

CHINESE MINING LAW OVERVIEW¹

WILLIAM L. MacBRIDE, JR.

Partner, in the Law Firm of Gough, Shanahan, Johnson & Waterman
33 South Last Chance Gulch, Helena, Montana 59601, U.S.A.

and

WANG BEI

Division Chief, Mining Rights Transfer, Department of Geological Exploration,
Ministry of Land and Resources, Beijing, 100035, P.R.C.

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The Mineral Resources Law of the People's Republic of China ("PRC") was adopted in 1986, with subsequent regulations being promulgated in 1993 and 1994. All mineral resources belong to the State, pursuant to the Chinese Constitution. The State Council (the Executive Cabinet) exercises control over the mineral resources on behalf of the State. With recent changes in the principal mining laws and related laws and regulations, the government hopes to encourage foreign exploration and exploitation mineral projects, to meet its economic expansion needs and, thereby achieve national economic and social objectives. Recent mineral investment activities and production statistics indicate movement in that direction, with some disappointments. Foreign investment still lags, but government changes in mining regulations continue in an attempt to attract further investment, while at the same time protect State interests. New discoveries encourage continued interest in the vast, untapped resources of the country.

1. Chinese Mining Law Policy Basics

China (also termed herein the "State" or "PRC") recognizes the significance of a strong mineral industry on its economic future, and that in recent years domestic supplies of necessary mineral commodities have failed to meet the requirements of economic expansion². During the recent past, measures have been attempted to "reformulate" China's mineral policy system to promote mineral development in order to aid in the achievement of its national economic and social development objectives³.

State owned mining enterprises used to be the principal organizations involved in mining mineral resources. Provincial, autonomous regions and municipal governments, in conjunction with the local departments of the Ministry of Land and Resources (the "Ministry"), are responsible for supervising and administering exploration and mining⁴. Now, however, collective-owned, private-owned and other ownership enterprises (via Hong Kong, Macao and Taiwan or foreign investment) have entered this industry area. The Ministry of Geology & Mineral Resources (now the Ministry of Land and Resources⁵) began drafting in 1994 the Proposed Amendments to the Mineral Resource Law, which amendments went into effect on January 1, 1997.

1.1. Mining law policy

Mineral exploration and exploitation are carried out by State enterprises or Chinese - foreign joint ventures. Foreign interests, however, were not allowed to recover gold or silver under 1983 Rules (being termed a "Special Industry") promulgated by the Bank of China, whose president has been a member of the State Council and a principal of the Gold Bureau.⁶ Under its 1983 Rules for gold and silver, the Bank of China controls the purchase and distribution of gold and silver in China, and all such precious metals have had to be sold to the Bank of China and could not be exported.⁷

1.2. Policy toward foreign mineral development

Prior to the 1996 amendments to the Mineral Resources Law, the law did not provide anything special for foreign investment in mineral resources. The State allowed foreign entities and individuals to invest in mineral exploration and exploitation under the Mineral Resources Law, subject to all other laws.⁸ A variety of measures have been undertaken to improve mineral investment conditions within China, to promote domestic mineral development and, simultaneously, to encourage the introduction of foreign capital and advanced technology.⁹ The introduction of foreign capital and advanced technology is intended to achieve certain objectives, including: augmenting mineral fuel and raw material supplies, increasing government revenues, improving the mining technology base and increasing employment opportunities in Chinese mining.¹⁰ To achieve those and other goals, the government hopes to encourage foreign exploration and exploitation into the mineral project categories ("Groups") discussed below.

2. Chinese Mining Law

The Mineral Resources Law of the PRC is the principal mining law of the State. Together with the PRC Constitution, it stipulates that rights to the mineral resources within the territories of China vest in the State.¹¹

2.1. Constitution

Under the Chinese Constitution, all mineral resources occurring within China's territorial boundaries belong to the State, and there is a tri-level structure of legislative power whereby the lower level is subject to, and must not contravene, the more upper level.¹² The three levels of legislative power consist of national legislation (the National People's Congress), followed by the state administrative rules and regulations (State administration), and finally, by the local regulations (provincial congresses). Administrative departments functioning directly under the State Council may formulate implementation rules, which will have effect within their respective departments.

2.2. Laws

The Mineral Resources Law of the PRC, adopted March 19, 1986, amended on August 29, 1996 ("Amendments") and effective as amended as of January 1, 1997 (after passage of the 21st Session of the Standing Committee of the 8th National People's Congress on August 29, 1996), is the principal mining law. The Amendments were adopted to achieve the policy goals set forth above. Same treatment is now to be accorded foreign investment enterprises as to domestic enterprises, regarding exploration rights, mining rights and the transfer of those rights.¹³

China has adopted a licensing-type of system for the exploration and exploitation of the mineral resources. Exploration permits (or licenses) are registered and issued to "licensees" in the form of 3-year leases (7 years for oil and gas) from the Central or the Provincial Bureau of Land and Resources.¹⁴ The exploration permit area is described by a

"basic block" of 1' of longitude x 1' of latitude (approximately 848 acres);¹⁵ an exploration permit for metallic and non-metallic minerals has a maximum of 40 basic blocks and for coal, has a maximum of 200 basic blocks.¹⁶

When an economic deposit is discovered, the licensee may apply for a 2-year renewal or retention of the exploration right (permit) within thirty (30) days prior to expiration of the permit term, for a maximum period of four (4) years or two extensions, covering the area of the economic deposit.¹⁷ Among the obligations under the permit are scheduled minimum exploration expenditures¹⁸ (the portion of which actual expenditures are greater than the year's scheduled expenditures is creditable against the next year's scheduled expenditures), reporting requirements with the local county and licensing authority and scheduled payments per kilometer for exploration right (i.e., rentals).¹⁹ The permittee, with approval and compliance with exploration expenditures, may transfer its explorations right.²⁰

The mining license holders of a mining right are termed "concessionaires," and their license terms are determined by the magnitude of a mining project.²¹ If the size of a mining project is large, the maximum term of the mining license is thirty (30) years, and scaled down from there to as low as ten (10) years for one small in size.²² The mining licensee may extend the term of a mining license with an application thirty (30) days prior to expiration of the term.²³ The "rentals" for exercise of the mining right are a fee of 1,000 RMB per square kilometer per year.²⁴ The Ministry of Land and Resources is responsible for approving exploitation applications for coal, hydrocarbons, precious metals, most base metals, most non-metallics, rare earths and other minerals as listed in the appendix to the Regulations on Registration for Exploration of Mineral Resources, for large scale reserves.²⁵ The concessionaire, or mining licensee, may transfer with governmental approval all or a portion of its mining right.²⁶

While taxation and environmental regulation are beyond the general scope of this paper, the reader should be aware that significant regulations exist in these areas affecting mining. There are numerous taxes, charges and fees that apply to the mineral industries, including the value added tax, resources tax, mineral resources compensation (royalties), corporate income tax, city construction tax, land use tax, business tax and other taxes or assessments. As for environmental regulations, the basic laws in China governing environmental protection in the mineral industry sector of the economy are the Environmental Protection Law and the Mineral Resources Law.²⁷ According to the State Environmental Protection Administration, the Chinese mining industry produces eighty-five percent (85%) of China's solid waste each year and ten percent (10%) of its wastewater, only 4.23% of which is estimated to be properly processed.²⁸

2.3. Administrative regulations

The legal rights and interests of the holder of mineral titles are under the protection of the Chinese Government, pursuant to the Rules for Implementation of the Mineral Resources Law of the PRC, promulgated March 20, 1994 ("Mineral Resources Rule").²⁹ As discussed above, China has adopted a licensing-type system for exploration and

exploitation of its mineral resources; the exploration permittee, or holder of the exploration permit has the following rights: to undertake without interference exploration within the area under permit during the permit term, to have a priority to obtain a mining license upon discovery of a mineral deposit of commercial value, to construct necessary exploration facilities and to pass through other exploration areas and adjacent ground to access the permitted area, among other rights.³⁰

While exploration permits are registered and issued to licensees in the form of 3-year term leases, initially, from the Central or Provincial Bureau of Land and Resources, as discussed above, at least one longer term joint venture lease (20 years) has been reported.³¹ The obligations of the permittees include the following: to start exploration within the prescribed term, to report to the appropriate exploration management government agency, to conduct its exploration activities in accordance with the permit, to conduct a comprehensive exploration program for all key and associated minerals, to submit mineral exploration reports for review and approval and to comply with other applicable laws and regulations.³²

The amended law stipulates that an exploration licensee has a priority, an exclusive right to obtain the "mining right" within the area under the exploration right, when there has been a discovery, to conduct mining operations, pursuant to applicable regulations (for example: mining plans, financial and technical qualifications and environmental impact statements).³³

Once mining licenses are obtained, the rights of the concessionaires include the following: to conduct mining operations within the term and mining area prescribed by the license, to sell the mineral products by themselves, except for those mineral products which the State Council had prescribed for unified purchase, to construct production facilities within the mining area, to acquire land use and other rights.³⁴ As well, the concessionaires have obligations including reporting requirements and submission to inspections. Additionally, the miner - applicant for a mining right (concession) must present, with its plan for development and utilization of the mineral resources under lease, an environmental impact statement.³⁵

On February 12, 1998, the State Council issued three sets of regulations (the three "items of regulations") to implement the Amendments, as follows: (1) the Regulations on Registration for Mineral Exploration; (2) the Regulations on Registration for Exploration of Mineral Resources; and (3) the Regulations on Transfer of Exploration Rights and Mining Rights.

2.4. Local law considerations

The congress of a province or autonomous may adopt local mining regulations. The departments under provincial governments, autonomous regions and municipalities directly under the Central Government are responsible for exploration applications for mineral resources not reviewed by the Ministry of Land and Resources, such as oil shales, manganese, chromium, iron or sulphur and those whose reserves are "medium" in

scale.³⁶ Prefecture and county level departments are responsible for "small-scale" mineral resources.³⁷

2.5. Laws and regulations relating to foreign investment³⁸

China first allowed foreign investment in prospecting and mining in 1993 with prospecting for, and exploitation of, the Tarim Basin's natural gas reserves in western China.³⁹ The Ministry approves exploration applications for mineral resources to be explored by foreign investment entities.⁴⁰ The mineral resources available to foreign investments (generally not as wholly owned foreign investments) are divided into three categories: (1) Group A ("encouraged" projects) -- coal and associated minerals mining and separation, iron ore mining and beneficiation, base metal (copper, lead, zinc and aluminum) and nonmetallic minerals; (2) Group B ("restricted" projects) -- coke/coal mining, copper processing, precious metal mining and processing (gold, silver, and platinum group metals), other base metals (tin, tungsten and antimony), rare earth minerals and gemstones; and (3) Group D -- minerals not included in Group A, B or C.⁴¹ A "Group C" project for prohibited minerals includes radioactive minerals, boromagnesites and celestites.

The Ministry approves exploration applications for mineral resources to be exploited (mined) by foreign investment.⁴² The transfer of foreign investment mining rights, as well as similar (mined) exploration rights, are subject to approval by the Ministry pursuant to any other transfer conditions as discussed above.

The general procedure for implementing foreign investment in exploration of Chinese mineral resources (at the Central Government level) is described as a seven step process: Step 1 - inquire with the Ministry about available land areas; Step 2 - reserve the name of the proposed entity; Step 3 - apply to the Ministry for designation of an exploration (or mining) area; Step 4 - apply to the Ministry of Foreign Trade and Economic Cooperation (or local agency) for authority of the proposed business entity; Step 5 - obtain a business license; Step 6 - apply to the Ministry for a grant of the exploration right (or the mining right); and Step 7 - apply to the Ministry for a land use right.⁴³ The Ministry of Foreign Trade and Economic Cooperation and the State Environmental Protection Agency issued provisions in 1993 on environmental protection management with regard to foreign investment.

Of particular interest for foreign investment, gold and silver (pursuant to an official "Gold Policy") have been subject to regulatory changes of their restricted or protected status in the 1990s. Under the Gold Policy, gold had to be sold by the miner exclusively to the Bank of China at the current international market price discounted, initially, at 10% and, subsequently, at 3%.⁴⁴ Pursuant to State Council direction, the Bank of China has authority to adjust the purchase price with respect to the gold market prices under certain criteria.⁴⁵ The price of gold has been raised to more closely track the international market prices, e.g., the "London Fix." Subject to the same policy are the low grade (less than 0.03 ounces per ton) and refractory-processed (sulphide ore) gold deposits, that have been the sole deposits open to foreign investors; however, such foreign investors may retain

their investment if, as development proceeds, they discover a high grade or non-refractory gold deposit.⁴⁶

Revised regulations for the settlement, selling and payment of foreign exchange came into effect in 1996.⁴⁷ The foreign exchange regulations apply to domestic, as well as foreign, investment enterprises.⁴⁸

3. New Developments in Chinese Mining Law

China continues to make changes in its mining regulations in attempts to advance production, encourage foreign investment and insure environmental protection.

3.1. *New laws and regulations*

The Bank of China has recently ended over fifty years of government monopoly over silver transactions, allowing producers and buyers to deal in silver directly, putting silver under rules and regulations for general commodities.⁴⁹ The Bank of China has endeavored to adjust the price of gold purchased so as to keep it close to the price on the international gold market; for example, on February 16, 1998, by direction of the State Council, the Chinese gold price was 80.5 Yuans per gram (\$305 in United States Dollars ("USD") per ounce at \$1 USD per 8.2 Yuans) for gold content of less than 99.9%, and 81.2 Yuans per gram (\$308 USD per ounce) for gold content greater than 99.9%.⁵⁰ On October 10, 1999, the Bank of China raised its buying and selling prices of gold 21.9%, the buying price from RMB 69.9/g to RMB 85.2/g and the selling price from RMB 71.3 to RMB 86.9 after three previous price drops, in accordance with fluctuations in the international gold market.⁵¹

Two (2) directives intended to standardize the trade in mining rights and foster a "healthy" mining rights market were promulgated and released by the State Council and the Ministry in March, 1999, to establish a legal structure for managing the mining rights market.⁵² The first directive, the Temporary Measures for Managing Appraisal of Prospecting and Mining Rights provides that, when prospecting and mining rights derived from "national investment" are under appraisal for sale or transfer, the appraisal shall be accomplished through a system maintained by the Office of Geology and Mining Management, and the second directive, the Temporary Measures for Managing Qualifications to Appraise Prospecting and Mining Rights, sets out appraiser qualifications for the responsible organizations.⁵³

3.2. *New foreign investment laws and regulations*

As mentioned, there have been significant changes in the restrictions on foreign investment in mining in China. To further open its door to foreign investment to mining, and "raise the level of the utilization of foreign investment," China issued a new policy document on April 14, 1998, providing for the new forms of foreign investment entities mentioned above, for the Groups of minerals mentioned above and for a set procedure for foreign investment.⁵⁴ As well, the Gold Policy has seen substantial change. Foreign

investment is no longer limited to the low grade and/or refractory gold deposits, as set forth above.⁵⁵ No value added tax is imposed on gold, the royalty is calculated against gold ore (and not "downstream product") and the Bank of China is directed to proceed more rapidly with further gold management reform.⁵⁶

Changes in the treatment of foreign investment are continuing into the 21st century. Significant changes were initially announced by China's Vice Minister to the Ministry, Shou Jiahua, that China will adopt additional preferential policies to encourage foreign investment in prospecting and exploring mineral resources (excluding oil and gas).⁵⁷ The State Council Information Office later announced, on December 14, 2000, that foreign investors may engage in "risk exploration" for mineral resources (excluding oil and gas) either as sole proprietorships or as joint ventures with Chinese partners.⁵⁸ Foreign investors may also purchase rights to explore and mine such mineral resources (except those forbidden by law) legally held by large and medium-sized Chinese enterprises.⁵⁹ Western China is getting particular State attention for mining development under the new pronouncements. Foreign investors who explore and develop such mineral resources in western China are entitled to existing State preferential policies, are exempt from "fees" for one (1) year and pay only half the fees for two years thereafter.⁶⁰

The PRC plans to establish a gold exchange in 2001 as part of its efforts to open up the country's precious metals market, with an exchange in either Beijing, Shanghai, Shenzhen or Tianjin.⁶¹ It is hoped that efforts to relax government controls over gold production and distribution will increase funding channels and encourage foreign investment.⁶²

Investment and securities are certainly beyond the scope of this paper; however, recent State directives involving mining in this area are significant from a technical perspective.⁶³ Foreign companies that carry out financial assessments of Chinese mining enterprises, such as those planning to offer "B shares" should be aware that all companies that appraise Chinese mineral rights must be approved by the Ministry and meet all the relevant conditions of the "Interim Management Methods Concerning Qualifications for Appraising Prospecting and Mineral Rights."⁶⁴ In general, foreign assessment firms are reported to not meet all the relevant requirements of this regulation or the "Management Methods Concerning the Transfer of Prospecting and Mining Rights."⁶⁵

4. Recent Developments with Mining in China

The domestic mining world has dramatically changed in China since the 1980s. One report states that official subsidiaries for gold prospecting are being cut back,⁶⁶ smaller mines are being closed down and polluting processes are being restricted.⁶⁷ However accurate this report may be, it is clear for China and for the world in general that, as stated in the same report, so long as the world price for gold remains around \$280-\$330 USD per ounce (let alone below \$270 USD, per current reports in January, 2001 at the time of this paper), gold production is likely to stagnate or falter in the medium term.⁶⁸

4.1. Domestic development activities

With respect to gold, in Tibet (Xizang Province) two high grade, accessible alluvial gold deposits discovered by the Tibetan Command Center of the Third Gold Regiment of the Chinese Army have been reported in the northern Naqu region, with an estimated value of \$36.23 million USD, according to a September 16, 1999 report in *Hua Sheng Bao* (*Hua Sheng Overseas Chinese Newspaper*).⁶⁹ According to reports from the *China News*, gold production overall in China has risen three and 6/10ths percent (3.6%) in the first nine (9) months of 2000, to 120.8 million tons (mt), below the targeted production rate of 175 mt for the same period.⁷⁰ Apparently, the new regulations are having some desired effect, since 1999 gold output was reportedly at 169.1 mt.⁷¹

China's concern for encouraging production in the base metals is well-founded as well, apparently. Copper consumption has grown rapidly in China during the 1990s and trails only the United States in consumption, secondly, China has become a major aluminum importer and, according to the China State Administration of Metallurgical Industry, an importer of rolled steel.⁷² However, concerns for environmental protection have mounted in concert with this production effort. According to reports by *Zhongyang Dianshitai* (China Central Television) on October 15, 2000, all mining construction projects, as required above, must submit environmental impact "assessments" and those projects that fail to meet environmental protection standards will not be permitted to go forward.

However, according to Jiang Chengsong, Vice Minister of the Ministry, the largest copper reserve in China was recently discovered in the Tianshan Mountain area of eastern Xinjiang Uygur Autonomous Region, south of the Turpan - Hami Basin, with, reportedly, "millions of tons of copper deposits," at 380 meters deep, with an ore grade of 1% to 1.5% copper.⁷³

China has considered expanding its resources supplies by looking overseas, as well. The China National Overseas Mineral Development Fund was established to support Chinese mining corporations operating overseas, seeking opportunities in the exploration and exploitation of mineral resources overseas.

4.2. Foreign investment activities

Foreign direct investment in Chinese gold mining has so far been disappointing: the major companies, up to now, find the approval process daunting, the legal framework unclear and the taxation regime not conducive to exploration risk costs.⁷⁴ During the 1990s, prominent international mining companies such as Barrick, BHP, and Newmont entered into negotiations with the Chinese government on large area gold exploration agreements, particularly in Guangxi and Yunnan Province areas. That area of China was identified as a prime target for "Carlin-type" gold deposits in the early 1990s and has been actively explored since the 1970s.⁷⁵ However, none of these major gold producers are pursuing gold projects in China at this time.

A "dozen or so" gold juniors have signed up to develop gold properties in China, but are reported to be constrained by the current low world gold price and lack of funding.⁷⁶

World Wide Minerals Ltd., via its subsidiary Libra Gold Corp., has acquired control of the Dafang Gold Project, with a "total drill-indicated and inferred" resource estimated at one million ounces of gold, located in Hunan Province.⁷⁷ Libra also has an interest in the Dexing Gold Project, a 99 square kilometer concession in Jiangxi Province, that surrounds the Tongshang open pit copper/gold mine.⁷⁸ Sino Mining Ltd., an Australian-Chinese joint venture, operates a nickel/gold mine in Jianchaling, Shaanxi Province, currently producing 70,000 ounces of gold per year.⁷⁹

Prominent mining companies, as Billiton plc and Rio Tinto (RTZ) have reportedly expressed strong interest in copper mining in the Tianshan Mountain region, site of the reportedly large copper discovery.⁸⁰ Both of these companies, reportedly, are presently involved with preparing mining feasibility studies for projects in China.⁸¹

Finally, the recent issue of the *Engineering and Mining Journal* reports (without naming operators) that there are eleven (11) capital investment, mining projects (half underground and half open pit) scheduled in China this year: two (2) which are primarily precious metal; eight (8) which are primarily base metal; and one (1) which is tantalum.⁸² Of the eleven (11) projects, one, which is in the pre-feasibility study stage, is termed "a major capital investment," an open pit zinc mine at Lanping with a resource of 200 million tons and a reserve of 14 million tons, an estimated investment value of \$500 Million USD, and a "start up" date of post-2004.⁸³

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End Notes/References

1. This paper is presented to provide general information regarding the mining laws of the People's Republic of China and is not meant to constitute legal counsel. The reader is cautioned to seek his or her own legal counseling regarding application of any laws to specific situations.

2. Zhong Ziran, *Overview of National Mineral Policy in China Opportunities and Challenges for Mineral Industries*, Ministry of Geology & Mineral Resources, P.R.C. (1998), 1.

3. *Id.*

4. The scope of this paper is the law regarding mining rights in China, principally to base, precious and industrial minerals, as well as specifically related laws of particular interest to mineral investment interests. There are a number of other related laws that may be of interest to investment interests in the mineral, energy, petroleum or other industries, not covered here, such as the following: Regulations on Collection and Management of Mineral Resources Compensation (royalty); Regulation of the PRC on Resources Tax; Income Tax Law of the PRC; Provisional Regulations of the PRC on Value Added Tax and on Enterprise Income Tax (both effective January 1, 1994); Income Tax Law of the PRC concerning Enterprises with Foreign Investment and Foreign Enterprises (effective July 1, 1991); Environmental Protection Law; Law of Prevention and Control of Water Pollution; Regulations of the PRC on Mine Environmental Protection Management and the Land Administration Law of the PRC.

5. The Ministry of Land and Resources (MOLAR-"Ministry" herein), established in March, 1999 under the Reorganization of the State Council's Agencies Program, is one of the member departments making up the State Council and is in charge of the planning, management, protection and rational utilization of land resources, mineral resources and marine resources, all constituting natural resources. 1st Session of the 9th National People's Congress, and State Council Notification on the Establishment of the Organizational Structure.

6. Alan L. Joscelyn and William L. MacBride, Jr., *Legal Update on Mining Law*, 42nd Annual Institute of the RMMLF, Santa Fe, New Mexico (1996).

7. *Id.*

8. Mineral Resources Law, Art. 7.

9. Zhong (1998), *supra* at 2.

10. Zhong (1998), *supra* at 7.

11. PRC Constitution, Art. 9; Mineral Resources Law, Art. 3.

12. PRC Constitution, Art. 62, 89.

13. Zhong Ziran, *New Updated Foreign Investment Policy in the Mineral Industries of China*, Ministry of Land and Resources, P.R.C. (1999), 2.

14. Regulations For Registering To Explore For Mineral Resources Using the Block System, Art. 10.

15. The acreage calculation is based on 1.151 statutory miles per nautical mile and 60 nautical miles per 1' of latitude.

16. Regulations For Registering To Explore For Mineral Resources Using the Block System, Art. 3.

17. Regulations For Registering To Explore For Mineral Resources Using the Block System, Art. 21.

18. 2,000 Remnimbi ("RMB") per square kilometer in the first year, 5,200 RMB in the second year, 10,000 RMB each year thereafter. Regulations For Registering To Explore For Mineral Resources Using the Block System, Art. 17.

19. 100 RMB per square kilometer per year for the first three years, increasing by 100 RMB per square kilometer in each succeeding year, the highest rate not to exceed 500 RMB per square kilometer per year. Regulations For Registering To Explore For Mineral Resources Using the Block System, Art. 12. An additional reimbursement fee may be required for "any blocks containing mineral deposits discovered at the State's expense." Zhong (1999), *supra* at 3.

20. Regulations For Transferring Exploration Rights And Mining Rights, Art. 5. The following requirements for transfer of an exploration permit under the law must be met: (1) the exploration license is at least two (2) years old; (2) minimum exploration expenditures have been made; (3) exploration rights are undisputed; and (4) all fees and other obligations have been met.

21. Regulations For Registering To Mine Mineral Resources, Art. 7.

22. *Id.*

23. *Id.*

24. Regulations For Registering To Mine Mineral Resources, Art. 9.

25. Zhong (1999), *supra* at 4.

26. Regulations For Registering To Mine Mineral Resources, Art. 6. The following requirements for transfer of the mining license under the law must be met: (1) the mining began at least one (1) year prior; (2) mining rights are undisputed, and (3) all fees (including royalties and other obligations) have been met.

27. Zhong (1999), *supra* at 14.

28. *China's mines scheduled for cleanup*, (Oct. 23, 2000), [available at http://www.chinaonline.com](http://www.chinaonline.com).

29. Zhong (1999), *supra* at 6.

30. Mineral Resources Rule, Art. 17.

31. Joscelyn and MacBride, *supra*.
32. Mineral Resources Rule, *Art. 17*.
33. Zhong (1999), *supra* at 2.
34. Zhong (1999), *supra* at 6.
35. Regulations For Registering To Mine Mineral Resources.
36. Zhong (1999), *supra* at 4.
37. *Id.*
38. Five (5) forms of business entities are possible for foreign investment in Chinese mineral resources, as follows: equity joint ventures, contractual joint ventures, foreign capital enterprises, companies limited by shares with foreign investment and investment companies by foreign investors, each entity regulated by its own applicable law and implementation rules and/or other regulations. Zhong (1999), *supra* at 6.
39. *China To Open Metals, Minerals Sectors To Foreign Companies"Soon"* (Apr. 24, 2000), available at <http://www.chinaonline.com>.
40. Regulations For Registering To Explore For Mineral Resources Using the Block System, *Art. 4*.
41. Interim Provisions for Guiding Foreign Investment of 1995 and Catalogue For The Guidance of Foreign Investment Industries of 1997, updated.
42. Regulations For Registering To Mine Mineral Resources, *Art. 3*. The Ministry of Land and Resources or other licensing authority may select "bidding blocks" and administers a public bidding open to foreign investment (through the Ministry). Zhong (1999), *supra* at 4.
43. Review of other applications or notice requirements, such as local regulations or environmental and taxation rules should be investigated. This basic procedure is set out in Zhong (1999), *supra* at 7.
44. Zhong (1999), *supra* at 7.
45. *Id.*
46. Revised Catalogue of Industries for Foreign Investment of 1997, enacted January 1, 1998.

47. Regulations of the People's Republic of China on the Management of Foreign Exchanges, issued by the State Council and effective April 1, 1996.
48. Provisions on the Management of the Settlement, Selling and Payment of Foreign Exchange.
49. *China Abolishes State Silver Monopoly*, (Nov. 12, 1999) (citing Nov. 12, 1999 report from *Shanghai Zhengquan Bao* (Shanghai Security News)), [available at http://www.chinaonline.com](http://www.chinaonline.com).
50. Zhong (1999), *supra* at 7.
51. *China Raises Buying and Selling Prices of Gold* (Oct. 14, 1999), [available at http://www.chinaonline.com](http://www.chinaonline.com).
52. *Regulations on Appraisal of Mining Rights Fixed* (May 11, 1999), [available at http://www.chinaonline.com](http://www.chinaonline.com).
53. *Id.*
54. Zhong (1999), *supra* at 6.
55. Zhong (1999), *supra* at 8.
56. *Id.*
57. *China seeks more foreign investment in mineral exploration* (Oct. 16, 2000) (citing October 13, 2000 report by *Xinhua* (Xinhua News Agency)), [available at http://www.chinaonline.com](http://www.chinaonline.com).
58. *WHAT'S MINE IS YOURS: New mining plan to unearth international investment*, (December 15, 2000) (citing Dec. 14, 2000 report from *Zhongguo Xinwen She* (China News Service)) (referencing Several Suggestions for Further Encouraging Foreign Investment in the Exploration and Development of Non-Oil or Non-Gas Mineral Resources, drafted jointly by Ministry of Land and Resources, State Development Planning Commission, State Economic and Trade Commission, Ministry of Finance, Ministry of Foreign Trade and Economic Cooperation and State Administration for Industry and Commerce, to be implemented pursuant to the Mineral Resources Law and the Catalogue for Guidance of Foreign Investment Industries), [available at http://www.chinaonline.com](http://www.chinaonline.com).
59. *Id.*
60. *Id.* According to a report attributed to Gan Zangchun, Director of the Policy and Regulations Department of the Ministry, it is further reported that "[f]oreign investors may be exempt from paying the mineral resources compensation fee for five years if they

explore and develop non-oil or non-gas mineral resources in the western part of the country encouraged by the 'Catalogue for the Guidance of Foreign Investment Industries'."

61. *China to relax gold controls this year and open gold exchange in 2001* (June 29, 2000), available at <http://www.chinaonline.com>.

62. *Id.*

63. "In 1991, the Shanghai Stock Exchange (SHSE) and Shenzhen Stock Exchange (SZSE) began to offer B shares, providing foreign investors with a legal channel to invest in China's equity markets. B shares are offered and traded on these Exchanges, which designate domestic or overseas securities dealers as specially licensed brokers to accept foreign investors' consignment for trading." *The B-Share Market and Overseas Listing*, available at <http://english.china.com/cdc/en/finance/articles/0,1677,42-105001-105001-0,00.html>

64. *Why Foreign & Chinese Firms Should Cooperate in Evaluating Mining B Shares* (Jan. 7, 2000) (citing the Jan. 4, 2000, *Zhongguo Kuangye Bao* (China Mining Industry)), available at <http://www.chinaonline.com>.

65. *Id.*

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