

# **NATIONAL MINERAL POLICY 1995**

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**GOVERNMENT OF PAKISTAN**  
**Ministry of Petroleum & Natural Resources**

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**(September 1995)**

## **PREFACE**

The Government of Pakistan for many years has been attempting to formulate a National Mineral Policy. Despite pledges made by the governments in the Sixth and Seventh Five year Plans, a Mineral Policy could not be announced.

Since its induction into office in October 1993, the Government of Prime Minister Benazir Bhutto has taken bold initiatives on a number of fundamental issues facing the national economy especially in the power, oil and gas and telecommunication sectors and has announced policies which have attracted large scale private investment to Pakistan. Taking note of our substantial mineral potential, the Government also assigned special attention to the Mineral Sector to facilitate the inflow of substantial local and foreign investment.

The formulation of National Mineral Policy required a clear perception of the demands of the industry and also of the aspirations of the Provincial Governments who constitutionally own this natural resource. Extensive consultations, spread over a period of nine months, were therefore held commencing with an International Conference on Mining in Pakistan in October 1994 which was inaugurated by the Prime Minister and its concluding session was chaired by the President of Pakistan. The Conference was well attended by senior executives from International mining companies and Federal and Provincial governments. The Conference was followed by setting up of a broad based Task Force on Minerals which submitted recommendations keeping in view the concerns of the industry as well as of the governments and the prevailing international practices.

The recommendations of the Task Force on Minerals were debated at a Workshop, attended by the representatives of the Federal and Provincial governmental agencies, which are concerned with its implementation. The modified recommendations were further reviewed at two interprovincial meetings attended by all the four Provincial Chief Ministers and the concerned Federal Ministers. The National Mineral Policy having consensus of all the provinces has now been approved by the Federal Cabinet for announcement.

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Government of Pakistan

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**NATIONAL MINERAL POLICY**

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**1. Objectives**

**1.1** The available geological information provides ample evidence that Pakistan could be blessed with large or even world class mineral deposits as are existing in similar geological environments elsewhere in the world. Mining activity in Pakistan is, however, confined to industrial and construction minerals and contributes less than one percent of Pakistan's Gross Domestic Product (GDP). This mineral potential can be well utilized for sustainable socio-economic development of local population in mineral bearing areas. The Government of Pakistan is therefore launching a major policy initiative in order to expand mineral sector activity mainly through private investment and thereby enhance the contribution made by this economic activity to GDP and also lend support to the social uplift programmes.

**1.2** In seeking to attract both foreign and local private risk capital to Pakistan's mineral sector, the Government wishes to satisfy several important objectives. The most significant benefits to be derived from an expansion of mineral sector activities are:

expansion of employment opportunities; enhancement of skills; sustained development of mineral bearing area; expanded business opportunities for local industries; increased revenue flow to the Provincial and Federal Governments; technology transfer; regional infrastructure development and an improved data base of Pakistan's mineral resources.

**2. Constitutional Position on Minerals**

**2.1** Minerals are a provincial subject under the Constitution, except oil, gas and nuclear minerals and those occurring in special areas (FATA and NA). Provincial Government are responsible for development and exploitation of minerals which fall in their domain. In line with this Constitutional frame work, the Federal and Provincial Governments have jointly set out in this document Pakistan's first National Mineral Policy which provides for appropriate institutional arrangements, a modern regulatory framework, an equitable and internationally competitive fiscal regime and a programme to expand Pakistan's geological database.

**2.2** The provisions of Mineral Policy distinctly convey the message that focus of all activities and decision making is at the Provincial level while the Federation would provide requisite support and advice to the Provinces to take up the challenge of achieving sustainable benefit from the development of non-renewable mineral resources.

### **3. Consultative and Regulatory Framework**

**3.1** Mining has many peculiarities of its own including quite a wide span of effects over other sectors requiring established consultative mechanisms for achieving optimal benefits of mineral resources. Long gestation period of over a decade which is generally spent in exploration of a mineral deposit and still longer period for its exploitation, require a fairly stable and equitable regulatory regime. With these characteristics in view, the Federal and Provincial Governments have agreed to put in place the requisite framework.

#### **3.2 Mineral Investment Facilitation Authority (MIFA)**

**3.2.1** A Mineral Investment Facilitation Authority (MIFA) will be set up in each Province (including AJK, and Special Areas i.e. FATA & NA). The membership of MIFA will be as follows:

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|--|------------------|
| • Chief Minister of the Province (Federal Minister Incharge in case of AJK & NA and Governor NWFP in case of FATA) | Chairperson      |
| • Minister for Mineral Development   | Vice-Chairperson |
| • Chief Secretary/Additional Chief Secretary (Dev)   | Member           |
| • Secretary Mineral Development Department   | Member           |
| • Secretary Finance Department   | Member           |
| • Secretary Works Department   | Member           |
| • Secretary Forest Department  | Member           |
| • Chairperson of the Provincial Mineral Development Corporation  | Member           |
| • Representative of Environmental Protection Agency  | Member           |
| • Two representatives of Business Community nominated by Chief Minister  | Members          |

**3.2.2** The Department of Mineral Development will serve as the Secretariat of MIFA. Provincial Government may change the composition or the functions of MIFA to the extent considered necessary by it. MIFA may coopt or request presence of a representative of any government department for a particular meeting.

**3.2.3** Each MIFA will execute the following functions:

- (i) Regular monitoring and direction of mineral related activities and mineral programmes of the Government and public sector in the Province.
- (ii) Periodic review of implementation of the new regulatory regime and functioning of the administrative set-up in the Province.
- (iii) Review progress of approvals from the relevant agencies on grant and working of concession and other related development issues and direct for any specific support to the investors required for mineral exploration and development (such as access to land, private or public and communication).
- (iv) Introduce measures to promote use of local goods and services, create opportunities for appropriate education and training of nationals in modern mining skills.

- (v) Perform as appellate forum for resolution of disputes of specified nature between Licensing Authority and the investors of specified projects or categories.
- (vi) Promote establishment of secondary and tertiary processing facilities within Pakistan.
- (vii) Arrange and approve mineral portfolios for attracting private investment.
- (viii) Ensure adequate protection of the environment.
- (ix) Any other function assigned by the Chief Minister (Federal Minister Incharge in case of Special Areas).

**3.2.4** MIFA may also request, if considered necessary, for the participation or assistance of the Federal Government in negotiation of mineral agreements by the Provincial Government with foreign investors.

### **3.3 Provincial Departments of Mineral Development**

**3.3.1** Given the increasing importance being placed on mineral activities and in order to adequately respond to the administrative demands of the sectors, each mineral rich province will establish a separate Department of Mineral Development under a separate Secretary with the following functions:-

- (i) Development of Mineral Resources.
- (ii) Consideration of applications and grant of licenses and leases.
- (iii) Regulating and monitoring mining operations and activities in the mineral sector, including collection of royalties.
- (iv) Negotiating mineral agreements and consulting the Federal Government when considered necessary by MIFA.
- (v) Facilitating access to private or public lands and reserve forest areas for the purpose of mineral exploration or development of minerals resources.
- (vi) Maintenance of up-to-date master plans showing positions of all exploration licenses and leases granted, renewals, assignments and surrenders of mineral titles, relinquishment of acreage etc and make this information public through regular publication of complete details in the official gazette.

**3.3.2** Each Department of Mineral Development will consist of a Licensing Division and Exploration Promotion Division. The Directorate of Mineral Development, existing in a Province may serve as a nucleus for the establishing of Licensing Division.

**3.3.3** Adequate funding will be allocated by the Provincial Governments to equip and staff their Departments of Mineral Development.

#### **3.3.4 Licensing Division**

**3.3.4.1** Licensing Division will be properly equipped with modern surveying instruments, a technical library with up-to-date reports, set of topographical, geological maps, aerial photographs and satellite imageries of the Province and adequate transport to enable it properly discharge its supervisory responsibilities.

**3.3.4.2** The deficiencies in the existing staff of the Directorate of Mineral Development will be made up by:

- a) recruitment of highly qualified and experienced staff in various disciplines of mineral exploration, development, environmental protection, mineral economics and law;
- b) imparting practical on-the-job training in large mines / mineral processing plants;
- c) sending staff abroad for short duration courses in mineral development, management of regulatory regime, mineral economics, including minerals sales contracts, protection of environment and socio-economic development of mining areas and regulation of mineral agreements; and
- d) prescribing training provision in the mineral agreement entered with foreign investors.

### **3.3.5 Exploration Promotion Division**

**3.3.5.1** Exploration Promotion Division will be staffed and equipped to carry out regional investigations and exploration, necessary for promotion of mineral prospects and for preparation of project portfolios. This Division may initially draw man-power and facilities from public sector agencies, which would onward play only promotional role. Exploration Promotion Division will:

- (i) Provide competent interface with teams of international investors.
- (ii) Generate its own geodata and carry out geological mapping of priority areas, identify mineral prospects with or without assistance from Geological Survey of Pakistan (GSP) and donor agencies for exploration promotion.
- (iii) Compile, evaluate and disseminate geodata and make available geological and geographical maps and serve as sales point for GSP publications, maps and reports.
- (iv) Provide advisory services to industry.
- (v) Feed and receive all critical geodata to or from Geodata Centre of Pakistan.
- (vi) Perform any other function assigned by the Chief Minister.
- (vii) Not be involved in mining activity.

## **4. Mineral Investment Facilitation Board (MIFB)**

**4.1** The Federal Government can play an important role in the development of mineral resources, not only in the context of fiscal policies but also in international contacts with donor agencies and negotiation of mineral agreements. A political consultative forum, by the name of Mineral Investment Facilitation Board will therefore be established under the chairpersonship of the Prime Minister. The membership of MIFB will be as follows:-

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|--|------------------|
| • Prime Minister                                     | Chairperson      |
| • Federal Minister for Petroleum & Natural Resources | Vice-Chairperson |
| • Governor NWFP                                      | Member           |
| • Chief Minister, Punjab                             | Member           |
| • Chief Minister, Sindh                              | Member           |
| • Chief Minister, NWFP                               | Member           |

- Chief Minister, Baluchistan Member
- Federal Minister for Finance Member
- Federal Ministers for Special Areas,  
(AJK, FATA & NA) Members
- Chairman Board of Investment Member
- Deputy Chairman Planning Commission Member

**4.2** The Ministry of Petroleum & Natural Resources will serve as the Secretariat of MIFB. In case the Prime Minister is unable to chair the meeting of the Board, the meeting will be chaired by the Vice-Chairperson. However, the Prime Minister may be requested to chair at least one meeting in a year. In case a Chief Minister cannot attend any meeting, he may nominate the Minister for Mineral Development to attend the same. Where an agenda item concerns a Federal or Provincial agency, the head of that agency would be invited to the concerned meeting.

**4.3** MIFB will advise authorities concerned on appropriate action to:-

- (i) Encourage flow of investments in mineral sector, review proposals for its enhancement and make recommendations to the concerned agencies.
- (ii) Assist the Provincial Governments in selection/preparation of suitable mineral sector portfolios for introduction by the provinces to donor agencies and investors.
- (iii) Advise on fiscal and taxation policies and federal tariff for mineral sector for its international competitiveness.
- (iv) Establish annual priority of geoscience mapping and surveys based on requirements of industry and priorities advised by the MIFAs.
- (v) Assist the provinces in development of skilled manpower and infrastructure as per their priorities by arranging financial assistance including foreign/donors assistance.

**4.4** The MIFB scope can be amended/expanded as and when considered necessary and agreed to by this inter-provincial consultative forum.

## **5. Public Sector Mineral Corporations**

**5.1** There are a number of mineral sector corporation at the federal and provincial levels with a pool of technical skills and equipment. It has been decided to privatize the government corporations, but so long as they are in existence, the skilled man-power and equipment available in the public sector corporations shall be utilized for promotional activity on promising areas with the express purpose of attracting private investment in the detailed mineral exploration and development. This pool of expertise in the public sector may also be made a part of provincial Departments of Mineral Development. No new mineral corporations would, however, be set up in the mineral sector.

**5.2** The Federal and Provincial Government will provide grants to the respective corporation for the promotional tasks on priority minerals or priority areas, as are assigned to them. These corporation may retain a minority share in joint venture mineral projects to be managed by the private sector; local or foreign.

## **6. Geological Survey of Pakistan (GSP)**

**6.1** Availability of geological, geophysical and geochemical maps and reliable geodata are a prerequisite to large scale mineral exploration. Geological Surveys of Pakistan (GSP) is charged with this responsibility and has also competent manpower available to undertake the same. GSP will be strengthened as the central organization for geological, geophysical and geochemical mapping, geodata generation and research.

**6.2** GSP will concentrate on the following functions:-

- (i) Expedite publication of geological, geophysical and geochemical data and maps already available. GSP will not be required to obtain clearances from other agencies like Survey of Pakistan or the Printing Corporation of Pakistan (PCP).
- (ii) Produce 1:250,000 geological maps of the whole country and 1:50,000 maps, supported by reports, for the whole country commencing with priority areas as identified by the provinces.
- (iii) Operate an open-file system so that unpublished raw data is also made available to the investors on charge basis.
- (iv) Undertake fast track integrated geological, geophysical, geochemical and tectonic surveys, generate and disseminate basic data on potentially prospective areas as per priorities determined by MIFAs. Mineral exploration would be a minimal activity of GSP and only to support its regional surveys.
- (v) Execute mutually agreed collaborative projects with private sector and Provincial Governments if approved by MIFA, on cost reimbursable or sharing basis.
- (vi) Help the provinces in generation of geological data.

## **7. Geo-Data Center of Pakistan (GDGP)**

**7.1** A Geodata Center of Pakistan (GDGP) will be established as an autonomous body of the Ministry of the Petroleum and Natural Resources with the active support of donors and of the Governments which shall be governed by a broad based council, headed by Director General, Geological Survey of Pakistan.

**7.2** GDGP will perform the following functions:-

- (i) Collect, store, update and manage geodata of the whole country in a standardized system and its unrestricted dissemination to provinces and the industry.
- (ii) Create a centralized digital map production and distribution facility.
- (iii) Arrange on-the-job training of its own staff in geodata management/data automation and dissemination.
- (iv) Obtain non-confidential mineral concession, exploration and production data from the provinces for incorporation in the data pool.

## **8. New Regulatory Regime**

**8.1** The existing regulatory regime is being revised and updated to change some features which have been considered unattractive to investors and to put in place a set



of rules which are internationally competitive. The new rules would meet the concerns of the investors on such matters as transparency, criteria for dealing with applications and the grant of licenses and leases, expeditious decision making process, security of tenure, provision of adequate information on mineral titles, independent dispute resolution mechanism etc., and to equitably meet the objectives of the investors as well as aspirations of the Governments. The guidelines agreed to by the Federal and Provincial Governments for drafting of new rules or amendment to existing rules are as follows:

**8.2** The Mining Concession Rules will provide for four types of mineral titles, namely; Reconnaissance License, Exploration License, Mineral Deposit Retention License and Mining Lease.

### **8.3 Reconnaissance License (RL)**

To enable the mining companies to reconnoiter large areas in a short span of time using modern techniques of satellite imagery, aerial photographs, aeromagnetic and regional geochemical surveys, an RL will be granted over an area of 100 to 10,000 sq.km. in respect of a mineral or a group of minerals. Unless stipulated otherwise, the license will be non-exclusive for a period of 12 months and will not be renewable. However, the licensee will have the right to an exploration license over 10% of the area held under an RL provided that the criteria for the grant of such a license and other requirements of the law are met. The Licensing Authority will take a decision on the application for an RL within 120 days from the date of filing of complete application. The application fee for an RL will be Rs. 15,000. The licensee will be obligated to carry out an approved work programme and comply with other conditions of the RL.

### **8.4 Exploration License (EL)**

**8.4.1** An exploration license will be granted over an area not exceeding 1,000 sq.km. for a period not exceeding three years where the applicants meets the specified criteria. The application must provide adequate information about the applicant, description and a sketch map of the area, work programme and expenditure to be undertaken and technical and financial resources available to the applicant.

**8.4.2** Subject to satisfactory completion of work programme and compliance with other conditions of the EL, it will be renewed for a period not exceeding three years over 50% of the area of the original EL. Where it can be demonstrated that a further extension is necessary for the completion of full feasibility study prior to applying for a mining lease, the EL will be renewed over 50% of the area held for a period not exceeding 3 years. The applicant will be obligated to submit, with the application, a work programme and give valid reasons for such a renewal. The application for an EL or its renewal shall be granted/refused within 120 days from the date of filing of complete application.

**8.4.3** Application fees for EL will be Rs. 25,000 and fee for each renewal will be Rs. 50,000. In addition, rent of the land over which the license is granted will have to be paid. The rent will increase progressively each year.

**8.4.4** Where more than one application are made in respect of the same area, the Licensing Authority shall make a decision on the grant of an EL to one of the applicants on the basis of the best minimum work Programme submitted and other financial terms

offered and demonstrable technical and financial competence to execute the work programme and meet the other obligations of the EL, regardless of the order in which the applications were received.

**8.4.5** The EL shall not, during the first two years of its term, be assigned or transferred by the Licensee to any party, other than to an affiliate. Assignments to an affiliate will be subject to the prior approval of the Licensing Authority.

**8.4.6** The Licensee shall have the right, after a period of two years, to assign or transfer all or part of its interest in the EL to any third party subject to the prior written consent of the Licensing Authority. Such consent shall not be withheld except for good reasons, for example, where the Licensing Authority is reasonably satisfied that the proposed assignee does not meet the criteria for the grant of an EL; the proposed assignee is unwilling to provide an unconditional undertaking to assume all the obligations of the assignor, or to comply with any reasonable condition of the assignment; or the assignment or transfer is reasonably considered by the Licensing Authority to be against the national interest.

## **8.5 Mineral Deposit Retention License (MDRL)**

**8.5.1** On completion of a full feasibility study, if the holder of an EL can demonstrate that the deposit, though potentially viable, cannot be commercially developed, due to depressed metal/mineral prices utilizing proven technology or with financing on commercial terms which are reflective of current market conditions for other mining projects, he may, within 180 days before the expiry of the EL, apply for a Mineral Deposit Retention License (MDRL). The application must be accompanied with full justification and data and the prescribed fee. The applicant for an MDRL will have to demonstrate that the exploration operation had progressed as far as practicable and that the applicant is able and willing to comply with the conditions of the MDRL and has complied with the terms and condition of the EL.

**8.5.2** The application fee for an MDRL or its renewal will be Rs. 100,000 each and the licensee shall, in respect of the MDRL Area, pay in advance, for each year, the rent applicable for the corresponding period of the EL.

**8.5.3** The application for an MDRL will be considered within 180 days and may be granted for a period not exceeding two years subject to specified conditions. It may be renewed for a period not exceeding one year subject to payment of a renewal fee and land rent. However, the licensee must justify annually to the Licensing Authority the basis for continuation of renewal of the MDRL. The data generated by the licensee will be placed on an open file and the feasibility study will be placed on a confidential file at the office of the relevant Licensing Authority and will be open to bona-fide interested third parties for inspection.

**8.5.4** In the event of another company applying for a mining lease over a deposit covered by MDRL, the licensee will have the right of first refusal to obtain a mining lease. If the licensee is unable to match the terms offered by the third party, the MDRL shall stand terminated.

## **8.6 Mining Lease (ML)**

**8.6.1** The holder of an EL or an MDRL may apply for a mining lease over an area subject to a maximum of 250 sq. km. within his EL or MDRL in respect of the mineral/minerals discovered. The application shall be accompanied by detailed information including technical and financial resources available for development of the mine, work programme for development and operation of the mine, production schedule, financing plan, environmental protection plans, proposals for procurement and use of local goods and services, training of nationals and the prescribed application fee. The application will be considered, in accordance with specified criteria, within 120 days after receipt of the application or receipt of any additional information requested. The license will remain valid while the application is under consideration.

**8.6.2** The Licensing Authority shall not unreasonably refuse an application for the grant of an ML. Where the Licensing Authority considers that the applicant has satisfied the specified criteria for assessment and grant of an ML, the ML will be granted. The Licensing Authority will not refuse an application by a licensee for an ML unless the Authority has notified the applicant of the proposal to refuse the ML and has given the applicant a reasonable opportunity to modify the proposals or mining plans or make representation or otherwise remove the grounds for refusal.

**8.6.3** The application fee for an ML or its renewal will be Rs. 100,000 each and the land rent will be Rs. 3,000 per sq.km./ year to be paid in advance each year.

**8.6.4** The ML will be granted for the lesser of a period of 30 years or the estimated life of the mine. An ML may be renewed for a period not exceeding 10 years or the life of the mine whichever is lesser in the light of the circumstances prevailing at that time.

**8.6.5** Where an application for a mining lease is made by an applicant not holding an EL or MDRL, the decision will be made within 180 days, unless extended further upto 180 days by the Government. The lessee will be obligated to carry out mining operations in accordance with good international mining industry practice, provide acceptable working conditions and take measures to protect health, safety and welfare of employees and the environment. The lessee will be required to commence mining operations within six months of the grant in accordance with the approved mine development plan.

**8.6.6** A lessee shall have the right to assign an ML with prior consent of the Licensing Authority. Such consent will not be unreasonably withheld or delayed, if the proposed assignee meets certain specified criteria and conditions similar to those applicable for assignments of ELs.

**8.6.7** A lessee shall have the right to market and export minerals or mineral products subject to satisfaction of the internal requirements of Pakistan. The price to be paid for any minerals or mineral products purchased by the Government shall be the fair market price. The fair market price shall be determined by agreement on the basis of specified criteria and failing agreement, by reference to a mutually acceptable expert or to arbitrators.

**8.6.8** Details of various categories of mineral titles, their duration, application and renewal fees and rentals and time within which decisions will be taken are tabulated in the annexed Tables I & II.

## **8.7 Environment**

**8.7.1** With the increasing focus on the environment and international obligations, Pakistan, in common with other countries, wishes to pursue an approach of sustainable development consistent with environmental priorities. Companies will be expected to ensure that their mining operations are carried out in an environmentally acceptable and safe manner and that such operations are properly monitored.

**8.7.2** Accordingly, mining companies will be obligated to take adequate steps to prevent and minimize environmental damage and to make good any damage caused, during and on completion of mining operations; submit to the Government an environmental impact assessment (EIA) and environmental management plans for each stage of their operations; carry out site rehabilitation as necessary; comply with applicable laws and internationally acceptable environmental standards; and ensure adequate compensation for injury to persons or damage to property caused by the effects of mining operations.

**8.7.3** Mining companies will also be required to submit to the Licensing Authority periodic environmental reports detailing the measures taken by them for compliance with environmental requirements.

## **8.8 Performance Guarantee**

An applicant for grant or renewal of EL, MDRL, or ML will be required to provide, at the time of the grant or renewal a guarantee, in a form satisfactory to the Licensing Authority, to ensure performance of the licensee's or obligations. Such guarantee may be a bank or parent company guarantee.

## **8.9 Right Conferred**

The holder of an EL, MDRL or ML, subject to payment of dues and compliance with obligations, shall have certain exclusive rights under the title including, for example, the right to enter upon the licensed/leased area (subject to the rights of surface owners) and to carry out exploration/mining operations in accordance with the terms of the license/lease and applicable laws and to remove the ore/concentrate from the leased area. Detailed rights and obligations of licensee/lessee will be spelled out in the law governing the grant of mining titles.

## **8.10 Termination**

A license or lease will only be terminated on the occurrence of certain specified events, for example, breach or non-performance of the terms, bankruptcy of the licensee or lessee, misrepresentation etc. The events will be specified in the relevant Rules.

## **8.11 Grant of Mineral Titles to Foreign Nationals**

Foreign companies will be free to apply for and be granted licenses without the need for incorporation locally. However, no mining lease will be given until the foreign company is incorporated locally.

## **8.12 Mineral Agreement**

**8.12.1** The Provincial Governments may enter into an agreement with an investor, within the framework of the law, to stabilize the terms or to predetermine procedures with respect to certain matters relating to the carrying out of operation under a license/lease, if government is satisfied that substantial foreign investment in exploration and mining operations is likely to be made and it is desirable in the interest of the development of mineral resources, to do so. The Federal Government may also become signatory to such an agreement, if so requested by a Provincial Government, after independently examining viability of the project and credit worthiness of the party.

**8.12.2** The agreement may cover, for example, the right of the licensee to obtain a mining lease, assignment rights, the circumstances in which a license or lease may be terminated or cancelled, the valuation of minerals on an arms-length basis, the levying of additional profit tax and additional royalty, in case agreed and its terms, the circumstances and conditions on which rights of pre-emption to minerals may be exercised by the government, the settlement of disputes through a mutually agreeable sole expert or through international arbitration etc.

## **8.13 Arbitration**

Any question or dispute between a foreign investor and the government arising out of or in connection with the terms of an agreement or of a granted mineral title shall be settled amicably. Failing an amicable settlement within a reasonable period, such dispute shall be submitted to the International Centre for Settlement of Investment Disputes (ICSID) for arbitration. Disputes solely involving Pakistani parties will be settled by arbitration in Pakistan and under the provisions of the Pakistan arbitration laws.

## **8.14 Joint Application**

A license/lease may be granted jointly to two or more persons with respect to an area where such an application is made jointly and the liability of the applicants under the license/lease in such a case will be joint and several.

## **8.15 Area not Available for Grant of Mineral Rights**

Mineral rights over areas of historical interest, national or public parks and gardens, cemeteries, defence sensitive/strategic sites etc or such other areas as may be specified will not be available. The Provincial Governments will identify all such areas so that prospective investors are aware at the time of filing their applications whether the area applied for is available for licensing.

## **8.16 Competitive Bids**

The Licensing Authority may award ELs and MLs over free acreage through a process of competitive public bids or selected tenders.

## **8.17 Public Notice of Grant of Licenses etc.**

Notice of all grants, renewals, assignments, surrender and revocation of mineral titles and relinquishment of acreage will be published promptly in the Official Gazette, with details of the area and of the companies to whom the license/lease/assignment etc. is granted.

## **8.18 Proprietary Rights over Data**

All geodata obtained by a licensee/lessee shall be a property of the Licensing Authority and shall be deposited at such offices and at such intervals as are specified in the Rules.

# **9. Fiscal Regime**

## **9.1 The Overall Fiscal Package**

**9.1.1** The Federal and Provincial Governments have agreed to adopt and maintain a joint approach towards the fiscal terms which are applied to mining operations so as to ensure that on overall basis it yields a level of return to the investor which is commensurate with the risk and internationally competitive, and as well provides equitable "take" for the Provincial and Federal Governments through royalties on minerals and federal income from mining ventures.

**9.1.2** The fiscal regime, including royalty, would be structured to have a progressive character to allow exploration of less profitable mineral deposits.

## **9.2 Income Tax**

### **9.2.1 Rate of Corporate Tax**

The Government has embarked upon a progressive reduction in the effective rate of corporate tax. In fiscal year 1997/98 the applicable rate of tax will be 30% for public companies listed on a Stock Exchange in Pakistan and 35% for private or non-resident companies. Mining companies will, of course, enjoy these reduced rates.

### **9.2.2 Minimum Corporate Tax**

A minimum amount of corporate tax is payable annually at the rate of 0.5% of the declared turnover. However, in any year when the corporate tax payable exceeds this amount, the minimum tax will not be charged.

### **9.2.3 Development Expenditure Deduction and Loss Carry Forward**

Expenditure incurred on exploration operations qualify for immediate deduction in the determination of taxable income. Expenditure incurred for project development

operations will be allowed deduction at a rate of 25% p.a. In line with international practice, the depletion allowance will no longer apply.

#### **9.2.4 Ring-Fencing**

A mining company will be assessed for income tax on the entirety of its mining operations in Pakistan.

### **9.3 Withholding Taxes**

#### **9.3.1 Dividends**

Except where lower rates are specified in Pakistan's double taxation treaties, the withholding tax levied on dividends paid from mining profits to non-resident corporate shareholders will be set at 7.5% but adjustable against final tax liability.

#### **9.3.2 Non-Resident Contractors**

The rate of withholding tax on non-resident contractors engaged in mining operations will be 6% of the payments made to them. This will represent their full and final tax liability.

#### **9.3.3 Interest**

Interest paid to non-residents in respect of availed approved loans is exempt from withholding tax.

### **9.4 Other Taxes**

#### **9.4.1 Sales Tax**

No sales tax will be levied on minerals which are exported.

#### **9.4.2 Additional Profits Tax**

For certain large-scale mining operations undertaken by foreign investors, where the anticipated size and nature of the mining operations are such as to involve a large investment and portend considerable economic and social benefits over a long period of time, the Government may require the investors to negotiate and enter into a mining agreement containing a provision for the levying of an additional profits tax (APT). The APT on an agreed would be payable only when the project achieves the agreed threshold level of profitability.

#### **9.4.3 Zakat**

Non muslims and non-resident shareholders of a company are exempt from the requirement to pay Zakat on dividends.

## **9.5 Concessions on Imports**

### **9.5.1 For Mining Companies and Mineral Based Industry**

During exploration of mines and until the commencement of commercial production, customs duty @ 5% and no sales tax, shall be levied on machinery, equipment and spares necessarily and exclusively imported by a mining company, its contractors and sub-contractors for use in their mineral exploration and development operation or by an entrepreneur for settling up a specified mineral based industry. Machinery, equipment and spares imported by a company for use in mining operation after the date of first commercial production shall be subjected to customs duty at the rate of 10% on the import value of the items. A negative list of items to which above provisions will not apply, shall be drawn up by CBR in consultation with the ministries of Petroleum and Natural Resources and Industries & Production.

### **9.5.2 For Local Manufacturers of Mining Machinery**

In order to encourage local manufacture of machinery and equipment needed by the mining industry, raw material will be subjected to customs duty at the rate of 10% with 15% sales tax but on components and machinery customs duty at the rate of 10% with no sales tax, will be levied if imported by local manufacturers for mining machinery and equipment for mining operations only.

## **10. Royalty**

### **10.1 Coal, Construction and Industrial Minerals**

The current rates of royalties in the Provinces for coal, construction and industrial minerals are being retained as such since these minerals are primarily of interest to local mining companies, for sale in the domestic market.

### **10.2 Other Minerals**

For all other minerals, a simplified and uniform royalty system is being introduced in all the Provinces. Royalty will be charged ad valorem on the gross sales value determined on a third-party (arms-length) basis. The rates of royalties are:

(i) Precious Stones	10%
(ii) Precious Metals & Semi-Precious Stones	3%
(iii) Base Metals	2%
(iv) Others (other than i, ii, iii above)	1%

### **10.3 Royalty Determination and Payment**

**10.3.1** Royalty will be calculated at the first point where the mineral is sold or otherwise disposed of, without any deduction from gross value.

**10.3.2** Royalty will be assessed and paid on a monthly basis.



**10.3.3** In order to encourage investment in marginal or low grade mineral deposits, as well as the maintenance of mineral production in years of difficult cash flow, the Provincial Governments may adopt special royalty provisions which would allow them to reduce, defer or waive royalty payments on certain projects or minerals on certain terms and condition in specified circumstances.

**10.3.4** Enhanced Royalty rates may be negotiated under an agreement with the investor of a mining project which would apply only when the project achieves the agreed threshold level of profitability.

**10.3.5** Stocked minerals and by-products will not be subjected to royalty payment until sold.

#### **10.4 Royalty in Lieu of Local Levies etc.**

Except for royalty, there will be no other Provincial or local levies or taxes imposed on minerals or mining operations. The claims of local bodies for any levy on minerals will be satisfied by the Provincial Governments from royalty collections.

### **11. Joint Ventures with Local Enterprises**

There will be no mandatory State participation. However, the Governments will encourage joint ventures between foreign and local private investors. Such joint ventures could also be entered into with agencies of the Federal and Provincial Governments.

### **12. Development of Infrastructure**

Mechanisms will be developed to provide infrastructure support in special circumstances and under certain terms and conditions; for example, for the development of a large marginal grade mineral deposit which is capable of being economically developed only with such support.

### **13. Small-Scale Mining**

**13.1** Investment in small-scale mining (capital employed less than Rs. 300 million) will be confined to Pakistani nationals.

**13.2** To improve the working of small-scale mining:-

- (i) The Provincial Inspectorates of Mines will provide basic personal safety equipment to small-scale mine operators on a no-profit-no-loss basis. Failure by the mine operators to acquire the prescribed safety equipment may result in closure of their operations.
- (ii) Corporate merger of small-scale mine operators will be encouraged.
- (iii) Provincial Inspectorates of Mines will monitor the working of small-scale mines and ensure compliance with the provisions of the Mines Act and of environmental protection laws. Penalties will be imposed for violation of these provisions.
- (iv) Small-scale mines will be required to carry out or participate in collective environmental rehabilitation programmes introduced by regulatory agency.

**13.3** Small-scale mining operators will be expected to make appropriate contributions towards upgrading the social infrastructure of the area where they are operating.

#### **14. Social Development Contributions**

**14.1** Mining companies would contribute to the social uplift of local population by contributing annually Rupee equivalent of US \$ 5,000/license/lease and after the commencement of commercial production double that amount for on the job vocational training of local population in training institutes.

**14.2** In order to give lasting benefits to the local population of the area, mining companies would pledge annually Rupee equivalent of US \$ 10,000 for construction and self sustained maintenance of welfare projects like school, dispensaries, drinking water supply, roads etc.

**14.3** Mining companies would participate in the Government efforts to sustain the development level of mineral bearing areas, on depletion of mineral resource.

**14.4** The licensing authority may enforce that small scale mine operators will also make a contribution in the uplift of the social infrastructure of the area where they operate.

#### **15. Linkages with other Sectors**

**15.1** In order to develop skills in the various disciplines required in the mining sector, companies involved in medium and large-scale mining operations will be required to provide to specified number of facilities as agreed to with the Provincial Government for technical education and on the job training, either in Pakistan or abroad.

**15.2** Similarly, in order to develop meaningful backward and forward linkages with other sectors of the economy, mining companies will be required to utilize in their operations Pakistani goods and services, to the extent available on competitive basis with international supplies. Secondary and tertiary processing of the ores within Pakistan will be encouraged to the extent practicable.

#### **16. Miscellaneous Matters**

##### **16.1 Protection from Expropriation**

The Protection of Economic Reforms Act 1992, provides that no foreign industrial or commercial enterprises established or owned in any form by a foreign or Pakistani investor shall be compulsorily acquired or taken over by the Government. The mining sector will equally have this protection.

##### **16.2 Repatriation of Capital and Profits**

The Foreign Private Investment (Promotion and Protection) Act, 1976, guarantees that a foreign investor in an industrial undertaking may at any time repatriate capital and profits. This includes mining ventures.

### **16.3 Insurance**

Mining operators will be allowed to insure their assets and risks with international insurance companies.

### **16.4 Formalization of Mineral Policy**

The respective Federal and Provincial Ministries/Department will undertake necessary administrative measures and amendments to relevant mining and fiscal laws to give full effect to the provisions of this Policy.

**Table - I**  
**Broad Terms for Mineral Titles**

S.No	Category	Size Sq. Km.	Validity Period Years	Renewals Years	Area Deletion	Decision within Days*
1.	Reconnaissance License – Non-exclusive and non-renewable unless stipulated otherwise in the R.L.	100- 10,000	One	Nil	90% on application for exploration license	120
2.	Exploration License (EL) (Note- 1). - Exclusively right to explore all minerals specified in EL.  - First Renewal - Second Renewal	Not-exceeding 1,000	Three	Three Three	50% 50% of the remaining area	120  120 120
3.	Mineral Deposit Retention License [On account of unfavourable economics to develop] (Note- 2)	Not exceeding area of Exploration License held by Applicant	Two	One	Nil	180
4.	Mining Lease (Note- 3)	Max 250	Thirty	Ten	-	120 (a)** 180 (b)**

- Note – 1 Exploration License cannot be assigned within the first two years. Renewable subject to fulfillment of working obligations.
- Note – 2 If a third party makes an offer to develop an area, MDRL shall stand terminated unless the holder matches the offer.
- Note – 3 The lessee shall have the right to assign the lease with prior approval of the Licensing Authority.
- Note – 4 Application to all types of licenses / leases. There shall be a minimum investment/work programme for RL, EL, MDRL and minimum production commitment for ML.
- \* To be reckoned from the date of filing of complete application. In case of direct application for ML (without EL or MDRL), the decision will be made within 180 days, unless extended further upto 180 days by the Government.
- \*\* (a) For holder of EL or MDRL.  
(b) For applicant not holding EL or MDRL.

**Table – II**

**Application Fee and Land Rent**

<b>S. No</b>	<b>Category</b>	<b>Application Fee Rupees</b>	<b>Renewal Fee Rupees</b>	<b>Rent Rupees Sq. Km.</b>	<b>Period Years</b>
1.	Reconnaissance License	15,000	Not Renewable	-	-
2.	Exploration License	25,000		250	Years 1 - 3
	- First Renewal		50,000	750	Year 4
				1,000	Year 5
	- Second Renewal		50,000	1,250	Year 6
				2,000	Year 7
				2,250	Year 8
				3,000	Year 9
3.	Mineral Deposit Retention License	100,000	100,000	3,000	2 + 1
4.	Mining Lease	100,000	100,000	3,000	30 + 10

Note:

- 1- The Mining Concession Rules may provide that all grants, revocations, assignments renewals and surrenders of mineral titles shall be published in the official gazette forthwith with complete details.
- 2- Foreign companies may be provided right to arbitration by International Centre for Settlement of Investment Disputes.
- 3- Mineral Concession Rules may also have enabling provision to allow the licensing authority to enter into an agreement in case a foreign mining company so desires in consultation with MIFA and MIFB.
- 4- The Provincial Governments may, after consultation amongst themselves, suggest changes which they may consider appropriate.

