-1/2 percent of production. Payment may be either in cash or kind.

There is an exemption from import taxes on used supplies and equipment brought into the country during the first 5 years of the concession, and there is no export tax on any production.

Special incentives are paid to discoverers on the basis of a percentage of the royalties received from production within 1 kilometer of the discovery. The Investment Incentive Act and the Corporation Law, discussed in the Mining section, also are applicable to the petroleum industry.

SINGAPORE

Controlling Statutes

Singapore separated from the Federation of Malaysia and became an independent republic within the British Commonwealth on August 9, 1965. This separation had little effect on the extractive mineral industry, however. Basic mining and land tenure laws in Singapore predate its membership in the Federation and stem from laws proclaimed when it was the administrative capital of the Straits Settlements. Thus, the Straits Settlements Mining Rules, 1923, govern what little mining is done on Singapore's unalienated Crown lands.

The Petroleum Ordinance of 1955 (chapter 224) and subsequent Petroleum Rules do not specifically regulate mining or prospecting for oil nor do they provide a means for obtaining mineral rights, such as licenses, permits, and leases. Instead, the laws relate to the importation, exportation, transport, and storage of petroleum liquids into and out of Singapore. However, under the Crown Lands Ordinance every grant and lease made after May 3, 1907, implies a condition that the Crown or its grantee has the right to enter upon such lands to conduct prospecting and mining operations for any mineral oil.

Administration

Mining rights are issued by the Collector of Land Revenue, subject to the approval of, and often the conditions set by, the Commissioner of Lands.¹

Mining

All mines and minerals are reserved to the Crown. The Crown Land Rules, 1947, specify that no Crown land may be granted or leased without the Governor's authorization to any person under 21, to one against whom the Crown has an unsettled claim relative to other land, or to any public servant. All others, including aliens who are authorized by the Aliens' Property Ordinance to own land rights, are eligible to receive grants or leases in Crown land.

The two mining concessions are prospecting licenses and mining leases. Prospecting licenses authorize exclusive prospecting in the area involved for all minerals other than oil and removal of minerals extracted during the prospecting period. Licensees have the right to a lease for such a block of land, but the Commissioner must approve the area selection and be satisfied that sufficient prospecting has been done to warrant the grant of a lease.

The license specifies the area and minerals for which it is granted. It is valid for a term set by the Commissioner and may be renewed for this term for one-half of the original area.

A mining lease confers the right to all minerals on the leased area, except oil. The lessee may use the surface area necessary for housing his

¹For information contact Commissioner of Lands, Government Offices, St. Andrews Road, Singapore, Singapore.

labor force and may cut and use timber for his mining operations. Removal of timber or minerals commonly used as building material requires special permission.

The lessee must begin operations within 6 months of the grant of the lease and employ the number of workers (or mechanical equivalent) specified in the lease. He may not suspend operations for more than 12 months at a time. However, this 12-month period may be extended for further 6-month periods at the discretion of the Collector upon payment of a fee of S\$5 (1 Singapore \$ = US\$0.327) per acre.

The lessee must keep accounts and records and permit government inspection of both records and operations. He must grant access across his leasehold to the public, provided such access does not interfere with mining operations.

Applications must be filed in the local land office. Leases for small areas are normally granted by the Commissioner of Lands, but a leasehold that is within town limits, near public buildings, railroads, or paddy fields, or that is for more than 50 acres must be granted by the Governor. If action on the application is favorable, the Collector of Land Revenue must cause the land to be surveyed if it has not been previously surveyed.

The term of a lease is subject to negotiation, and renewal is available upon timely application. The lease may not be sublet or assigned without permission, but all or part of it may be surrendered at any time if all obligations have been met.

If the lessee is working alluvially and discovers lode deposits, he must notify the authorities immediately and must commence operations on the lode formation if so directed.

The Crown Lands Ordinance states that all grants or leases are subject to a royalty of 10 percent of the gross production of all minerals other than laterite. A reservation to the Crown of a 10-percent royalty is also made by the mining rules with respect to minerals extracted under an alluvial mining license.

Complete suspension of operations for more than 2 years results in forfeiture of the lease.

The mining rules authorize the Collector of Land Revenue to grant alluvial mining licenses. Such licenses are valid only until December 31 of the year in which they are issued and convey the right to work only in a manner approved by the Collector.

TAIWAN (REPUBLIC OF CHINA)

Controlling Statutes

The Mining Law of the Republic of China, July 30, 1959, as amended through 1966, governs mining. The Mining Law also applies to petroleum and in this regard is supplemented by the Regulations Governing the Exploration and the Development of Petroleum, promulgated in 1954, as amended through 1961.

Administration

The Ministry of Economic Affairs administers the Mining Law with respect to both mining and petroleum.¹ It also administers State-operated mines. In addition, it may establish an exploration bureau to explore for minerals in certain regions. The Ministry or other agency of the Government may work a State-operated petroleum area or organize enterprises such as the State-owned Chinese Petroleum Corporation to do so.

Disputes are settled either directly or through the appropriate provincial authorities up to the Ministry. If the party is not satisfied with the decision he may go through the process of administrative petition.

Mining

The State owns all minerals. Petroleum, natural gas, uranium, thorium, and metallurgical coke-producing coalfields are reserved for mining by the State. The Ministry may in addition specify regions for State reserve for the following minerals: iron, copper, tungsten, antimony, radium, molybdenum, mercury, zirconium, and any other minerals designated by the Ministry and approved by the Executive Yuan.

A right may be granted to any national. Aliens may become shareholders in a corporation set up to develop the right but over one-half the total shares should be owned by nationals and more than one-half of the Board of Directors, including its Chairman, must be nationals. These restrictions may be waived upon special approval of the Executive Yuan.²

Mining rights are either prospecting rights or operating rights. The former is an exploration right, and minerals obtained during prospecting must be reported to the appropriate provincial authority and cannot be sold without its permission. Mining areas are limited to between 2 to 250 hectares (5 to 500 hectares for coal) for nonstream bed mining and 1 to 5 kilometers of stream length for placer mining on riverbeds. The Minister may in his discretion extend the coverage of a mining area to no more than twice the ordinary maximum. The area should correspond to the mineral deposit and may be altered

¹For information contact Director, Department of Mines, Ministry of Economic Affairs, Taipei, Taiwan.

²See the Statute for Investment by Foreign Nationals, July 14, 1954, as amended through 1959. See also the Statute for Encouragement of Investment of 1960, as amended in 1965.

if it does not. There is no provision regarding the number of rights a single holder may obtain. Prospecting rights run for 2 years and may be renewed only for a single 2-year period.

Applications with accompanying maps are submitted to the Ministry through the appropriate provincial authorities. The Ministry may request changes and the provincial officials may demand fees and taxes. An applicant for a prospecting right may be required to take an operating right if the Ministry feels the area is ready to be operated. Applications first in time generally have priority. Additionally, holders of prospecting rights have priority in applying for operating rights if they act within 30 days of the termination of their prospecting rights.

Discovery of those minerals specified in the law for State operation or State reserve must be reported to the Ministry. If it is considered necessary that the discovered minerals should be State-operated or designated as State reserve, the person reporting such discoveries will receive a bonus equal to at least 5 times his expense in locating the deposit. Discoveries of minerals other than those specified in the right must also be reported. The Minister may thereupon order the holder of the right to expand his operations to include the new discoveries if they are considered worthy of operating but not large enough to warrant independent operation.

Operating rights carry a 20-year term and may be renewed for a similar period. The area restrictions are the same as those for a prospecting right. Application procedures are also similar, except that an applicant for an operating right must in addition submit descriptions of the mineral deposits involved and copies of its corporate regulations.

The activities authorized and major obligations are practically identical for both types of mining rights. Thus, the holder of either type of mining right may use the land of others to dig wells or tunnels, store minerals or other materials, and construct necessary facilities. The use of the land must be obtained by lease or purchase at a reasonable fee. A landowner may not refuse the use of his land without proper reasons.

The holder of a right must continually improve the safety features of the mines and permit students of mining to practice in them. He must keep maps and records and allow a semiannual government inspection.

Holders of mining rights pay both a mining area tax and a mining product tax. For prospecting right, the area tax is NT\$0.05 per 100 square meters or per 10 meters of watercourse for mines at river bottoms. For operating rights, the rate increases to NT\$0.15. The holder of a right may ask for a deduction of up to 80 percent of the area tax by submitting receipts of business or product tax paid for the same kind of mineral mined from the same area. The mining product tax ranges from 2 to 10 percent of the total price of mine products.

A mining right may be canceled if work is not begun within 2 years of the grant of the right or if work is suspended for more than 1 year; if it is transferred or mortgaged to an alien; if the operation is detrimental to the public welfare and no remedy except cancellation is available; if mining taxes are in arrears; and if the mining right was obtained fraudulently.

State-operated mines are established for uranium, thorium, and metallurgical coking coalfields and for the minerals as the Ministry may specify. When the Government prospects or operates a mine, private participation may be allowed through a sale of stock, with the same limitations on alien participation as mentioned in the previous paragraph. State mines may also be leased to private operators, on conditions specified in a contract between the lessee and the Ministry of Economic Affairs. The original term of a lease may not exceed 20 years, but it may be extended indefinitely. The rent may not exceed 50 percent of net profits and may be paid as a royalty. The State may reclaim a leased mine if any attempt to transfer a lease is made; if the rent or royalty payment is overdue; or if work does not begin within 2 years, or is subsequently suspended for more than 1 year. Upon the termination of the lease, if the Government takes back the leased mines, all equipment still serviceable will be purchased by the Government at a fair price.

Petroleum

The Mining Law provides that petroleum and natural gas shall be prospected for and exploited by the State. However, the regulations allow the State-operated areas to be leased. Leases may be issued to companies with any combination of capital from nationals, foreign nationals, and the Government, or to a foreign company capitalized entirely by aliens and recognized by the Government or registered under Chinese company law.

Petroleum rights are granted for three stages of exploitation and exploration: (1) prospecting including reconnaissance; (2) exploring and drilling; and (3) operating. A nonfranchised right to conduct the geophysical survey and other preliminary work of prospecting for petroleum may be obtained for the first or prospecting stage. The area which may be prospected is designated by the Ministry of Economic Affairs. The permission to prospect is effective for 1 year.

When prospecting has yielded favorable results, the prospector may obtain permission to drill test wells, shallow wells, or regular wells. The Ministry of Economic Affairs may designate one or several areas, as selected by the prospector, as State-explored areas, and may assign, lease, or entrust them to qualified applicants. The permission to explore and drill wells is effective for 2 years and is renewable for another 2 years. During the exploring periods, the mine area tax, described above, must be paid.

Leases to mine petroleum may be obtained by the holder of an exploration permission. Petroleum mining areas are limited to between 5 and 500 hectares. Applications are made to the Ministry and must be accompanied by plans and designs of the project. The Ministry designates the area for the lease as selected by the applicant. The lease has a term of 20 years and is renewable for a similar period. Rents and royalties, as described in the Mining section, must also be paid.

Offshore petroleum exploration and exploitation over the continental shelf has taken place pursuant to negotiated concession agreements. The concessions generally follow the provisions of the Mining Law and provide for a 50:50 profit sharing between the Government and the concessionaire.

THAILAND

Controlling Statutes

In 1967 Thailand adopted the Minerals Act B.E. 2510, as subsequently amended, which repealed previous legislation and today governs the grant of mineral rights in Thailand. Pending enactment of a comprehensive Petroleum Act, now in draft form, the Minerals Act also governs petroleum rights. Pursuant to Article 161 of the Act, the Ministry of National Development in 1968 issued a notice defining the terms and conditions of petroleum licenses and leases.

Other relevant material includes the Consideration Bases issued in 1967 which, while not law, embody the Thai Government's petroleum policy. The Industrial Investment Promotion Act B.E. 2505 contains provisions designed to encourage the development of the mining industry.

Administration

The Minister of National Development is responsible for implementing the Act. He has authority to appoint officials and to issue ministerial regulations regarding fees, forms, procedures, and other matters. Other officials who administer the Act include the Director-General of the Department of Mineral Resources and the local mineral resources officers. In addition, the Act establishes a Committee, which is to be responsible for advising the Minister regarding the enforcement of the Act.¹

Mining

According to the Act, the Thai Government claims the exclusive ownership of all minerals upon, in, or under the surface of both public domain and privately owned land. All minerals except water, mineral water, salt efflorescence, laterite, stone, soil, and sand are subject to the law. According to a policy announced by the Cabinet several years ago, only Thai nationals or a corporation controlled by Thai nationals may hold mining rights north of the 11th parallel. However, there have been exceptions to this policy.

Prospecting or mining requires a license or lease. There are four major mining rights: the mineral prospecting license, the exclusive mineral prospecting license, the temporary mining permit, and the mining lease. The terms of these rights vary, depending on the type of mineral involved and whether it is found on land or under the sea.

The mineral prospecting license is granted by the District Mineral Resources Officer under such terms and conditions as he may impose and is valid for 1 year. Licensees may prospect to test for the presence of ore but may not mine or sell any minerals found. They have no preferential or other right to exclusive prospecting licenses or mining leases.

¹For information contact Director-General, Department of Mineral Resources, Ministry of National Development, Bangkok, Thailand.

Exclusive prospecting licenses are granted by the Minister or his appointee after application to the appropriate District Mineral Resources Officer. Applicants must pay the application fee and submit a map of the area involved along with a detailed statement of prospecting methods. In addition, applicants for iron ore prospecting licenses must show financial status.

Holders of exclusive prospecting licenses have the exclusive right to enter and prospect any vacant land within the area covered by the license, as well as private land in the area if the prior written consent of the owner has been obtained. They may remove mineral samples to test their content and commercial value. Prospecting operations must start within 180 days from the date the license is received.

Licenses for minerals other than iron ore may cover no more than 3,000 rai (1 rai equals approximately two-fifths of an acre) and run for 1 year if the license is for land; if the license is for prospecting under the sea, the permissible area is 1,500,000 rai and the term is 2 years. For purposes of iron ore licensing, the land contained in a license may consist of two administrative districts (Amphoe). The licenses are limited to two such pieces. Licenses for iron ore prospecting in the sea may cover up to 1,500,000 rai. All iron ore exclusive prospecting licenses carry 2-year terms. There is no provision limiting the number of licenses which an individual may hold. With regard to offshore prospecting, however, the Minister may grant each applicant an area not greater than 1,500,000 rai.

Exclusive prospecting licensees for minerals other than iron ore have the exclusive right to apply for mining leases, except that owners of the land involved may also apply. Licensees for iron ore have the exclusive right to apply for iron ore mining leases only.

Mining leases are issued by the Minister after compliance with the prescribed application procedures and completion of a boundary survey. If an applicant wishes to begin mining after the survey has been made but before grant of the lease, he may apply to the District Mineral Resources Officer for a temporary mining permit. The permit, valid 180 days, carries the same rights and duties as a mining lease.

Such rights include the right to mine, dress, and sell the specified minerals, to erect buildings, and to carry out related activities. Duties include conducting ore dressing with a minimum of waste and damage, allowing government inspection, and returning the land to its original state. Special permission is necessary to mine within 50 meters of a highway or public waterway and to draw water from public waterways. In addition, lessees must employ an average of one person per month per 2 rai or use the mechanical equivalent. There must be a minimum total working time of 120 days per year.

Mining leases are valid for 25 years. If the original term is for less than 25 years, the lease may be renewed, providing that the aggregate term does not exceed 25 years. The area covered may not exceed 300 rai for inland mining, but there is no limit to the number of mining leases an individual may hold. For offshore mining, the Minister may grant each applicant an area not exceeding 50,000 rai.

Royalties are levied in accordance with the Mineral Royalty Rates Act B.E. 2509 and the Ministerial Regulations issued thereunder. The Revenue Code provides no deduction for depletion of natural resources, but a 5-percent deduction is allowed on the cost of acquisition of depletable natural resources.

Rights may be canceled for noncompliance with their conditions and expire in the event of bankruptcy, incompetence, loss of legal existence, or within 180 days of their voluntary surrender to the District Mineral Resources Officer.

In addition to the exploration and exploitation rights described in the preceding paragraphs, the Act provides for issuance of individual mining and panning licenses and permits to purchase, sell, store, dress, transport, import, and export minerals.

Petroleum

Since Thailand has not yet enacted a Petroleum Act, the provisions of the Minerals Act apply to the grant of petroleum as well as mineral rights. A Ministerial Notice published pursuant to the Act on January 23, 1968, specifies the terms and conditions governing the issuance of petroleum licenses and leases.

According to this Notice, applicants for exclusive petroleum exploration licenses must be limited companies, whether or not incorporated in Thailand, and possess assets sufficient to conduct petroleum exploration, production, and marketing. In addition, applicants must enter into a Petroleum Agreement with the Ministry of National Development. This agreement, which must be approved by the Council of Ministers, is to incorporate the provisions of the Consideration Bases. While these Consideration Bases are not law, they do enumerate in some detail the rights, duties, and benefits of both the grantor and grantee of petroleum rights and indicate the direction Thai petroleum legislation will probably take.

According to the Ministerial Notice, exclusive petroleum exploration licenses have an original term of 8 years, with provision for a 4-year renewal period. For licensing purposes, areas are divided into blocks of a maximum size of 10,000 square kilometers. Licensees are ordinarily limited to rights to four blocks, although the Minister of National Development may sanction exceptions. In no event, however, may a licensee hold rights covering more than 50,000 square kilometers. Offshore grants are subject to the provisions of the 1958 Geneva Convention on the Continental Shelf.

Exclusive petroleum licensees may apply for a petroleum mining lease if they can establish that a well has been drilled which can produce enough petroleum to return their capital investment in drilling and equipment within 12 years. Leases may cover no more than the initial area of an exploration license and run for 42 years, with the possibility of a 10-year renewal period. They confer no right in the land, although right of possession may be attained through other means; otherwise, the Government may permit nonconflicting use of land in that block by other persons.

The Minerals Act exempts petroleum licensees and lessees from payment of surface rental. The Consideration Bases specify a royalty of 12-1/2 percent of the value of petroleum, natural gas, or casinghead condensate, to be paid to the Government in cash or kind at its option. The Government's proceeds, other than surface rentals and those royalties which are treated as expenses of the lessee, shall be calculated for each taxation period during the production period on a 50:50 profit-sharing basis from the taxable income of the lessee in that particular taxation period.

SOUTH VIETNAM

Controlling Statutes

The old French mining law that applied to Vietnam and the rest of former French Indochina was carried forward after 1949 by the Republic of Vietnam in Ordinance No. 3 of March 6, 1952. After partition of the country along the Ben Hai River in 1954, the Southern Zone proclaimed itself a republic and promulgated a constitution in 1956. The old French mining law was again carried forward. Present mining law thus consists of nearly 130 ordinances, regulations, acts, and decrees.

Special regulations apply to hydrocarbons, oil, natural gas, peat, asphalts, slate, bitumen, and mineral wax. New petroleum legislation has been drafted, but it has not yet been submitted to the National Assembly.

Administration

The Director of the Bureau of Natural Resources administers the mining laws, settles disputes, investigates the qualifications of applicants for concessions, and supervises concession activity in order to assure compliance with the Mining Regulations.¹ Disputes over administrative decisions may be reviewed in the courts. Under a new draft petroleum law, the Prime Minister and the Ministers of National Economy and Finance are responsible for administering the petroleum law.

Mining

Ownership and control of all minerals is vested in the State. Quarry materials, including materials for building and soil improvement (except nitrates and phosphates) are not subject to the mining laws but are the property of the owner of the land. Private ownership of mines is permitted, although the President may reserve the right to explore certain zones to mine specified minerals.

A personal authorization must be first obtained before any mining right--exploration permit or mining concession--will be granted. Personal authorizations are issued by the Minister of Economy upon the recommendations of the Director of the Bureau of Natural Resources as well as the Security Service. The Minister of Economy may revoke or refuse to grant authorization at any time without indication of the reason therefore. There is no recourse from this action. Any person, regardless of nationality, and companies organized in Vietnam may acquire a personal authorization. Management in the latter must be controlled by Vietnamese nationals, although the nationality of stockholders is not subject to restriction. The duration of a personal authorization is 5 years and is renewable for a similar period.

¹For information contact Director-General, Bureau of Mines, 59 Gia Long, Saigon, South Vietnam.

Holders of a personal authorization may acquire an exploration permit which confers the exclusive right to explore for specified minerals in an area of 3 square kilometers. Owners of private land affected by the permit must allow permittees to explore their land, except when it is built up or enclosed. Permittees, however, must compensate such owners before entering the area. Holders of personal authorizations must either apply to the local Mining Commissariat or to the Chief of the province for an exploration permit. The duration of the permit is 3 years; the permit can be renewed twice for an additional 3 years.

A mining concession authorizes the holder to exploit specified minerals. The right is exclusive and encompasses an area of 900 hectares. A concession may only be granted to holders of personal authorizations in respect to such minerals. Persons who are not Vietnamese nationals may not hold mining concessions, although they may sell their permits to qualified nationals. Concessionaires must fulfill certain work obligations and must conduct their operations in a manner prescribed by regulations. Applications for concessions are submitted to the Minister of Economy through the Bureau of Natural Resources. Concessions may also be granted at public auction to the highest bidder. Unlike the exploration permit, the mining concession is a permanent right and it may be mortgaged. Concessionaires must keep accurate records of all operations, allow inspection of all facilities by delegates of the Minister of Economy and the Bureau of Natural Resources, and must submit to the Minister annual reports concerning the plan of operations and data on exploitation.

Petroleum

The scheme of regulations outlined in the preceding paragraphs applies as well to hydrocarbons, with some differences in details. Thus, the personal authorization is issued by the President rather than by the Secretary of State. The hydrocarbons exploration permit covers 10 square kilometers and is renewable if the holder properly develops the field. Exploration activities must begin within 1 year of the issuance of the permit. Permittees have a right to a concession if they can show that sufficient deposits are available and that they are technically and financially capable of exploiting them. The concession for hydrocarbons expires after 40 years.

A new draft petroleum law is now under consideration by the legislature. It governs the development of petroleum and related minerals onshore and offshore, including the continental shelf. Three types of petroleum rights would be issued: (1) a Nonexclusive Oil Exploration License; (2) an Exclusive Concession for Oil Searching; and (3) an Exclusive Concession for Oil Exploitation. Grant of these rights would be discretionary, with the decision to be affected by factors such as proposed investment, duration of the project, rights to oil offered to the Government, technical capability, and willingness to comply with national laws. Foreign corporations registered in South Vietnam and having a regular office in Saigon would be eligible to apply for mineral rights.

License for Oil Exploration

The Ministry of Economy will have discretion to issue a nonexclusive license for oil exploration. Licensees must submit reports to the Ministry. The license may not be assigned and may be terminated as provided in the articles.

Concession for Oil Searching

Issuance of exclusive concessions for oil searching would be by decree of the Prime Minister with approval of the Council of Ministers. A license for oil exploration will not be required. The plan described in the concession issued by the Ministry of National Economy must be carried out. The maximum area will be 20,000 square kilometers with no more than 5 perimeters granted to any one person. A concession will last for 5 years and it may be automatically renewed for an additional 5 years with a 50-percent reduction of the area covered by the original concession. A second 5-year extension may be requested for not more than 25 percent of the initial area. Other provisions will include restrictions on transferability, minimum development expenditures, and minimum surface rentals of 1,000 piastres² per square kilometer per year for the first term and up to 6,000 piastres per square kilometer per year for the third term.

Concession for Oil Exploitation

The Prime Minister, with the approval of the Council, would issue exclusive concessions for oil exploitation only to holders of oil-searching concessions. Perimeters will be no wider than 500 square kilometers with a maximum of 10 perimeters allowed per person. The duration of the concession will be 30 years and is renewable for 10 years if all obligations have been met. If oil is not produced within 5 years, a 50-percent area would be required. When production is interrupted or if oil is not produced after 10 years, total relinquishment will be required.

The new bill also provides that concessionaires must fulfill domestic market requirements and must settle disputes by arbitration. The Prime Minister shall have power to terminate any concession for cause shown.

Fiscal Provisions

Taxation would include surface rentals deductible from royalties on production (12.5 percent) and income taxes. Royalties would be calculated using posted prices or prices realized, at the option of the Minister of National Economy. A 50-percent tax is applied on revenue from sales (less overhead, financial costs, production costs, royalty or surface rental, depreciation, and, for the first 10 years, development costs). An additional surtax may be fixed by agreement between the Government and the concessionaire, or, in lieu thereof, the Government would obtain a participating interest after oil has been discovered in commercial quantities.

²Value of South Vietnamese piastre not yet established.

WESTERN SAMOA

Western Samoa achieved independence in 1962 after administration by New Zealand, first under military occupation from 1914, then as a League of Nations mandate, and since 1946 under a United Nations Trusteeship Agreement. There is no mineral production in the country nor are there any known mineral reserves. No statutes have been enacted relating to mineral exploration or exploitation.

The Western Samoan Constitution places all land in three categories: (1) customary land, which is land held in accordance with native customs and usages (the prevailing system is the matai, family group); (2) freehold land, which is all land held in fee simple; and (3) public land, defined to include all land free from customary title or fee simple estate.

The Land Ordinance 1959 establishes a Department of Lands and Survey charged with administering all property laws.¹ The Minister of Lands is the principal administrative official. The Ordinance creates a Land Board which may alienate "government lands" (generally public lands not dedicated to a public purpose) and declare lands as national reserves. It also may lease these lands and extract payment of rent.

Under the Taking of Land Act 1964, customary land required for a public purpose may be taken by the Head of State by proclamation. Specifically included are lands required as gravel pits or quarries when these activities constitute a public purpose. The owner is entitled to compensation.

Under the Samoan Status Act 1963, persons who are not citizens of Western Samoa and who do not have Samoan blood are not eligible to participate in ownership of customary land except under lease or license permitted by legislation. The courts may determine whether a person is a Samoan for purposes of the Act, and a registry of Samoans is maintained. Prior holdings by non-Samoans are preserved.

The Constitution provides that there be no alienation of customary lands except by license or lease permitted by specific legislation. The Alienation of Customary Lands Act 1965 permits the beneficial holder of a matai title to lease or license his land for nonindustrial uses (including mines and quarries) for a maximum period of 20 years. For industrial uses it may be leased or licensed for 30 years.

The Petroleum Ordinance of 1960 and the Petroleum Regulations of 1960 control the transportation and storage of petroleum and establish safety requirements.

¹For information write Department of Lands, Ministry of Lands and Survey, Apia, Western Samoa.

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