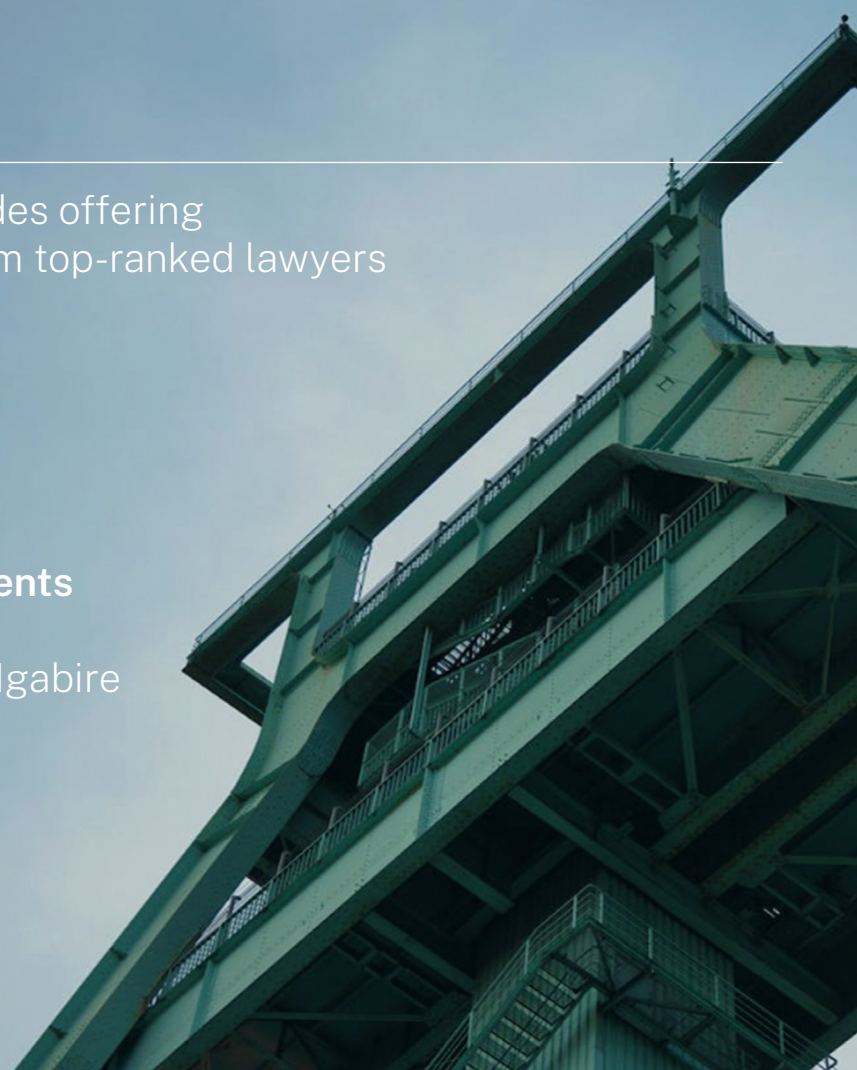
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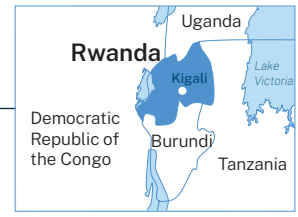
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Rwanda: Law & Practice and Trends & Developments

Aimery de Schoutheete, Julien Degrooff, Penina Ngabire and Remco Bernaerdts
Liedekerke Great Lakes

RWANDA



Law and Practice

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Liedekerke Great Lakes is a business law firm located in Kigali, Rwanda. It is the second subsidiary of Liedekerke in Central Africa. Liedekerke is a premium Belgian full-service business law firm with offices in Brussels, London, Kinshasa and Kigali. It has a strong advisory practice based on sector expertise and in-depth knowledge of Belgian/ European law, Rwandan law, Burundian law, Congolese (DRC) law, and OHADA law. Drawing on over 40 years of experience working on Africa-related matters and the expertise of more than 130 lawyers, Liedekerke offers unparalleled experience and support in Rwanda and Burundi, advising clients on all aspects of cross-border and domestic transactions (corporate, data protection, employment, finance, international dispute resolution, mining, IP/IT, real estate, regulatory and transport). With wide-reaching technical experience of the law and strong local know-how, Liedekerke provides clients with both optimal legal solutions and administrative support in the field.

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1. Mining Law: General Framework

1.1 Main Features of the Mining Industry

Update

Rwanda's mining sector has been developing rapidly in recent years. Today, mining is the country's largest export revenue earner, followed by tourism.

Rwanda is one of the world's largest producers of the 3Ts (tin, tantalum and tungsten) and exports gold, lithium and gemstones.

Future Objectives

Rwanda's mining sector consists mainly of artisanal and small-scale mining. The country aims to attract international investment to modernise, industrialise and expand the sector.

Similarly, the sector's exports are mainly raw mineral concentrates and not metals. Rwanda's near-future ambition is to become a mineral processing and value-addition hub in the region and to attract investors to set up modern value-addition processing in the country.

To achieve its objectives, Rwanda recently established the Rwanda Mines, Petroleum and Gas Board ("RMB") and developed a modern legal framework. Rwanda also offers several incentives to mining investors, as mining is considered a priority sector.

Fundamental Legal Principles Governing the Mining Industry

In a nutshell, the following fundamental principles apply to any mining activity in Rwanda:

- all rights of ownership and control of minerals or quarry products under, or upon any land in Rwanda are vested in the state, notwithstanding personal ownership of land and other properties thereon;
- mineral exploration, exploitation, processing and trading can only be carried out by a licence holder (LH), ie, an entity that has a mineral licence (ML) or a quarry licence (QL) from the RMB (to date, the RMB has granted over 750 licences in total, including about 20 mineral exploration licences and 150 mineral mining licences);
- the LH is required to submit to the RMB an environmental and social impact assessment approved by the Rwanda Development Board (RDB) prior to commencing operations;
- in the case of discovery of a mineral or quarry deposit, the landowner or lawful occupier is fairly compensated in accordance with Law 32/2015 of 11 June 2015 relating to expropriation in the public interest (the "Expropriation Law"); and
- after obtaining an ML, the LH enters into an agreement with the state to determine the specific conditions under which the mining activities will be carried out.

1.2 Legal System and Sources of Mining Law

Rwanda is a civil law legal system now undergoing a transformation from purely civil law to a more hybrid legal system that incorporates certain aspects of common law. In practice, the law remains heavily codified.

Rwanda has a unitary system of government and all the powers and responsibilities with respect to mining are allocated to the Rwandan parliament and government.

Since 2018, mining activities in Rwanda (from exploration to export) have been governed by Law 58/2018 of 13 August 2018 on Mining and Quarry Operations (the "Mining Law"). The Mining Law has since been supplemented by various presidential orders, ministerial orders and regulations issued by the RMB.

1.3 Ownership of Mineral Resources

Pursuant to Article 4 of the Mining Law, all rights of ownership and control of minerals or quarry products located in Rwanda are vested in the state, notwithstanding private ownership of the land where the products are located. This is confirmed by Article 43 of Law 27/2021 of 10 June 2021 on Governing Land.

In the case of discovery of minerals or quarry deposits, the landowner or lawful occupier is fairly compensated in accordance with the Expropriation Law.

1.4 Role of the State in Mining Law and Regulations

Role of the State

The state, through the RMB, serves as the grantor-regulator of mining activity. The RMB grants rights to explore, mine, process, trade, and export minerals based on licence fees (payable on application, maintenance and renewal of a licence) and upon fulfilment of the requirements provided for in the Mining Law.

The RMB also regulates the mining sector by issuing regulations governing mineral, quarry, oil, and gas resources and ensuring compliance by licence holders with the provisions of the laws, regulations, guidelines and standards governing the mining industry.

No Mandatory Government Participation

There is no mandatory government joint venture, contracting or participation. However, the Mining Law provides that the government may acquire shares in mining or quarry operations on such terms as agreed upon between the LH and the government.

In practice, there are only a few examples of government participation in the mining sector. One example is LuNa Smelter Ltd, a joint venture (JV) between Polish Luma Holding (75%) and the Rwandan state-owned Ngali Holdings (25%), which operates a smelter in Kigali and exploration licences in the east of Rwanda.

1.5 Nature of Mineral Rights

Nature of Mineral Rights

Mineral rights have a constitutional basis in so far as the Rwandan Constitution provides that private ownership of land and other rights related to land are granted by the state.

The exercise of power to grant mineral rights is regulated by the Mining Law and the various regulations that complement it. In practice, mineral rights derive from an action, that is, the issuance of an ML or a QL by the RMB to an LH.

Status of Mineral Rights

Mineral rights have the status of property and, as a matter of principle, the mineral rights granted to the LH are exclusive.

Hence, the RMB will not grant an ML in respect of an area covered by another ML of similar type. However, the RMB may, "for the purpose of national interests", authorise another person to carry out operations in an area already covered by a licence if it is for the exploration of other types of minerals.

An LH can transfer its ML subject to several conditions, including obtaining the prior authorisation of the RMB.

1.6 Granting of Mineral Rights

The RMB is the national authority granting mineral rights in Rwanda.

Demarcation of Potential Mining Areas

The RMB demarcates potential mining areas which could be economically viable. It publishes a list on the RMB website with more information on the potential mining areas and their licensing situation.

Granting of Mineral Rights

An ML is usually obtained through written application to the RMB, although it can sometimes be achieved through open tender. The ML is granted by the RMB after consideration of the recommendation issued by the committee in charge of applications. In practice, mineral rights derive from an action, that is, the issuance of an ML by the RMB.

Types of MLs

There are four types of MLs: the exploration licence, the (small, medium or large-scale) mining licence, the mineral processing licence and the mineral trading licence. Each type of ML confers rights and duties to the LH.

Mandatory Agreement with the RMB

After the issuance of the ML and before starting any mining activity, the LH must enter into an agreement with the RMB to determine the specific conditions under which the mining activities will be carried out.

1.7 Mining: Security of Tenure

Security of tenure is guaranteed as long as the LH complies with its legal and contractual obligations.

Terms, Renewals and Rights Attached to MLs

The specific mineral rights and length of tenure vary according to the type of ML, but the following generally apply.

- The RMB will not grant an ML in respect of an area covered by another ML of similar type. However, the RMB may, "for the purpose of national interests", authorise another person to carry out operations on an area already covered by a licence if it is for the exploration of other types of minerals.
- An exploration licence is valid for an initial period not exceeding four years. It carries a positive obligation to start exploration activities within 90 days from the date of issuance of the licence and does not allow for the commercial extraction of minerals (although it is possible to obtain a special permit to export minerals discovered during exploration work). An exploration licence may be renewed once for a period not exceeding four years, during which the LH may be required to relinquish part of the licensed area.
- A mining licence is valid for an initial period that cannot exceed 15 years and carries a positive obligation to start mining opera-

tions within 180 days from the date of issuance of the licence. The holder of a mining licence can process and export their product themselves (without a processing or trading licence), provided that only the minerals covered by the licence and coming from the licensed area are processed and/or exported. To export the minerals, the holder must also obtain an export permit from the RMB. A mining licence may be renewed more than once for a period not exceeding 15 years, upon fulfilment of the requirements provided in the Mining Law.
- All transactions must be carried out at arm's length, that is, at the price determined by the international market. If minerals are sold below that price, the RMB or the tax authorities may refer to the price used on the international market to determine the value of the minerals sold.

Progression from Exploration to Mining

The holder of an exploration licence receives the "first-in-time right" to apply for another ML on any portion of the exploration licence area where a mineral deposit is discovered, upon fulfilling the required conditions for that ML. On that basis, the holder of an exploration licence can apply to the RMB to add a newly discovered mineral to the existing exploration licence. It can also apply to the RMB to obtain a mining licence to start mining operations for the discovered minerals.

Maintenance of MLs

Compliance with legal and contractual obligations is all that is required to maintain the mineral rights. This includes compliance with health and safety standards, the payment of annual fees which vary according to the type of ML and, for mining licences, the size of the mining operation (small, medium or large scale).

Suspension and Cancellation of MLs

There is no room for arbitrary suspension or cancellation of MLs, as the Mining Law and the agreements between the RMB and the LH identify the limited grounds on which such a decision can be taken by the RMB. The RMB must also give 30 days' notice before issuing a suspension or cancellation, for the LH to remedy any outstanding breaches.

Transfer of MLs

An LH can transfer its ML, subject to several conditions, including obtaining the prior authorisation of the RMB. Such transfer may be subject to duty and taxes.

2. Impact of Environmental Protection and Community Relations on Mining Projects

2.1 Environmental Protection and Licensing of Mining Projects

Competent Authority

The Rwanda Environment Management Authority (REMA) is the national authority in charge of national environmental protection, conservation, promotion, and overall management, including advising the government on all matters pertinent to the environment and climate change.

Mandatory Requirements

Before commencing any mining operations, the holder of an exploration licence, a mining licence or a processing licence must:

- conduct an environmental impact assessment (EIA) with the help of an independent expert and submit the EIA to the RDB for approval; and

- prepare a rehabilitation plan identifying the planned rehabilitation activities and the related budget.

In addition, the holder of a mining licence must deposit in the bank account of the National Fund for Environment (NFE) an environment rehabilitation guarantee (ERG), the amount of which must be equal to the budget of the liabilities of the mining or quarry LH under the EIA. This is to ensure that the LH will rehabilitate the licensed area in respect of any degradations resulting from mining or quarry operations.

Liability

The LH remains liable for environmental protection until the mining site is closed and a final rehabilitation certificate has been issued by the REMA.

2.2 Impact of Environmentally Protected Areas on Mining

Environmentally Protected Areas in Rwanda

Rwanda currently has five fully protected areas covering almost 2,500 square kilometres or 9% of the country's total surface area: four national parks (Akagera NP, Gishwati-Mukura NP, Nyungwe NP and Volcanoes NP) and the Rugezi-Burera-Ruhondo wetland complex.

Additional measures have also been taken to protect other areas, including wetlands, rivers and various remnant forests.

Impact of Project Location in Environmentally Protected Areas

Environmentally protected areas have an impact on exploration and mining before and during the operations.

Before the operations, the independent expert conducting the EIA will automatically categorise as "high impact areas" all projects, including exploration activities, located in:

- ecologically sensitive areas (forests, wetlands, steep slopes and wildlife habitats);
- areas legally protected by national or international law (trans-boundary ecosystems, international riverbanks and lake shores, national parks and archaeological sites); and
- socio-culturally sensitive areas (densely populated areas, national monuments, memorial sites and burial grounds/cemeteries).

This may lead the authorities to reject the project, or to impose stricter environmental requirements on the operator. The project is also likely to be subject to closer scrutiny during its implementation.

During the operations, it is prohibited to carry out mining activities less than 20, 10 and five metres from wetlands, main rivers, and small riverbanks respectively. It is also prohibited to discharge untreated waste water, or to wash minerals in rivers or wetlands and their established buffer zones.

In addition, all mining activities, wherever they are located, are subject to strict rules regarding land rehabilitation.

2.3 Impact of Community Relations on Mining Projects

When it comes to the issue of community relations, the following principles apply:

- The holder of a mining licence (but not an exploration licence) must prepare a plan for development and social welfare in collaboration with the authorities of the district where the mining operations are to be carried out. This plan may include, for instance, build-

ing schools or public roads and it must be submitted to the RMB for approval. The LH may then enter into a specific agreement with the district authorities to ensure effective implementation of the community development plan.
- When expropriation is inevitable, the LH must, before starting any operation, engage with the landowners and lawful occupiers present on the licensed area, either by buying them out, or by leasing the land. If an amicable settlement cannot be reached, the licensee must inform the authorities, who will seek to facilitate the process. Although it is not mandatory, it is advisable to involve the authorities from the outset.
- The LH must at all times comply with the provisions of the Mining Law and any other applicable laws or standards prescribed by the government to ensure the health and safety of persons within the vicinity of the exploration or mining operations.

2.4 Prior and Informed Consultation on Mining Projects

Prior consultation is mandatory between the investor and:

- the landowners/lawful occupiers of the licensed area when expropriation is inevitable, whether at the exploration or mining stage; and
- the authorities of the district where the mining operations are to be carried out, since the holder of a mining licence must prepare a development and social welfare plan in consultation with these authorities.

2.5 Impact of Specially Protected Communities on Mining Projects

There are no specially protected communities in Rwanda.

2.6 Community Development Agreement for Mining Projects

The holder of a mining or quarry licence (but not an exploration licence) must prepare a plan for development and social welfare in consultation with the authorities of the district where the mining operations are to be carried out. It must then submit the plan agreed upon with the district authorities to the RMB.

2.7 Environmental, Social and Governance (ESG) Guidelines and Regulations

There are no national ESG guidelines or regulations for the mining sector as such. Instead, ESG guidelines are scattered throughout various laws and regulations applicable to the mining sector. In addition, more specific ESG provisions can be found in the agreement that any LH must enter into with the government.

As a result, all mining investors must, among other things:

- comply with strict environmental regulations;
- conform to applicable policies on the recruitment and training of Rwandan nationals;
- purchase local goods and services;
- guarantee the health and safety of their employees and people living in the vicinity of the licensed area; and
- abide by anti-corruption laws and regulations.

2.8 Good and Bad Examples of Community Relations/Consultation Impacting Mining Projects

All LHs must comply with health and safety standards, and must carry out their operations diligently and in line with the business plan submitted to the RMB.

They must also create income-generating activities for the surrounding communities, carry out reforestation, and implement their social activities.

LHs that fail to meet these obligations risk having their ML revoked by the RMB.

3. Climate Change, Energy Transition and Sustainable Development in Mining

3.1 Climate Change Effects

Rwanda has recently revamped its environmental legal framework to better tackle climate change and protect the environment. It has also launched a series of initiatives as part of its "Vision 2050" and its aspiration to be a green, carbon-neutral and climate-resilient country by 2050. These recent developments should contribute to more responsible development of the mining industry, which is set to grow rapidly in the coming years.

Revamped Environmental Legal Framework

Rwanda's revamped environmental legal framework can be summarised as follows:

- Rwanda is party to various international instruments tackling climate change, including the 1992 United National Framework Convention on Climate Change, the 1997 Kyoto Protocol, and the 2015 Paris Agreement.
- The Rwandan Constitution guarantees the right to a clean environment and imposes (mainly) on the state the responsibility for protecting the environment.
- Rwandan Law 48/2018 of 13 August 2018 on the environment (the "Environment Law") determines the modalities for protecting, conserving and promoting the environment. It sets out the fundamental principles governing environmental conservation, including the principle of sustainability and the "polluter pays" principle.
- The Environment Law has since been supplemented by various presidential orders, ministerial orders, and regulations.
- The REMA is the national authority tasked with co-ordinating, regulating and enforcing the protection, conservation and management of the environment in Rwanda.

Against this background, the Environment Law and the supplemental regulations impose general and specific obligations to tackle climate change and protect the environment. On the one hand, all administrative entities are required to preserve the environment and prevent the adverse effects of climate change, and all socio-economic sectors (including the mining sector) must factor the environment and climate change into the development and implementation of their policies, strategies, plans and programmes. On the other hand, prior to the issuance of an ML or a QL, all work related to mining must undergo a full EIA (which closely examines the impact of the mining project on the environment) and be backed by a rehabilitation plan of the future licensed area. After the issuance of the licence, all work related to mining must also undergo an environmental audit (EA) conducted by an independent expert.

Rwanda's Vision 2050 and REMA's Strategic Plan for 2022–2026

Rwanda's Vision 2050 articulates the long-term strategic direction of the country, which is to make Rwanda an upper-middle-income country by 2035 and a high-income country by 2050. In elaborating this long-term programme, the government took into consideration the global and regional development agendas, including

the Sustainable Development Goals (SDGs) identified by the United Nations, and the Paris Agreement on climate change. Rwanda's goal is therefore for the country's growth and development to follow a sustainable path, in terms of use and management of natural resources, while building resilience to cope with the impact of climate change.

Against this background, the REMA's Strategic Plan for 2022–2026 identifies key measures for protecting the environment and ensuring the sustainable management of natural resources. Some measures directly impact the mining industry as, for instance, the REMA intends to intensify control of the productive sector, mainly in agriculture and mining, to ensure compliance with all environmental requirements. Other measures may indirectly impact the mining industry – for example, the REMA intends to create new protected areas, which could affect the sector's ability to conduct exploration in certain areas.

3.2 Climate Change Legislation and Proposals Related to Mining

Under the current legal framework, only a few provisions scattered in the Mining Law, the Environment Law and their supplemental regulations directly impose specific obligations on the mining sector (conducting an EIA, establishing a rehabilitation plan, conducting an EA) to ensure that any mining activities in Rwanda comply with environmental standards and mitigate their impact on the environment.

The RMB is currently working with stakeholders to strengthen environmental obligations in the mining sector.

3.3 Sustainable Development Initiatives Related to Mining

One of Rwanda's priorities is to professionalise its mining sector, by better regulating and controlling artisanal and small-scale mining activities (which still account for around 80% of the sector) and by attracting investors to increase exploration activities, to conduct medium or large-scale mining activities, and to set up modern, value-adding processing in the country.

Outcome of the First EU-Rwanda Business Forum

During the first EU-Rwanda Business Forum in Kigali in June 2023, the RMB and the German development agency (the *Deutsche Gesellschaft für Internationale Zusammenarbeit* – GmbH or GIZ) launched the "Sustainable Development of the Mining Sector in Rwanda" project, underscoring their commitment to driving sustainable growth in the country's mining industry.

According to the press release published by the European Union, this project is jointly funded by the EU and the German Federal Ministry for Economic Co-operation and Development (BMZ) and will be implemented by GIZ in co-operation with the RMB. Aligned with the SDGs, it aims to enhance compliance with international mineral-sourcing standards, support sector digitalisation, strengthen technical and vocational education and training (TVET) skills in the mining sector, and improve the application of international social and environmental protection standards.

3.4 Energy-Transition Minerals

There are currently no legislative initiatives related to the increasing demand for so-called energy-transition minerals, such as lithium.

However, as part of Rwanda's vision to become a mineral value-addition hub in the region, the CEO of the RMB recently announced that Rwanda is set to establish a lithium refinery in the near future, adding to the three existing value-addition processing plants in the country (a tin smelter, a gold refinery and a tantalum refinery).

4. Taxation of Mining and Exploration

4.1 Mining and Exploration Duties, Royalties and Taxes

The Rwandan general tax system can be summarised as follows, when applied to exploration and mining. However, mining investors officially registered with the RDB may benefit from the various tax incentives discussed in **4.2 Tax Incentives for Mining Investors and Projects**.

No Discrimination Between National and Foreign Investors

There is no distinction in Rwanda between taxing national and foreign investors. The tax laws and regulations apply to all mining companies established in Rwanda, regardless of the origin of the investors.

In addition, foreign investors can benefit from favourable treatment (eg, with respect to withholding taxes) under bilateral or multilateral investment treaties.

Corporate Income Tax

A corporate income tax (CIT) is levied on the income generated by any mining company established in Rwanda. The tax rate was recently reduced from 30% to 28%.

A taxpayer willing to carry forward losses must apply to the competent authority, the Rwanda Revenue Authority (RRA). As a rule, losses cannot be carried forward for more than five years.

Value Added Tax

VAT applies on goods and services at the standard rate of 18%. However, some goods and services are zero-rated or exempt from VAT. For instance, exported minerals and minerals sold on the domestic market are zero-rated.

Withholding Taxes

There is a 15% withholding tax on dividends, interest, royalties and service/management fees paid by a Rwandan entity to a foreign entity. The same applies to profits repatriated from Rwanda.

There is also a 5% withholding tax on goods imported for commercial use.

Capital Gains Tax

A capital gains tax (CGT) of 5% is applicable on the direct or indirect sale or transfer of shares that are not listed on the capital market.

Tax on Minerals (Mining Royalties)

The sale of minerals is subject to royalties amounting to 4% (all minerals except gold and gemstones) or 6% (gold and gemstones) of the sale price, which must be at arm's length.

Law 55/2013 of 22 August 2013 on Minerals Tax (the "Royalty Law") is currently under review to promote mineral value addition in the country.

Licence Fees

Fees apply when an investor applies for, maintains, renews, or transfers an ML or a QL. When it comes to MLs, depending on the type of licence (exploration, mining, processing or trade licence) and on the size of the licensed area:

- application fees can vary between RWF100,000 and RWF4.5 million;
- annual fees can vary between RWF100,000 and RWF5 million;
- renewal fees can vary between RWF100,000 and RWF9 million; and
- transfer fees can vary between RWF900,000 and RWF4.5 million.

As of the date of this article, RWF1 is equivalent to USD0.0008.

Annual Surface Rent

The holder of a mining licence (granting its holder the right to mine the licensed area, and to process and sell the minerals extracted from the licensed area) must pay an annual surface rent of RWF6,500 per hectare (USD5.5/ha).

Customs Duties

As a member of the East African Community (EAC), Rwanda relies on the East African Community Customs Management (Amendment) Act (EACCMA) and the East African Community Common External Tariff (EACCET) for levying custom duties. Under the EACCET, the following common external tariffs apply to goods originating from outside the EAC: 0% (raw materials), 10% (intermediate goods that are used as input for further processing), 25% (finished goods) or 35% or above (sensitive items the import of which is discouraged by the EAC countries).

No Stamp Duty

Rwanda does not currently have a stamp duty regime for shares or bonds.

Advance Pricing Agreement

Any taxpayer may request the tax administration to enter into an advance pricing agreement (APA) for a fixed period to determine modalities for setting prices and profits complying with the arm's length principle.

4.2 Tax Incentives for Mining Investors and Projects

Under Law 006/2021 of 5 February 2021 on investment promotion and facilitation (the "Investment Law"), mining activities related to exploration, processing and value-addition, and export are considered to be priority economic sectors. A mining company registered in Rwanda can become a registered investor by registering their investment with the RDB, and can thus benefit from various tax incentives. Registered mining investors can also negotiate tax stabilisation agreements with the state.

Tax Incentives for Mining Investors and Projects

A mining investor registered with the RDB can benefit from various tax incentives, including:

- a preferential corporate income tax of 15% (instead of 28%) provided that at least 50% of the turnover of the company comes from exporting minerals processed in Rwanda;
- a corporate income tax holiday of up to seven years, provided that the company invests at least USD50 million and that at least 30% of this investment is in equity;
- exemption from capital gains tax (instead of paying 5%);
- exemption from customs taxes and duties for products used in export processing zones (according to RDB's website and guidelines, this exemption applies to all heavy mining machinery imported into Rwanda);
- VAT exemption on mining equipment (instead of paying 18%);
- accelerated VAT refund where applicable; and
- accelerated depreciation for the first year for new or used assets.

In addition, a registered investor holding a valid exploration licence is entitled to carry forward losses for a period of ten years (instead of five years) from the first year of making the loss, by deducting losses in the order in which they were incurred. This incentive is applicable if the exploration expenditure has accounted for at least 50% of the investor's total expenditure during the years in which losses were made.

It is not clear from the Investment Law whether these losses can still be carried forward once the registered investor has obtained a mining licence. However, the company could seek to obtain such a guarantee from the RDB (and the RMB) during negotiations.

The company cannot in principle benefit from a preferential withholding tax on dividends, royalties, interest, and service fees (the standard rate of 15% applies), unless it is entitled to preferential treatment under an international instrument (bilateral investment treaty or multilateral treaty).

Tax Stabilisation Agreements

Tax stabilisation agreements are not currently covered by Rwandan tax legislation. That said, there is nothing to prevent investors from negotiating a tax stabilisation agreement with the state, particularly since mining exploration is a priority sector and the Investment Law provides that registered investors are entitled to additional investment incentives over and above those provided in the law.

4.3 Transfer Tax and Capital Gains on the Sale of Mining Projects

The Rwandan tax system imposes taxes on the sale or transfer of an ML or a QL.

Direct Transfer of an ML or QL

If a company directly transfers an ML or a QL, for instance by selling it, this operation would be subject to:

- 18% VAT paid by the transferee (which the transferee can claim back if they are registered in Rwanda); and
- 28% CIT paid by the transferor (who must include the sale proceeds in their taxable income).

Indirect Transfer of an ML or QL Through a Share Transaction

If a company indirectly transfers an ML or a QL through a share transaction, this operation will be subject to 5% CGT paid by the transferor, regardless of whether this operation takes place within Rwanda or abroad. However, if the transferor is a registered investor under the Investment Law, it will be exempted from the tax.

Transfer Fees

In any event, transfer fees are applicable to the transfer of an ML or a QL. Depending on the type of licence (exploration, mining, processing, or trade licence) and the size of the licensed area, the fees vary between RWF900,000 and RWF4.5 million (USD700 and USD3,700).

5. Mining Investment and Finance

5.1 Attracting Investment for Mining

Mining activities relating to mineral exploration and export are considered priority economic sectors and therefore benefit from various investment incentives, both tax-related and non-tax related. To benefit from these incentives, the mining investor must obtain an investment certificate issued by the RDB.

Tax Incentives

Tax incentives available to mining investors are discussed in detail in **4.2 Tax Incentives for Mining Investors and Projects**.

Non-tax Incentives

In addition, a mining investor can benefit from the following non-tax incentives:

- the RDB can assign a key account manager at the RDB One Stop Centre to assist the company with administrative tasks;
- the RDB can provide notary services to the company;
- the RDB can facilitate access to utilities (water and electricity);
- the RDB can conduct environmental impact assessments and evaluations;
- the RDB can facilitate land acquisition and the obtaining of permits in collaboration with the Kigali City Council One Stop Centre for construction; and
- the RDB can facilitate the obtaining of visas and work permits (in this respect, a registered investor who invests the equivalent of at least USD250,000 may recruit three foreign employees without necessarily demonstrating that their skills are lacking or insufficient on the labour market in Rwanda).

5.2 Foreign Investment Restrictions and Approvals in the Exploration and Mining Sectors

There is no restriction on foreign investment in the exploration and mining sectors.

However, any investors wishing to carry out mining-related activities must incorporate, or partner with, a local entity, as MLs and QLs can only be granted to companies registered in Rwanda.

5.3 International Treaties Related to Exploration and Mining

Rwanda is not part of multilateral or bilateral treaties specifically related to mining. That said, Rwanda is part of:

- the ICSID Convention, which provides for settlement by conciliation, mediation or arbitration of disputes arising directly out of an investment between a contracting state and a national of another contracting state;
- various bilateral investment treaties (BITs) aimed, among other things, at protecting foreign investors against unfair treatment and illegal expropriation; and
- various double tax agreements (DTAs) aimed at avoiding the double taxation of income for companies.

Rwanda is also considering joining the Kimberley Process Certification Scheme to facilitate the diamond trade.

5.4 Sources of Finance for Exploration, Development and Mining

The main sources of financing include ordinary finance methods such as debt financing (mainly through commercial banks) and equity finance.

In addition, the government may acquire shares in mining or quarry operations on such terms as agreed between the LH and the government.

5.5 Role of Domestic and International Securities Markets in the Financing of Exploration, Development and Mining

Several major companies (including the main commercial banks and the first telecoms operator) are listed on the Rwandan Stock Exchange (RSE).

However, most companies undertaking exploration and mining activities in Rwanda will raise funds from international markets such as the London Stock Exchange, the Toronto Stock Exchange, the Australian Securities Exchange, etc.

5.6 Security over Mining Tenements and Related Assets

Securities on movable property, like an ML or a QL, are governed by Law 34/2013 of 24 May 2013 on Security Interests in Movable Property (the "Law on Security Interests").

Scope of the Law

In a nutshell, the Law on Security Interests applies to all rights in movable assets created by an agreement that secures payment or other performance of an obligation, regardless of the form of the transaction, the type of movable assets, the status of the debtor or secured creditor, or the nature of the secured obligation.

Constitution of a Security

A security interest is constituted by a written security agreement between a secured creditor and a debtor. The agreement must indicate the value of the collateral and confirm that the debtor has rights in that collateral.

Registration of a Security

The security interest becomes effective against third parties upon its registration by the Office of the Registrar General (ORG) in the register of security interests (the "Security Register").

Realisation of a Security

A secured creditor (with priority over other secured creditors) may take possession of the collateral when the debtor is in default under the security interest agreement, provided that the creditor has obtained a certificate from the ORG.

Consultation of the Security Register

Third parties may access the content of the Security Register, after introducing themselves to the ORG and paying a fee. They can also obtain a printed copy of the search result.

6. Mining: Outlook and Trends

6.1 Two-Year Forecast for the Mining Sector

Having modernised its mining legal framework, Rwanda now seeks to attract investors to explore new areas, conduct large-scale mining operations, and build modern processing facilities in the country. The RMB and the EU have also entered into a partnership to, among other things, digitalise various services (see **3.3 Sustainable Development Initiatives Related to Mining**).

Focus on Exploration, Large-Scale Mining, and Processing

In the near future, Rwanda is keen to attract investors to boost exploration, large-scale mining operations and mineral processing in the country.

Exploration

In 2017, Rwanda conducted an airborne survey that revealed more than 50 potential target areas (PTAs). The government and the RMB are now actively seeking to attract investors to pursue exploration efforts with the aim of better assessing the country's mineral resources.

Large-scale mining operations

Over the past decade, Rwanda has significantly modernised its public infrastructure and now boasts modern road, electricity and water supply systems able to support large-scale mining operations. In parallel, the RMB is working with

various stakeholders to professionalise and mechanise artisanal mining operations.

Rwanda is also diversifying its mineral portfolio to encompass new resources, like amblygonite, lithium and beryllium, complementing the extraction of the 3Ts, gold, rare earth elements and gemstones, which has formed the backbone of the mining sector over the past decades.

Finally, the University of Rwanda and Rwanda Polytechnic both propose mining programmes that will prepare graduates for geology, environmental protection, and other related earth sciences.

Processing and value-addition

Rwanda's near-future ambition is to become a mineral value-addition hub in the region and to attract investors to set up modern value-addition processing in the country.

Rwanda currently has three processing and valued-addition facilities: the Gasabo Gold Refinery, the Power X Refinery (refining tantalum), and the LuNa smelter (smelting tin).

The RMB is now actively seeking to attract investors wishing to establish other processing plants, in particular for tungsten and lithium, as well as cutting and polishing facilities for gemstones.

Investment incentives

All mining activities related to exploration, processing and value-addition, and export, can benefit from investment incentives under the Investment Law.

Digitalisation and Traceability

Through its partnership with the EU and GIZ, the RMB is working on the digitalisation of various mining services. In particular, the RMB and GIZ are developing an online mining cadastre system known as "GIMICS" (geological information mining cadastre system) that is expected to be operational soon and that will be accessible to potential investors.

Moreover, the RMB intends to develop a digital system to improve the traceability of minerals in the near future, in accordance with the OECD guidelines.

Revision of the Mining Legal Framework

The parliament, government and the RMB are revising the mining legal framework to address some loopholes that have been identified over the past few years.

Overall, Rwanda's main priorities are to strengthen some investment incentives, and to ensure that LHs comply with health, environmental and safety standards.

The various amendments are expected to be published in the course of 2024.

Trends and Developments

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Liedekerke Great Lakes is a business law firm located in Kigali, Rwanda. It is the second subsidiary of Liedekerke in Central Africa. Liedekerke is a premium Belgian full-service business law firm with offices in Brussels, London, Kinshasa and Kigali. It has a strong advisory practice based on sector expertise and in-depth knowledge of Belgian/ European law, Rwandan law, Burundian law, Congolese (DRC) law, and OHADA law. Drawing on over 40 years of experience working on Africa-related matters and the expertise of more than 130 lawyers, Liedekerke offers unparalleled experience and support in Rwanda and Burundi, advising clients on all aspects of cross-border and domestic transactions (corporate, data protection, employment, finance, international dispute resolution, mining, IP/IT, real estate, regulatory and transport). With wide-reaching technical experience of the law and strong local know-how, Liedekerke provides clients with both optimal legal solutions and administrative support in the field.

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Rwanda: A Future Mineral Hub in Central Africa?

The Republic of Rwanda is a landlocked country situated in the heart of Africa.

With a modest land mass of 26,338 square kilometres and an estimated population of 13.2 million, it is the second most densely populated country in Africa, and current projections estimate that the population will reach around 21 million in 2050. It is hardly surprising, then, that Rwanda is highly import-dependent.

As part of its efforts to contain its growing trade deficit, Rwanda is betting heavily on exploration and mining to boost its exports and reverse the trend.

Rwanda is one of the world's largest producers of the 3Ts (tin, tantalum and tungsten) and exports gold and gemstones. The country also has a variety of minerals such as rare earth elements and lithium.

Rwanda's mining sector has been developing rapidly in recent years. Today, mining is the country's largest export revenue earner, before tourism. Mineral export revenues increased from USD71 million in 2010 to USD772 million in 2022.

Despite significant growth in the past decade, Rwanda's mining sector consists mainly of artisanal and small-scale mining. Similarly, the sector's exports are mainly raw mineral concentrates and not metals.

Rwanda has therefore paved the way over the past decade to attract foreign mining investors. In the near future, it is Rwanda's ambition to transform the mining sector into a modern, mechanised industry and to become a mineral value-addition hub in the region.

Current situation: paving the way for foreign investment

In order to attract foreign mining investors, Rwanda has recently established the Rwanda Mines, Petroleum and Gas Board ("RMB") and developed a modern legal framework. Rwanda also boasts a modern domestic road network and offers several incentives to mining investors, as mining is considered a priority sector.

Modern legal framework

Since 2018, mining activities in Rwanda (from exploration to export) have been governed by Law 58/2018 of 13 August 2018 on Mining and Quarry Operations (the "Mining Law"). The Mining Law has since been supplemented by various presidential orders, ministerial orders and regulations issued by the RMB.

The Mining Law and related regulations provide a comprehensive legal framework governing the licensing process and the rights and obligations of licensees.

Modern transport network

Over recent decades, Rwanda has significantly increased the capacity of its domestic road network through infrastructure construction, rehabilitation, upgrading and maintenance.

Rwanda is now poised to improve regional and international connectivity with the aim of facilitating international trade and reducing transport costs. In doing so, the Rwandan government is pursuing two avenues.

Firstly, the government has been planning for years to connect Kigali (the nation's capital) to the Indian Ocean and the nearest seaports by

extending two existing railroads: the so-called "Northern Corridor" connecting Kigali to Mombasa, via Kampala (Uganda) and Nairobi (Kenya); and the "Central Corridor" connecting Kigali with Dar Es Salaam. However, both projects are still under discussion and no official schedule has been announced.

Secondly, the government has embarked on the construction of the new Bugesera International Airport situated 40 km south of Kigali. This USD2 billion project lies at the heart of Rwanda's current development strategy, and could also go some way to solving Central Africa's lack of connectivity.

Investment incentives

In 2021, Rwanda revised its investment law by enacting Law 006/2021 of 5 February 2021 on investment promotion and facilitation (the "Investment Law").

Pursuant to the Investment Law, mining activities related to exploration, processing and value addition, as well as export, are considered to be priority economic sectors. Therefore, a company registered in Rwanda carrying out any of these activities can become a registered investor by registering its investment with the Rwanda Development Board (RDB), and can thereby benefit from various incentives.

Tax incentives include a preferential corporate income tax rate or corporate income tax holiday, exemption from capital gains tax and customs duties, VAT exemption on exploration and mining equipment, and accelerated depreciation.

Non-tax incentives include facilitated access to the water and electricity networks, facilitated land acquisition and facilitation with obtaining visas and work permits for foreign workers.

The list of incentives provided in the Investment Law is not exhaustive. Any registered investor may therefore negotiate additional incentives with the authorities, which may decide to grant them, depending on the specific characteristics of the contemplated project.

Rwanda's near-future ambition: to become a mineral value-addition hub in the heart of Africa

To become a mineral value-addition hub in the region, Rwanda has made modernisation of the mining sector a priority, and is counting on foreign investment and know-how to achieve its objective. In parallel, the RMB has entered into a partnership with the EU to boost the digitalisation of its services. It is also worth highlighting Rwanda's commitment to developing its mining sector while preserving the environment, which has been and remains the country's most precious resource and its best ally in the fight against climate change.

Focus on exploration, large-scale mining, and value-addition processing

In 2017, Rwanda conducted an airborne survey that revealed 52 potential target areas (PTAs) for mineral resources. The government and the RMB are now actively seeking to attract investors to pursue exploration efforts with the aim to better assess these PTAs.

Rwanda is also diversifying its mineral portfolio to encompass new resources such as lithium and beryllium, complementing the extraction of the 3Ts, gold, rare earth elements and gemstones, which have formed the backbone of the mining sector over the past decades.

Rwanda currently has three processing and value-addition facilities: the Gasabo Gold Refinery, the Power X Refinery (refining tantalum), and the

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LuNa smelter (smelting tin). The RMB is now actively seeking to attract investors wishing to establish other processing plants, in particular for tungsten and lithium, as well as cutting and polishing facilities for gemstones.

Finally, the University of Rwanda and Rwanda Polytechnic have both proposed mining programmes that will prepare graduates for geology, environmental protection and other related earth sciences.

Digitalisation and traceability

During the first EU-Rwanda Business Forum in Kigali in June 2023, the RMB and the German development agency (the *Deutsche Gesellschaft für Internationale Zusammenarbeit* – GmbH or GIZ) launched the "Sustainable Development of the Mining Sector in Rwanda" project, underscoring their commitment to driving sustainable growth in the country's mining industry.

Through its partnership with the EU and GIZ, the RMB is working on the digitalisation of various mining services. In particular, the RMB and GIZ are developing an online mining cadastre system, known as "GIMICS" (Geological Information Mining Cadastre System) which is expected to be operational soon and will be accessible to potential investors.

Moreover, the RMB intends to develop a digital system to improve the traceability of minerals in the near future, in accordance with the OECD guidelines.

Environmental protection and the fight against climate change

Rwanda has also recently revamped its environmental legal framework to better tackle climate change and protect the environment. It has also launched a series of initiatives as part of its "Vision 2050" and its aspiration to be a green, carbon-neutral and climate-resilient country by 2050. These recent developments should contribute to more responsible development of the mining industry, which is set to grow rapidly in the coming years.

Against this background, the relevant laws and regulations impose general and specific obligations to tackle climate change and protect the environment. On the one hand, all administrative entities are required to preserve the environment and prevent the adverse effects of climate change, and all socio-economic sectors (including the mining sector) must factor environment and climate change into the development and implementation of their policies, strategies, plans and programmes. On the other hand, all work related to exploration and mining must undergo a full environmental impact assessment, which closely examines the impact of the project on the environment, and must be backed by a plan for the future rehabilitation of the licensed area. After the issuance of the licence, all work related to mining must also undergo an environmental audit (EA) conducted by an independent expert.

The Rwandan authorities have also made it clear that any deviation from environmental rules will not be tolerated. For instance, the RMB announced in November 2023 that it has revoked 13 mining licences (either by cancellation or non-renewal) after inspections revealed serious shortcomings in safety, environmental and labour standards, as well as in fulfilment of investment commitments.

Revision of the legal framework and centralisation of services in the One Stop Centre

The parliament, the government and the RMB are revising the mining legal framework to address

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some loopholes that have been identified over the past few years. Overall, Rwanda's main priorities are to strengthen some investment incentives, and to ensure that licensees comply with health, environmental and safety standards. The various amendments are expected to be published in the course of 2024.

In addition, Rwanda is looking to streamline administrative procedures for (new) investors. From 2024, the RDB's One Stop Centre (OSC) will become the single point of contact for every mining investor, receiving all administrative requests, from licensing to investment incentives, and co-ordinating with the relevant authorities.

2025–2035: a decisive decade for the Rwandan mining sector?

With a revamped legal framework, modern infrastructures and an investor-friendly climate, Rwanda has paved the way for attracting mining investors.

Rwanda now hopes to capitalise on its efforts to radically transform its mining sector, by mechanising and modernising what is presently an artisanal industry, and by increasing the number of value-adding processing plants within its borders.

If investors flock to the country in the years to come and the government delivers on its commitments, Rwanda will no doubt be able to rely on its mining industry to support its rapid economic growth and restore its trade balance.

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