



# MINING IN THE ASIA PACIFIC

A Legal Overview



EVERYTHING MATTERS



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# INTRODUCTION

## INTRODUCTION

There is no escaping the fact we are in the midst of recovery from the 2008/09 global financial crisis, which spared no corner of the globe. On a lighter note, there is resounding consensus around the world that the Asia Pacific fared the crisis better than most. While the United States and Europe are still reeling from the aftershock, Asia has rebounded strongly and surpassed expectations for economic growth in 2010 and 2011.

Now more than ever, our global economy turns on the success of the Asia Pacific, which has arguably overtaken the US as the global economic powerhouse. The Asia Development Bank boasts Asia “can look into a bright future of sustained growth”. The World Bank concurs, saying “the region has the potential to secure its recovery and continue on its path of rapid and sustained growth if it is able to harness opportunities and meet various challenges”.

Our intention behind this publication is not only to provide a quick and easy reference guide to the mining industry in the Asia Pacific, but also to unlock the potential in one of the most attractive economies in the world right now.

## MINING IN THE ASIA PACIFIC

In the wake of the financial crisis, signs that global private capital is increasingly welcome in the Asia Pacific are evident. The combined effects of increased stimulus spending and reduced tax receipts have increased deficits, with the result that restrictions on foreign investment are easing and a growing number of projects in Asia are being carried out and funded by the private sector.

The Asian Development Bank calculates that around \$8 trillion will be committed to infrastructure projects in Asia (as a whole) over the next decade to remedy historical under-investment and accommodate the explosion in demand.

In this economic climate, the opportunities that exist for development of mining, resources and infrastructure are impressive, but it is important to be wary of obstacles to development that still exist in some Asian countries, such as political instability and corruption.

## KEY ECONOMIC INDICATORS

In the Business Overview section of each Asia Pacific nation you will find an easy reference summary of its key economic climate indicators.

The ease of doing business assessment comes from *Doing Business 2012: Doing Business in a More Transparent World*, which reviews regulations affecting domestic firms in 183 economies and ranks the economies in 10 areas of business regulation, such as starting a business, resolving insolvency and trading across borders. A high ranking on the Ease of Doing Business Index means the regulatory environment is more conducive to the establishment and operation of a local firm.<sup>1</sup>

The Index of Economic Freedom<sup>2</sup> measures and ranks the economic freedom of 179 countries based on trade freedom, business freedom, investment freedom, property rights and more, with 1 being the freest economy.

Transparency International publishes the Corruption Perceptions Index each year, which ranks countries and territories according to their perceived levels of public sector corruption. Each country is ranked out of 183 countries and then given a point score on a scale of 0 (highly corrupt) to 10 (very clean).<sup>3</sup>

## SPOTLIGHT ON MONGOLIA

As one of the fastest moving markets in the Asia Pacific region, we make particular mention of Mongolia as the place to watch in 2012.

Mongolia is home to some of the world’s largest undeveloped mineral deposits and holds enormous resources opportunities. The potential of Mongolia’s rapidly expanding resources sector came into focus late last year when Thailand coalminer Banpu launched a \$477 million takeover of another Mongolian coal explorer, Perth based Hunnu Coal.

It is notable that Mongolia was also amongst the top 10 countries in the world that were most improved in the Index of Economic Freedom in 2012.

DLA Piper now has a very strong presence in Mongolia with a team on the ground and an exclusive association with leading local firm, C&G Partners.

## ABOUT DLA PIPER

DLA Piper has 11 offices in the Asia Pacific with over 700 lawyers based in Australia, China, Hong Kong, Japan, Singapore and Thailand. We are a full-service law firm that does not just preach integration, but practises it.

The breadth of our global mining practice allows us to represent our clients on everyday issues as well as to deploy cross border teams on large-scale international transactions and disputes. We act for regulators as well as industry, including clients involved in extraction, processing, distribution, infrastructure and trade. In addition to legal services, we provide advice on government affairs, lobbying and crisis management.

## COMING SOON

We will continue to update this publication intermittently. If you would like to receive our updates or if you have any queries, please contact either of the following:

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## REFERENCES

<sup>1</sup> <http://www.doingbusiness.org/rankings>

<sup>2</sup> <http://www.heritage.org/index/default>

<sup>3</sup> <http://www.transparency.org>

*This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither DLA Piper nor any other member of the global DLA Piper organisation can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.*

*The views of third parties set out in the publication are not necessarily the views of DLA Piper or its member firm. Moreover, they should be seen in the context of the time they were made.*



# AFGHANISTAN



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil	Dari (Afghan Farsi), Pashto

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report: 160 (decreased six rankings from 2011)</li> <li>Index of Economic Freedom 2012: not ranked due to lack of reliable and comparable data</li> <li>Transparency International - Corruptions Perception Index 2011: 180 out of 183 (Score of 1.5)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Low Income	30,605,401	US\$517

## PROFILE

The economy in Afghanistan has seen positive growth of approximately 22% in 2009 and 8% in 2010. Gross Domestic Product (GDP) per capita has tripled since 2001.

- Mining accounts for 20% of Afghanistan's GDP.

- In recent times, mining in Afghanistan has been greatly restricted by political and social instability, an inadequate infrastructure and transportation network and also its rugged and inhospitable terrain.
- Afghanistan is a potential transit route for oil and natural gas exports from Central Asia to the Arabian Sea.

- The National Government of Afghanistan has adopted strong policies in favour of foreign investment in an attempt to substantially increase economic growth. Political and social instability will hinder these efforts.
- In attempts to overcome these instabilities and to further advance foreign investment, the country is currently engaging in significant infrastructure development. Afghanistan has also publicly committed to becoming a more transparent country in its business dealings.

## MINING INDUSTRY

- Afghanistan has some of the largest, virtually unexploited, mineral reserves in the world. It has been estimated that it has US\$1 trillion worth of untapped resources.
- There is iron ore in the Hajigak region, gas in the Sherbegon region and the Aynak region is exceptionally rich in copper.

## MINING LAWS

- Mineral resources belong to the state. Anyone wishing to exploit minerals must obtain authorisation by way of a Mineral Right from the Afghani Ministry of Mines, see Art 4 *The Minerals Law of Afghanistan*.
- Hydrocarbon resources are owned exclusively by the State, see Art 3 *The Hydrocarbons (Petroleum and Gas) Law of Afghanistan*.
- The *Mining Regulations 2010* are enacted pursuant to the *Minerals Law* and set out the rules and procedures for mining in Afghanistan.
- Exploitation licences are issued pursuant to Article 30 of the *Mineral Act*.
- Holders of exploitation licences are to pay royalties pursuant to Article 87 of the *Mineral Act* and the rate is set by the inter-ministerial committee.

## FOREIGN INVESTMENT

- Foreign investment, particularly in the mining and resources sector, is welcomed by the Afghani government.

## FOREIGN OWNERSHIP

- Article 14 of the *Mineral Act* sets out the requirements for foreign companies owning mineral rights:

- A foreign legal entity may own minerals provided they are legally entitled to reside, invest or do business in Afghanistan.
- Only Afghan citizens may hold an Authorisation for Artisanal Exploitation.

## TAX

- The Government of Afghanistan has enacted a tax system that supports the growth of the mining industry.
- *Surface rents*: Fees are paid annually in local currency and range from the equivalent of US\$500 to US\$5,000 per Exploration Licence (depending on area).
- *Fiscal stability of income tax*: The *Income Tax Law* provides fiscal stability of income tax provisions for eight years (from the start of production) for holders of a mining license if they agree to be subject to an income tax rate of 30% instead of the rate of 20%. 100% of exploration and development expenditures are deductible against operating revenues.
- *Business Receipts Tax*: Mining companies are exempt from this tax as they pay royalties.
- *Loss carry forward*: Mining companies have an unlimited loss carry forward in comparison to other companies, which have a three-year limit.

## DEVELOPMENTS

- The Afghan government has recently invited bids for developing four gold and copper mines around the country.

## RELEVANT WEBSITES

- The Afghanistan Ministry of Mines: <http://mom.gov.af/en>
- The Afghanistan Geological Survey: <http://www.bgs.ac.uk/afghanminerals/>
- Afghanistan Chamber of Commerce and Industries: <http://www.acci.org.af/index.php>

## SNAPSHOT

- In 2011, a consortium of seven Indian steel companies, the Steel Authority of India Limited (SAIL), won rights to develop the Hajigak iron ore deposit. The project, estimated to cost US\$11 billion, extends over 32km and when production commences India will overtake China as the largest overseas investor in Afghanistan: <http://www.sail.co.in/>. Contracts are expected to be finalised by the end of July 2012.

# AUSTRALIA



## OVERVIEW

JURISDICTION	LANGUAGE
Common Law	English

## BUSINESS ENVIRONMENT

- Ease of Doing Business Report 2012: 15 out of 183 (decreased four rankings from 2011)
- Index of Economic Freedom 2012: 3 out of 179 (Asia Pacific Ranking: 3 out of 41)
- Transparency International - Corruptions Perception Index: 8 out of 183 (Score of 8.8)

INCOME	POPULATION	GNI PER CAPITA
High Income	22,327,200	US\$43,700

## PROFILE

Australia is currently experiencing high levels of investment activity in the mining sector. Western Australia, the Northern Territory and Queensland are all home to current and planned coal, iron ore and Liquefied Natural Gas (LNG) projects.

## MINING INDUSTRY

- Australia is a country rich in natural resources. It has the world's:
  - Largest identified resources of coal, iron ore, lead, nickel, rutile, uranium, zinc and zircon
  - Second largest reserves of bauxite, gold, niobium and tantalum

- Third largest reserves of copper
- Fourth largest reserves of silver.
- In 2010 Australian resource sector exports totalled US\$177 billion, which included:
  - \$50.3 billion in iron ore exports
  - \$36.3 billion in coal exports
  - \$14.7 billion in gold exports
  - \$8 billion in copper exports.

## MINING LAWS

- Ownership of each state's minerals, oil and gas vest in the state government, and each state has their own mining laws.
- Generally, the laws governing mining are similar across the states and territories.<sup>1</sup>
- Set out below are some of the procedures and requirements in the key mining states. Further information on the Northern Territory and Tasmania can be found in the Relevant Websites section.

### Queensland

Key Legislation: *Mineral Resources Act 1989* (QLD)

An Exploration Permit is required for mining exploration in Queensland. It has the following implications:

- A Work Program setting out the details of the exploration activities that will be undertaken is required.
- Public notification is required if the Exploration Permit is being granted in relation to native title expedited procedures.
- Exploration Permits may be granted for a maximum of five years, with options to renew.
- An application fee and rental is payable.

### Mineral Development Licence

- Allows the holder to undertake studies to evaluate the development potential of the defined resource.
- Is granted to holders of an exploration permit for up to five years renewable.

### Mining Lease

- An applicant must be the holder of a prerequisite tenure (eg Exploration Permit) before applying for a Mining Lease.
- These do not have a maximum term, rather the term is dependent upon the projected mine life.
- Public notification is required.

### Royalties

- Coal is 7% of value up to AU\$100 per tonne, then 10% of the value thereafter.
- Petroleum and gas is 10% of the wellhead value.
- Base and precious metals vary between 2.5% and 5% depending on the average metal prices.

### Western Australia

Key Legislation: *Mining Act 1978* (WA)

### Exploration Licence

- A detailed Work Program is required with an application for an exploration licence.
- An application fee and rental is payable.
- Public notification is required by posting a copy of the application in the newspaper and serving copies on relevant stakeholders.
- Objections may be lodged and the Warden will hear and make determinations on objections.
- Compensation to be agreed between the parties may be payable to stakeholders.
- The term of the licence is five years, renewable by the Minister.

<sup>1</sup> See generally for more information: Department of Energy, Resources and Tourism (2008) 'Guide for Investors No 9: Exploration and Mining Legislation' Available at: [http://www.ret.gov.au/resources/Documents/Minerals%20and%20Petroleum%20Exploration/Guide\\_for\\_%20Investors\\_9OnshoreLegislation.pdf](http://www.ret.gov.au/resources/Documents/Minerals%20and%20Petroleum%20Exploration/Guide_for_%20Investors_9OnshoreLegislation.pdf)

### Mining Title

- Holders of an Exploration Licence have an automatic right to apply for and be granted a Mining Title over the area of the Exploration Licence.
- A detailed mining proposal is required setting out things such as likely commencement, method and location.
- Mining leases are granted for 21 years and may be renewed for further terms.
- Application details must be advertised and any person may lodge an objection, which shall be determined by the Warden's Court.
- If the area includes private land, then the written consent of the owner is required before a mining tenement can be granted.
- Mining Title is granted for a period of 25 years, with an option for renewal.

### Royalties

- A specific rate exists for low-value construction materials and royalties for other minerals are based on a value-based mechanism.

### South Australia

Key Legislation: *Mining Act 1971* (SA)

#### Exploration Licences

- There is an application fee payable, and the application requires a detailed proposed scheme of exploration.
- Either an agreement may be reached with land owners or a Notice of Entry must be served 21 days before entry onto private land. The landowner may object to entry. The objection will be heard in the Warden's Court.
- The Act provides for some compensation for land owners which should be negotiated directly or determined by the Warden's Court.
- An exploration licence has a maximum term of five years, after which a new application may be lodged for the area.

### Mineral Claim

- This is a prerequisite for a Mining Lease, and provides an exclusive right to prospect for minerals within the claim area and to lodge an application for a Mining Lease.

### Mining Lease

- A statement of proposed mining operations and measures to remedy damage to land are required with the application.
- Mining leases are granted for a period of up to 21 years renewable.
- Annual rent is payable, and there is an application fee.

### Royalties

- The current royalty rate is 3.5% of the minerals.
- A reduced rate is available for new mines for up to five years.

### New South Wales

Key Legislation: *Mining Act 1992* (NSW)

#### Exploration Licence

- Exploration Licences are granted and regulated by NSW Trade & Investment Division of Resources & Energy (DRE) and any person may apply.
- Licence applicants must provide particulars of the proposed program of work to be carried out.
- Licence applicants must publish notice of the application in a state newspaper and a newspaper circulating in the locality of the proposed exploration site.
- Exploration Licences cannot be granted over land within an opal prospecting area, or a reserve in respect of which an order prohibiting the grant of Exploration Licences is in force.
- Holders of an Exploration Licence are prohibited from carrying out exploration activities within 200 metres of a residence, unless the consent of the residential owner has been obtained.
- Holders of a licence must provide sufficient security to cover the anticipated costs of rehabilitating areas disrupted by exploration activities.

- Exploration licences may be granted for a maximum of five years, with options to renew.
- There is an application fee payable.

#### Assessment Lease

- Allows a holder to maintain a title over an area in which a significant deposit is located, but where mining is not commercially viable in the short term but will be in the longer term.
- Assessment Leases may be granted for a maximum of five years, with the option to renew for a further maximum period of five years.

#### Mineral Claim

- A Mineral Claim may be granted in a “mineral claim district” (White Cliffs or Lightning Ridge) for the purposes of exploring and extracting minerals on a small scale.
- May only be granted over land of less than two hectares.
- Granted for a period of less than five years.

#### Mining Lease

- Any person may apply.
- Holders of a Mining Lease must also submit and conform with an approved Mine Operations Plan (including a rehabilitation plan).
- Before a Mining Lease is granted, a development consent under the *Environmental Planning and Assessment Act 1979* (NSW) (which involves the preparation of an environmental impact statement) must be in place.
- Lease applicants must publish notice of the application in a state newspaper and a newspaper circulating in the locality of the proposed mining site.
- Holders of a lease are prohibited from carrying out exploration activities within 200m of a residence unless the consent of the residential owner has been given.
- A Mining Lease may be granted for a period not exceeding 21 years (unless the Premier’s concurrence has been given), with options to renew.
- There is an application fee payable.

#### Royalties

- Coal:
  - 8.2% of value of open cut coal
  - 7.2% of value of underground coal
  - 6.2% of value of deep underground coal.
- Petroleum:
  - Nil first five years, increasing to 10% at end of 10th year.
- Minerals (other than coal) vary from \$0.35 - \$0.7 per tonne of mineral recovered.

#### Victoria

Key Legislation: *Mineral Resources (Sustainable Development) Act 1990* (Vic)

Generally, all licence holders must:

- Be a fit and proper person to hold the relevant licence
- Lodge a rehabilitation bond
- Give notice to landholders of their intention to start work
- Have confirmed public liability insurance.

Particular requirements for specific titles include:

#### Exploration Licence

- An application must include an appropriate program of work.
- Exploration Licences may not be granted over land that is covered by an existing licence, covered by a previous licence, is subject to a tender process or is exempted (such as national and state parks).
- Exploration Licences may be granted for a maximum period of five years, with options to renew.
- There is an application fee payable.

### Mining Licence

- An application must be accompanied by an appropriate work program and a “mineralisation report”.
- An applicant must give notice of application in a local and Victorian newspaper, and any person may lodge objections.
- Mining Licences may be granted for a maximum period of 20 years, with options to renew.
- There is an application fee payable.

### Retention Licence

- Retention licences will only be granted where mineral resources have been identified but are not yet commercially viable to mine.
- An application must be accompanied by an appropriate work program and a “mineralisation report”.
- Retention licences may be granted for a maximum period of 20 years, with options to renew.
- There is an application fee payable.

### Prospecting Licence

- An applicant must be the holder of, or applicant of, an exploration licence or retention licence (or the written consent of such a licence holder must accompany the application).
- Mining licences may be granted for a maximum period of 10 years and may only be renewed twice.
- There is an application fee payable.

### Royalties

- All minerals (other than gold and lignite) - 2.75% of the net market value.
- Tailings from Crown land - \$1.43 per cubic metre.

## FOREIGN INVESTMENT

- Foreign direct investment into Australia continues to grow, demonstrating strong investor confidence in the Australian economy.
- Under the *Foreign Acquisitions and Takeovers Act 1975* (Cth), the Federal Government’s (Government) Foreign Investment Review Board reviews foreign investment against the national interest on a case-by-case basis.
- Foreigners must notify the Government before acquiring an interest of 15% or more in an Australian business or corporation that is valued above AU\$244 million. Notification is also required to acquire an interest in an offshore company whose Australian subsidiaries or gross assets are valued above AU\$244 million.

## FOREIGN OWNERSHIP

- A foreign company carrying on a business in Australia must register that business under the *Corporations Act 2001* (Cth).
- A registered foreign company must maintain a local agent.

## TAX

- Corporate income tax is 30%.
- Goods and Services Tax is 10%.

## DEVELOPMENTS

- In May 2012, Gina Rinehart’s Roy Hill Iron Ore Project in Western Australia secured Government approval to source up to 20% of its construction workers from overseas over the next three years to overcome a skilled labour shortage in Australia.

- High levels of mining activity and lack of necessary infrastructure to support the industry has led to investors looking to build, own and control their own infrastructure. For example, Oakajee Port and Rail Pty Ltd is spending AU\$4.73 billion building a railway from its iron ore mine in Western Australia to the port at Oakajee, where it is also developing its own port infrastructure.

#### Mineral Resources Rent Tax

- The Federal Government implemented a Mineral Resources Rent Tax (MRRT) in July 2012, with an AU\$50 million threshold.
- MRRT will be imposed at a headline rate of 30% on resource profits, less a 25% extraction allowance, which reduces the effective statutory tax rate to 22.5%.
- State-based royalties will be deductible for MRRT purposes, and MRRT payments will be deductible for company income tax purposes.

#### RELEVANT WEBSITES

- Australian Trade Commission: <http://www.austrade.gov.au/Invest>
- New South Wales Government, Trade and Investment, Resources and Energy: <http://www.resources.nsw.gov.au/>
- Northern Territory, Department of Resources: [http://www.nt.gov.au/d/Minerals\\_Energy/](http://www.nt.gov.au/d/Minerals_Energy/)
- Queensland Government Mining and Safety: <http://mines.industry.qld.gov.au/>
- Queensland Office of State Revenue, Royalty Rates: <http://www.osr.qld.gov.au/royalties/rates.shtml>

- South Australia Department for Manufacturing, Innovation, Trade, Resources and Energy: <http://www.sa.gov.au/government/entity/802>
- Western Australia Department of Mines and Petroleum: <http://www.dmp.wa.gov.au/index.aspx>
- Tasmania, Department of Infrastructure, Energy and Resources: <http://www.mrt.tas.gov.au>
- Victoria, Department of Primary Industries: <http://www.dpi.vic.gov.au/earth-resources>

#### SNAPSHOT

- Oakajee Port and Rail Pty Ltd: <http://www.opandr.com/>
- Adani Mining (part of the Adani Group): <http://www.adanimining.com.au/>

# BANGLADESH



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Common Law with aspects of Civil Law	Dzongkha

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 122 out of 183 (decreased four rankings from 2011)</li> <li>Index of Economic Freedom 2012: 130 out of 179 (Asia Pacific Ranking: 28 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 120 out of 183 (Score of 2.7)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Low Income	164,425,491	US\$640

## PROFILE

- In 1986, at Haripur, the country’s only oilfield was discovered, with estimated reserves of about 10 million barrels. Production was suspended in 1994.
- Surface limestone was first discovered on St Martin’s Island of Cox’s Bazar district and Bhangergat Lalghat Takerghat of Sunamganj district. The Bagalibazar Takerghat Bhangergat area of the district is believed to have a limestone deposit of 17 million tonnes, but the mine was abandoned as it was not considered economically feasible.

## MINING INDUSTRY

- Known resources include natural gas, coal, limestone and hardrock.
- Approximately 1,000 million tonnes of coal has been discovered in the Jamalganji and Rajshahi regions, however Bangladesh imports coal from China, Indonesia and India because the coal is found at depths in excess of 900 metres.
- 370 million tonnes of coal is estimated at the coal deposit in Phulbari. This reserve is estimated to be valued at US\$3.2 billion.

## MINING LAWS

- Article 143 of the Constitution of Bangladesh states that ownership of minerals vests in the state.
- *The Mines Act, 1923.*
- *The Mining Settlements Act, 1912.*
- *The Regulation of Mines and Oil Fields and Mineral Development Act, 1984.*

## FOREIGN INVESTMENT

- Foreign direct investment has played a key role in the modernisation of the Bangladeshi economy for the last 15 years.
- In the year 2009-10, there were 89 new foreign and joint venture investment projects amounting to US\$590 million, however the projects invested mainly in the service, engineering, clothing and agricultural sectors.

## FOREIGN OWNERSHIP

- Bangladesh allows 100% foreign ownership.
- The country grants permanent residency to foreign nationals investing more than US\$75,000 or equivalent amount.

## TAX

- Income Tax rate is 25%.
- Corporate Tax rate is 40%.
- There are attractive tax exemptions for foreign investment.

## DEVELOPMENTS

- A number of coal mines are currently being developed, including Barapukuria Coal Mine and Madhyapara Hard Rock Coal Mine.
- GCM Resources is poised to begin development in the Phulbari region.

## RELEVANT WEBSITES

- Ministry of Industries: <http://www.moind.gov.bd/>
- Energy and Mineral Resources Division: <http://www.emrd.gov.bd/>

## SNAPSHOT

- GCM Resources: <http://www.gcmlc.com/>
- Maddhapara Granite Mining Company Limited: <http://www.mgmcl.org.bd/>

# BHUTAN



OVERVIEW	
JURISDICTION	LANGUAGE
Common Law with aspects of Civil Law	Dzongkha

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 142 out of 183 (increased four rankings from 2011)</li> <li>Index of Economic Freedom 2012: 111 out of 179 (Asia Pacific Ranking: 40 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 38 out of 183 (Score of 5.7)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Lower Middle Income	708,484	US\$1,920

## PROFILE

- Bhutan’s economy is one of the smallest in the world. It is closely linked to India’s economy and is based on agriculture and forestry.
- The harvest of hydropower in Bhutan has caused rapid growth, with the export of hydroelectricity to India making up around 32% of government revenue.
- The exploitation of hydropower has led to the production of cement, which is under the control of the government.

- Bhutan’s mining industry contributes only 1% to its Gross Domestic Product.
- Nearly three quarters of Bhutan remains forested and the mountainous terrain makes building infrastructure difficult.

## MINING INDUSTRY

- Minerals mined in Bhutan include dolomite, limestone, gypsum, coal, marble, talc and quartzite.

- Dolomite quarrying has been undertaken near the Pugli hills at Gomtu.
- Privately owned companies undertake most of the industrial mining in Bhutan.

### MINING LAWS

- The Constitution of Bhutan vests all mineral rights exclusively in the State.
- The *Mines and Minerals Management Act 1995* and the *Mines and Minerals Management Regulations 2002* regulate the mining sector. The Ministry may grant mining leases if the applicant satisfies the requirements under the Act.

### FOREIGN INVESTMENT

- Foreign direct investment is allowed. The maximum equity holdings from foreign investors range from 51% to 100%.

### FOREIGN OWNERSHIP

- A foreign company can own land and 100% ownership for some activities under the priority list. The policy also sets out a “negative and prohibited list”, which includes mining for sale in raw form.

### TAX

- *Income Tax*: The top income tax rate is 25%.
- *Corporate Tax*: Standard corporate tax is 30%.

### DEVELOPMENTS

- On 13 May 2011, the Royal Government of Bhutan published a draft Mining Development Policy. The Policy objectives include creating a vibrant mineral sector that contributes to the achievement of Gross National Happiness, while addressing environmental concerns surrounding the mining industry.

### RELEVANT WEBSITES

- Judiciary of Bhutan: <http://www.judiciary.gov.bt/html/judiciary/legal.php>
- Lhaki Group of Companies: <http://www.lhakigroup.com>
- Ministry of Economic Affairs: <http://www.moea.gov.bt/>

### SNAPSHOT

- Bhutan Ferro Alloys Ltd: <https://sites.google.com/site/bhutanferroalloyslimited/>



# BRUNEI DARUSSALAM (BRUNEI)



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Hybrid of English common law and Islamic law	Malay

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 83 out of 183 (increased three points from 2011)</li> <li>Index of Economic Freedom 2012: Ranking: N/A</li> <li>Transparency International – Corruptions Perceptions Index 2011: 44 out of 178 (Score of 5.2)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
High Income	407,045	US\$31,238

## PROFILE

- Natural gas and oil are Brunei’s main source of revenue, accounting for over half of Gross Domestic Product and 90% of exports.
- The major export markets are India, Indonesia, Japan, Korea and Australia.

## MINING INDUSTRY

- The Champion offshore oil fields hold 40% of Brunei’s known oil reserves and produce 100,000 barrels of oil per day.
- Two other oil fields include Asam Paya and Fairley Baram.

## MINING LAWS

- *Laws of Brunei* (Chapter 42 Mining). Article 9 gives his Majesty in Council the right to set out royalties to be paid as part of the terms of the mining licence.
- *Laws of Brunei* (Chapter 44 *Petroleum Mining Act*).

## FOREIGN INVESTMENT

- Brunei encourages foreign investment.
- The *Investment Incentive Act 1975* provides various tax advantages for foreign investment.
- Foreign equity can be utilised in Brunei for export industries. The level of foreign equity that can be utilised will depend upon the particular industry.

## FOREIGN OWNERSHIP

- In some circumstances, 100% foreign ownership is possible.

## TAX

- Corporate income tax is 22% (statutory tax rate but there are various exemptions/concessions under the legislation for foreign companies).

## RELEVANT WEBSITES

- Ministry of Industry and Primary Resources: <http://www.industry.gov.bn/>
- Energy Department: <http://www.energy.gov.bn/>

## SNAPSHOT

- Brunei Shell Petroleum (BSP), a joint venture owned in equal shares by the Brunei Government and Shell, is the prominent oil and gas production company in Brunei. <https://www.bsp.com.bn/main/index.asp>
- Brunei LNG: <http://www.bruneilng.com/home.asp>



# CAMBODIA



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil	Khmer

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 138 out of 183 (no change from 2011)</li> <li>Index of Economic Freedom 2012: 102 out of 179 (Asia Pacific Ranking: 17 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 164 out of 183 (Score of 2.1)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Low Income	14,138,255	US\$760

## PROFILE

- Cambodia’s mineral resources were largely unexplored until 2006, when exploration increased as a result of efforts by the Cambodian Government (Government) to increase foreign investment in the country.
- Cambodia enjoyed economic growth of 5.9% in 2010 and the Ministry of Economy and Finance predicts future economic growth at a rate of 6%.

## MINING INDUSTRY

- Known minerals include bauxite, copper, zinc, gold, iron ore, nickel, granite, gemstones and tungsten.
- Exploration has increased in the past few years as a result of Government efforts to promote foreign investment in the country.

- Some of the current exploration and mining sites in Cambodia include:
  - The Okvau gold project. Oz Minerals held an 80% interest in the exploration licence, but has just signed an agreement (February 2012) to transfer that interest to Renaissance Minerals. The mine is estimated to have 729,000 ounces of gold.
  - A feasibility study on the Rovieng iron ore project was completed in 2009. It is located in the Preah Vihear Province in Northern Cambodia. KenerTec Resources holds an 85% interest in the project.
  - In late 2008, Chevron Corp announced that it intended to bring Cambodia's first oilfield on stream. The Government is expected to issue a production licence this year.
  - Angkok Gold Company, the second largest land holder in Cambodia, has numerous projects including the Border Prospects on the Oyadao Property (450km northeast of the capital city of Phnom Penh) where an aggressive drill program has been planned and implemented.
  - Brighton Mining has three projects, the Antrong concession, Ropoah concession and Kang Roland North. Exploration shows early signs of high-grade gold mineralisation.

## MINING LAWS

- Ownership of minerals is retained by the state.
- The key legislative instruments regarding mining are the *Law on Mineral Resources Management and Exploitation 2001* and its regulations.
- **Licences:** an exploration licence enables a holder to explore for mineral resources. However, if a commercially viable deposit is discovered in the exploration area, there is no automatic right for the holder to be granted a licence to exploit the resource.
- **Royalties:** while the *Minerals Law* contemplates the establishment of regulations to provide for royalty rates and methods of royalty payment, such rates and methods have not yet been released.

## FOREIGN INVESTMENT

- Cambodia is keen to attract foreign investment.
- The *Investment Law of 2004* governs both domestic and foreign investment, and it states that both types of investments are to be treated in a non-discriminatory way.

## FOREIGN OWNERSHIP

- 100% foreign ownership of mining investments is permitted as part of the Government's foreign investment policy.

## TAX

- *Corporate Income Tax:* 30% on profit realised from the exploitation of natural resources.
- *Profit Tax:* 20% on profits or 1% on turnover (whichever is higher).
- *Value Added Tax:* 10%.

## DEVELOPMENTS

- In 2010, Cambodia held its first international mining conference to discuss the country's mineral resources sector and responsible development for the community. There were 300 participants, including international and national experts.

## RELEVANT WEBSITES

- Council for the Development of Cambodia: <http://www.cdc-crdb.gov.kh/>
- General Department of Industry: <http://www.gdi.mime.gov.kh/>

## SNAPSHOT

- Brighton Mining Group focuses on gold exploration in Cambodia: <http://www.brightonmininggroup.com.au/>
- Angkor Gold Corp has mining licences in Cambodia and is currently undertaking preliminary exploration: <http://www.angkorgold.ca/>

# INDIA



OVERVIEW	
JURISDICTION	LANGUAGE
Common Law	Hindi (41%) English is also very common

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 132 out of 183 (increased seven rankings from 2011)</li> <li>Index of Economic Freedom 2012: 123 out of 179 (Asia Pacific Ranking: 25 out of 41)</li> <li>Transparency International 2011: 95 out of 183 (Score of 3.1)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Lower Middle Income	1,170.9 million	<ul style="list-style-type: none"> <li>US\$1,340</li> </ul>

## PROFILE

- The mining industry contributes significantly to the Indian economy.
- The Indian Ministry of Mines have set an ambitious target of adding US\$210 billion from the mining and mineral sectors to the country's Gross Domestic Product by 2025.

## MINING INDUSTRY

- India has significant sources of coal, bauxite, titanium, ore, chromite, natural gas, diamonds, petroleum and limestone.
- India has the fourth largest coal reserves, and is the third highest producer of coal in the world. India is also the second highest producer of barites and ranks fourth in iron ore production.
- Almost three quarters of India's exports make their way to Japan.

## MINING LAWS

- Generally, the Ministry of Mines controls and regulates the use of mineral resources, with the exception of natural gas, petroleum and atomic minerals.
- The Ministry of Mines has control over the Geological Survey of India and the Indian Bureau of Mines.
- Presently, under the *Mines and Minerals (Development Regulation) 1957* (MMDR), the state governments grant the mineral concessions for all the minerals located within the boundary of the state. Detailed guidelines (issued in June 2009) by the Ministry of Mines were drafted to provide more clarity and transparency in processing mineral concessions.
- Three kinds of mineral concessions are recognised in Indian law, being Reconnaissance Permits, Prospecting Licenses and Mining Leases.
- The Federal Government notifies the rates of royalties payable for various minerals from time to time through amendment to the Second and Third Schedules of the *Mines and Minerals (Development and Regulation) Act 1957*. Once fixed, the law provides that these rates cannot be enhanced for three years. The state governments collect royalties.

## FOREIGN INVESTMENT

- There are no current restrictions under the MMDR on foreign equity holding in mining companies registered in India.
- Since 1997, automatic approval has been available for those investments of up to 50% foreign equity participation in the mining sector.
- The Foreign Direct Investment policy in the mining sector has been gradually liberalised over the last few years to promote investment in India.

## FOREIGN OWNERSHIP

- The Federal Government owns minerals within territorial waters and the Exclusive Economic Zone of India. The Indian states own minerals located within their own boundaries.
- To obtain a mineral concession, the applicant company must be registered as a company in India.

## TAX

- Non-resident corporations are taxed on the income earned from a business connection in India or from other Indian sources. A corporation is deemed to be resident in India if it is incorporated in India or if its control and management is situated entirely in India.
- *Corporate Tax is 40%* (domestic corporations: 35% and Foreign corporations: 40%).
- *Wealth Tax is 1%* (if net wealth exceeds 1.5 million Rupees (approximately \$US33,333)).

## DEVELOPMENTS

- The *Mines and Minerals (Development Regulation) Bill 2011* was approved by Cabinet on 30 September 2011 and looks set to replace the 1957 legislation.
- Importantly, the Bill proposes that 26% of mine profits are to be shared with project affected people.

## RELEVANT WEBSITES

- Government of India Ministry of Mines:  
<http://mines.nic.in/index.aspx?clt=57&lang=1>
- Foreign Investment Promotion Board:  
<http://www.fipbindia.com/>

## SNAPSHOT

- ArcelorMittal - The world's leading steel and mining company: <http://www.arcelormittal.com/>
- Oil and Natural Gas Corporation (ONGC):  
<http://www.ongcindia.com/>

# INDONESIA



OVERVIEW	
JURISDICTION	LANGUAGE
Civil Law	Indonesian (Bahasa Indonesia)

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 129 out of 183 (decreased three rankings from 2011)</li> <li>Index of Economic Freedom 2012: 115 out of 179 (Asia Pacific Ranking: 23 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 100 out of 183 (Score of 3.0)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Lower Middle Income	232,516,771	US\$2,580

## PROFILE

- Indonesia has a wide range of mineral deposits and production and the mining industry is crucial to the Indonesian economy.
- In 2010, the oil and gas sector accounted for approximately 20.9% of government revenues.

## MINING INDUSTRY

- Known mineral resources include gold, copper, nickel, coal, tin, oil and gas.
- Indonesia's most resource rich areas include Papua, Nusa Tenggara, Sumatra and Sulawesi for gold and copper; Kalimantan and Sumatra for coal; and Bangka Island for tin.

## MINING LAWS

- Indonesia's *New Mining Law*, introduced in 2009, was enacted to promote investment in the mining sector. The intention behind the Law is to make Indonesia a more attractive and secure investment destination than it has been in the past.
- Indonesia's mining industry is regulated at both the central and regional government levels.
- All ownership of minerals is retained by the state and must be used for the greatest benefit of the people of Indonesia (Article 33 of the Constitution).
- The *New Mining Law* introduced a licensing system to replace the Contract of Work framework. Both the central and regional governments are able to issue licences to prospective mining investors, depending on the type of material sought to be mined.
- Types of licences include:
  - Mining Licence (IUP): may be granted to local or foreign investors. An IUP is only issued after a Mining Business Permit Area (WIUP) is issued.
  - Exploration IUP: holders are able to move to an operation production IUP if an application is made and the requirements are met.
- Legislative instruments include:
  - The *New Mining Law*.
  - Constitution of 1945 of the Republic of Indonesia.
  - Law No 22/2001 on oil and gas.
  - *Law on Mineral and Coal Mining (Mining Law) (2010)*.

## FOREIGN INVESTMENT

Foreign investment in the mining sector is allowed subject to the following share divestment rules:

- 20% locally owned by the sixth year.
- 30% locally owned by the seventh year.
- 37% locally owned by the eighth year.
- 44% locally owned by the ninth year.
- 51% locally owned by the 10th year.

## FOREIGN OWNERSHIP

- Article 97(1) of the Government Regulation No 23/2010 regarding Implementation of Coal and Mineral Mining Business Activities concerns the divestment obligations of IUP holders with foreign capital and has been amended by Government Regulation No 24/2012, which came into force on 21 February 2012.
- Previously, IUP holders with more than 80% foreign capital were only required to divest such number of shares to ensure that at least 20% of its shares were held by local Indonesian participants after five years of business production. The new Government Regulation stipulates that an IUP holder with more than 49% foreign ownership after five years from the commencement of business production must divest its shares annually in stages so that by the 10th year of business production, at least 51% of its total share capital is held by local Indonesian participants (see Foreign Investment).

## TAX

- *Income Tax*: companies holding Mining Licences are subject to income tax at 30%.
- *Royalties*: 10% royalty on net profit.
- Companies must also pay:
  - Dead rent during the exploration and exploitation phase.
  - Production royalties (depending on the mining scale).
  - Production level and mining commodities price.

## DEVELOPMENTS

- It was announced on 8 June 2011 that the Indonesian Government would not extend mining concessions and will instead take over mining management and renegotiate contracts with companies.

## RELEVANT WEBSITES

- Indonesian Government: <http://www.indonesia.go.id/en/>

## SNAPSHOT

- Major national and international mining companies hosted in Indonesia include:
  - Freeport McMoran (US)
  - BHP Billiton: Kalimantan and Maluku provinces
  - Rio Tinto
  - Newmont Pacific (US)
  - PT Antam Tbk
  - PT Adaro Energy Tbk
  - PT Berau Coal Tbk
  - PT Bukit Asam (State owned): mining coal:  
<http://www.ptba.co.id/>
  - PT Arutmin Indonesia: Kalimantan province:  
<http://www.arutmin.com/content/index.php>
  - PT Timah: Southern Samatra:  
<http://www.timah.com/ina/index/>
  - PT Kaltim Prima Coal
  - Vale INCO: <http://nickel.vale.com/>

# JAPAN



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil	Japanese

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 20 out of 183 (no change from 2011)</li> <li>Index of Economic Freedom 2012: 22 out of 179 (Asia Pacific Ranking: 7 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 14 out of 183 (Score of 8)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
High Income	127,380,000	US\$42,150

## PROFILE

- Japan has the third largest economy in the world, although it has experienced slow economic growth for the past 20 years. The devastating earthquake and tsunami that hit the country in March 2011 put further strain on its economy.
- Japan has a small mining industry, with production of coal ceasing entirely in 2002.
- Japan’s gold mining industry is known for its high quality.

## MINING INDUSTRY

- Known minerals include substantial quantities of dolomite, iodine, limestone, pyrophyllite and silica.
- It is estimated that Japan’s sea bed resources could be worth up to 300 trillion Yen. The resources include zinc, copper, lead, gold and silver; cobalt rich crusts containing titanium, manganese, cobalt, nickel and platinum; and methane hydrate gas reserves are believed to be trapped in ice buried in sediment below the seabed.

- At the Hishikara Mine in the northern part of Kagoshima Prefecture there are 40 grams of gold per 1 ton of ore, comparatively the global average of 5 grams.

## MINING LAWS

- Mining in Japan is governed by the *Mining Act 1950*. Under Article 2 the state has the right to issue mining licences and acquire minerals that are yet to be mined. In 2011, the law was amended to revise the requirements and procedures for issuing licences and to implement a new approval process for exploration of mineral resources.

## FOREIGN INVESTMENT

- The Japanese External Trade Organisation encourages and provides assistance to foreign investors.

## FOREIGN OWNERSHIP

- Foreign ownership is allowed subject to restrictions.
- To lawfully operate, at least one director or representative of a foreign company must be present in Japan.

## TAX

- *Income Tax*: the top income tax rate is approximately 40%.
- *Corporate Tax*: standard corporate tax is 30%.

## DEVELOPMENTS

- Japan is currently looking to strengthen its laws to allow Japanese companies to acquire mining rights overseas.

## RELEVANT WEBSITES

- National Institute for Resources and the Environment: [http://www.aist.go.jp/NIRE/index\\_e.html](http://www.aist.go.jp/NIRE/index_e.html)
- Japanese External Trade Organisation: <http://www.jetro.go.jp/>
- Agency for Natural Resources and Energy: <http://www.enecho.meti.go.jp/english/index.htm>

## SNAPSHOT

- Sumitomo Metal Mining Co Ltd, runs the high quality gold mine, Hishikara Mine: <http://www.smm.co.jp/E/>



# LAOS



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil Law	Lao/Laotian

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 165 out of 183 (decreased two rankings from 2011)</li> <li>Index of Economic Freedom 2012: 150 out of 179 (Asia Pacific ranking: 33 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 154 out of 183 (Score of 2.1)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Middle Income	6,436,093	US\$1,010

## PROFILE

- Laos is a one-party communist state, but began encouraging private enterprise in 1986 with positive results. Between 1988 and 2008 economic growth averaged 6% per year.
- Laos is ranked as one of the most resource rich countries in Asia, with more than 570 mineral deposits identified.
- The regulatory framework of the mining and energy sectors in Laos, though weak, is rapidly developing. Government policy and regulatory capacity has begun catching up with the fast expanding natural resources sector in Laos.
- The Department of Geology and the Department of Mines are the two governmental agencies that oversee the mining industry in Laos.

## MINING INDUSTRY

- Known mineral resources include gold, silver, copper, zinc, lead, bauxite, tin, gypsum and chromium.
- Gold, silver and copper are found north of Sepon in the Savannakhet Province in the south central region of the country and in the regions north of Vientiane.
- Bauxite is found in the Bolaven Plateau in the southern part of the country.
- Current major mining sites in Laos include the:
  - Phu Bia gold copper deposit (currently operated by Pan Aust)
  - Sepon gold copper mine in the Savannakhet area in Southern Lao (currently operated by Oxiana Ltd).

## MINING LAWS

- The Laos Constitution provides that all land is under the ownership of the national community (ie the state).
- In 2008, the Laos National Assembly passed a new *Mining Law* however its implementation documents are still being drafted and it remains unclear when the Law will be completed and approved by the Laos Government (Government).
- A national moratorium on the issue of new mining licences is in place until the new *2008 Mining Law* implementation and procedures are finalised.
- Royalties payable on the extraction of natural resources are not specified in Laotian law, but are generally provided for in the concession agreement negotiated with the Government.

## FOREIGN INVESTMENT

- The Government recognises mining as a critical sector of the economy and continues to support the development of the sector by promoting foreign investment.
- The *Promotion of Foreign Investment Law 2004* protects foreign investment (Article 4). The rights and obligations for foreign investors are set out in Articles 12 and 13.

## FOREIGN OWNERSHIP

- There are no restrictions on foreign ownership of an enterprise in Laos.

## TAX

- *Corporate Income Tax*: the tax rate is 35% however, the *Promotion of Foreign Investment Law* provides tax incentives for investment activities and within promoted zones.
- *Personal Income Tax*: for employees, shall be 10% under the *Promotion of Foreign Investment Law*.

## DEVELOPMENTS

- Laos is undertaking reform of its regulatory and investment regimes in order to join the World Trade Organisation.

## RELEVANT WEBSITES

- Department of Geology and Mines:  
<http://www.dgm.gov.la>
- Department of Domestic and Foreign Investments:  
<http://www.invest.laopdr.org>

## SNAPSHOT

- Lane Xang Minerals Ltd operates the Sepon gold copper mine, which is 10% owned by the Laos Government and 90% owned by Minmetals Resources Ltd: <http://www.mmgrouppltd.com>
- PanAust Ltd operates the Phu Bia gold copper mine: <http://www.panaust.com.au>
- Indochine Mining Limited:  
<http://www.indochinemining.com/projects/laos>

# MALAYSIA



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Common Law	Bahasa Malaysia

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 18 out of 183 (increased five rankings from 2011)</li> <li>Index of Economic Freedom 2012: 53 out of 179 (Asia Pacific Ranking: 9 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 60 out of 183 rankings (Score of 4.3)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Upper Middle Income	27,913,990	US\$7,900

## PROFILE

- Despite having significant mineral reserves, Malaysia still imports many metals and other mineral resources to meet domestic needs. The Malaysian Government has been taking steps in recent years to prioritise the development of the domestic mining industry by unveiling its second National Minerals Policy in February 2009.

- Malaysia’s mining sector enjoyed real growth of 17.2% in 2010 with an industry value of US\$40.28 billion.

## MINING INDUSTRY

- Malaysia has significant reserves of bauxite, coal, gold, iron ore and tin. Malaysia is one of the world’s leading tin producers. Tin currently makes up approximately 7% of Malaysia’s Gross Domestic Product.

- Petroleum and liquefied gas is produced in the Sabah and Sarawak regions.
- Malaysia allows for foreign oil company participation through contracts between Petronas (the national oil company) and companies such as ExxonMobil, Royal Dutch Shell and Nippon Oil.
- Malaysia ranks 10th in the world for rare earth reserves.

### MINING LAWS

- Malaysia is made up of a federation of 14 states. Pursuant to the Federal Constitution and National Legislation, each state possesses and owns all minerals under its authority to the exclusivity of all others.
- Each state has the power to make laws on mining permits and licences.
- Types of mineral tenements:
  - Fossicking licence is for natural persons, is non-transferable, prohibits power-operated tools and the minerals extracted cannot be sold.
  - Dulang licence, for natural persons and non-transferable, allows power-operated tools and the licence holder can store, transport or sell the minerals.
  - Individual mining licence, for natural persons and non-transferable, allows power-operated tools and the licence holder can store, transport or sell the minerals.

*Prospecting and exploration licence:* a prospecting licence is for areas less than or equal to 400 hectares. An exploration licence is for areas greater than 400 hectares but less than or equal to 20,000 hectares. The licences provide for the exclusive exploration of minerals and to obtain and remove samples from the licenced area.

*Mining Lease:* the lessee has exclusive rights to mine the leased land. Mining can commence only after the approval of environmental impact assessment, mine feasibility study and mine rehabilitation plan.

*Fees:* the holder of the prospecting licence/exploration licence must pay an annual holding fee.

### FOREIGN INVESTMENT

- The Malaysian Government maintains the position that foreign investment is welcome in Malaysia, and has recently awarded large infrastructure projects to several foreign companies. However, the mining industry has not been so welcoming. The states have not been forthcoming with issuing or approving mining leases and exploration applications.

### FOREIGN OWNERSHIP

- Foreign ownership is allowed, subject to restrictions.

### TAX

For the purposes of tax exploration and evaluation, assets are divided between:

- Assets relating to petroleum: taxed according to *Petroleum (Income Tax) Act 1967* (PITA), and
- Minerals and mineral substances (other than oil): taxed according to *Income Tax Act 1967* (the Act).

*Assets relating to petroleum:* PITA allows for a 10% to 20% deduction of capital expenditure of certain activities in the course of petroleum operations.

*Assets relating to minerals:* The Act allows for the deduction of prospecting expenditure incurred in the process of searching, discovering or winning access to deposits of minerals. The relevant schedule is Schedule 2 of the Act.

*Royalties:* the holder of a mineral tenement must pay a royalty to the State Authority. The amount of the royalty is based on a percentage of the market value of mineral won or a specified volume of weight of the mineral won.

### DEVELOPMENTS

- On 23 March 2011, it was announced Australian owned Lynas Advanced Materials Plant had received the approval of the Malaysian Government to build a US\$230 million rare earths processing plant. This investment represents the first such plant to be built outside China in decades. The plant will also enjoy a 12-year tax holiday upon the commencement of commercial operations.

## RELEVANT WEBSITES

- Ministry of International Trade and Industry:  
<http://www.miti.gov.my/cms/index.jsp>
- Mineral Resource Projects in Malaysia:  
<http://www.ampla.org/lib/KL%20Conference/7Jamaludin.pdf>

## SNAPSHOT

- PETRONAS, the national oil company, is the custodian of oil and gas reserves for Malaysia:  
<http://www.petronas.com.my/Pages/default.aspx>



# MONGOLIA



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil	Mongolian

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 86 out of 183 (increased three rankings from 2011)</li> <li>Index of Economic Freedom 2012: 81 out of 179 (Asia Pacific Ranking: 12 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 120 out of 183 (Score of 2.7)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Middle Income	2,701,117	US\$1,890

## PROFILE

- Mongolia was amongst the top 10 countries with the largest score improvement in the Index of Economic Freedom. The improvement is attributable to economic reforms in recent which supported economic expansion and reductions in poverty. Increased access to financing following banking reform and competitive tax rates and an open trade regime also occurred.
- It has expanded ties with the US, EU and Japan, but its main trading partners are currently Russia and China.
- Mongolia is rich in mineral resources that are mostly undeveloped.
- The recent discovery of copper, gold and coal has projected Mongolia onto the global mining stage.
- Previously Mongolia’s mining projects consisted of a few small scale oil joint ventures with China and a 50-year-old Russian copper mine.
- Identified mineral deposits include: coal, copper, gold, iron ore, uranium, fluorspar, molybdenum, lead, nickel, aluminium, tin and bismuth.

## MINING INDUSTRY

- Mongolia's coal resources lie in the south near the border of China. The resource is perfectly located for export to China, the world's largest coal consumer.
- The Mongolian Government and Mongolian mining companies are open to foreign investment, particularly for copper, gold and coal deposits.
- Oyu Tolgoi copper and gold mine in the South Gobi Region is due to commence production in 2012/2013. The Mongolian Government, Ivanhoe Mines and Rio Tinto have an agreement for the development of this mine.
- Tavan Talgoi coal deposit, also in the South Gobi Region, is one of the world's largest undeveloped coking coal deposits. Six companies are prepared to bid for this mining area. Reserves are estimated to be 1.7 billion tonnes of high quality coking and 4.7 billion tonnes of thermal coal.
- Erdenetiin Ovoo mine, Northwest of Ulaanbaatar deals in copper concentrate and molybdenum concentrate.
- Leighton Asia has been contracted by Mongolian Energy Company to develop and operate Khushuut Coal Mine in Western Mongolia (estimated three to six billion tonnes of coking coal per year).
- On April 27 2010 the National Security Council of Mongolia released a recommendation requesting the President initiate a draft law to terminate the granting of mineral exploration licences. In response, the issuance of exploration licences was banned by the Parliament for the period of May 1–December 31 2010, which subsequently has been extended several times. The reason for such extensions was to assess the current practice of granting exploration licences and the adequacy of the current *Minerals Law of Mongolia 2006* based on the experiences the country has had with its enforcement of the law for the past several years. The *Minerals Law* is a framework law with a number of issues that were either left open, unregulated or not clearly addressed. Particularly, regulations in the law relating to licensing, environmental protection and rehabilitation, governmental monitoring and local community participation have been strongly criticised by the Mongolian public. As a result, a draft new Minerals Law has been prepared under the direction of the President and is being considered by the Mongolian Government. No date has been announced for its formal consideration and vote by Parliament.

## MINING LAWS

- Mining regulation is predominantly dealt with in the *Minerals Law of Mongolia 2006*.
- *Ownership*: Minerals are reserved to the state, which has the right to grant exploration and mining licences to other persons. See *Article 5 Minerals Law of Mongolia* and *Article 3 Law on Subsoil*.
- *Legislative instruments*: The predominant legislative instruments for mining in Mongolia are: *Minerals Law of Mongolia*, *Law on Subsoil* in conjunction with the Constitution of Mongolia.

### Exploration and Mining Licences

#### Exploration Licence

- The applicant for a licence is required to be a “legal person” who pays tax in Mongolia and is properly formed and operating under the Mineral Laws of Mongolia: *Article 7 Mineral Laws of Mongolia*.
- No licence is required for prospecting the land: *Article 9 Minerals Law of Mongolia*.
- Mongolian citizens, foreign citizens or a legal person (formed under the laws of Mongolia) are eligible to apply for an exploration and/or mining permit; *Article 10 and 17 Minerals Law of Mongolia*.
- Specific requirements must be complied with in order to apply for a licence: *Article 17, 18 and 19, Minerals Law of Mongolia*.
- An annual licence fee is payable, which is calculated per hectare of the exploration or mining area. Licence fees are set out under: *Article 24 and 33 Minerals Law of Mongolia*.

#### Mining Licence

- Only an exploration licence holder can apply for a mining licence.
- The application will be submitted and considered in accordance with certain procedures and fees are paid: *Article 26 Minerals Law of Mongolia*.
- A licence is usually granted for a period of 30 years, however applications can be made to extend the licence: *Article 28 Minerals Law of Mongolia*.
- On 20 April 2010, President Tsakhia Elbegdorj issued a stop on the issuance and transfer of exploration licences stating on his website that many companies were not fulfilling their obligations – failing to regularly report

on activities or just not doing any genuine exploration. He said the ban would remain in place until the government could come up with a stricter law to cover mineral licences.

### Royalties

- Mining Royalties are paid to the treasuries of central and local administrative bodies as per *Article 38 Minerals Law of Mongolia*. Mineral royalty is 2.5% of “sales value” where the sales value is the average monthly price of either the Mongolian domestic market or the international market to which the minerals are being sold.
- Gold royalties are charged at 7.5% of the sales value.

### FOREIGN INVESTMENT

- Foreign investment is welcome.
- Mongolia has set up the Foreign Investment and Foreign Trade Agency to help bolster international interest and investment in Mongolia.
- The *Foreign Investment Law of Mongolia* states that foreign investment may take place in all areas of production and all services except those prohibited by the laws of Mongolia. Similarly foreign investment may take place in all parts of the territory of Mongolia provided the particular production or service is not prohibited by the laws in Mongolia. There are no laws prohibiting mining activities.

### FOREIGN OWNERSHIP

- Foreign ownership is permitted in Mongolia, subject to a few conditions. Any foreign company applying for a mining licence or exploration licence needs to be incorporated in Mongolia (commonly either by registering a subsidiary company through a certain process or by registering a new company).
- Where the incorporation of an entity will create over 25% foreign ownership, the *1993 Foreign Investment Law of Mongolia* and the *2003 Law of Mongolia on State Registration of Legal Entities* must be considered.

### TAX

- *Corporate income tax*: 10% or 25% for taxable profit exceeding 3 billion Tughrig (approx US\$250,000).

- *VAT*: 10% on work and services in Mongolia, goods imported into Mongolia and goods exported from Mongolia for use outside Mongolia. However, VAT is not payable on imported mining equipment.
- Land fees may be applicable and the fee varies depending on the licensed mining area.

### DEVELOPMENTS

- China has been building transportation to the Southern Mongolian coal and copper mines to ensure delivery of coal. Infrastructure at other mines in the north and west of the country are not well established, however Mongolia is supportive of foreign investment in infrastructure.
- Mongolia is holding “Coal Mongolia 2012”, which will explore investment options in the mining sector. This follows on from the successful inaugural conference in 2011.

### RELEVANT WEBSITES

- Ministry of Mineral Resources and Energy: <http://www.mmre.energy.mn/english/home/>  
Note: some pages are not translated into English. The relevant authority which issues both exploration and mining licences is the Geology and Mining Cadastre Department of the Mineral Resources Authority of Mongolia.
- Website of State Institutions of Mongolia: [http://www.pmis.gov.mn/pmis\\_eng/index.php](http://www.pmis.gov.mn/pmis_eng/index.php)
- Foreign Investment Trade Agency: <http://www.investmongolia.com/fifanew/index.php?id=21&lang=Eng>
- Coal Mongolia 2012: <http://www.coalmongolia.mn/>

### SNAPSHOT

- Ivanhoe Mines, The Oyu Tolgoi Copper, Gold and Silver Mine: [http://www.ivanhoemines.com/s/Oyu\\_Tolgoi.asp?ReportID=379189](http://www.ivanhoemines.com/s/Oyu_Tolgoi.asp?ReportID=379189)
- Mongolian Mining Corporation: <http://www.mmc.mn/default.php>

# MYANMAR (BURMA)



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Mix of English common law and customary law	Burmese

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: (not listed in 2011 rankings)</li> <li>Index of Economic Freedom 2012: 173 out of 179 (Asia Pacific Ranking: 40 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 180 out of 183 (Score of 1.5)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Income	53,999, 804 (July 2011)	US\$1,060

## PROFILE

- Myanmar is a world leader in the production of rare stones. The country produces more than 90% of the world’s rubies and fine quality jade.
- Myanmar has also emerged as a significant producer of oil and gas.
- Myanmar is a member of the Association of Southeast Asian Nations (ASEAN).

## MINING INDUSTRY

- Ruby production is particularly prevalent in the Sagyin, Thabeitkyin, Naniazeik, Mogok regions and most recently in Mōng Hsu.
- Myanmar produced over 21,000 barrels of oil daily in 2010 (ranked 75th in the world). However, no oil is exported.
- The country has proved reserves of 50 million barrels of crude oil (ranked 79th in the world).

- Myanmar exported 8.29 billion cubic metres of natural gas in 2009 (ranked 23rd in the world) with proved reserves of 283.2 billion cubic metres of natural gas (ranked 40th in the world).

### MINING LAWS

- The *Myanmar Mines Law 1994* implements a permit system in granting a person or organisation the right to produce minerals, stones, gemstones and metallic minerals. If required, compulsory acquisition of land is permitted if it is “in the interests of the state”.

### FOREIGN INVESTMENT

- Foreign investment is encouraged; however the viability of such investment is contingent on the severity and scope of economic sanctions.
- Under the *Union of Myanmar Foreign Investment Law*, sectors eligible for investment include manufacturing, oil and gas exploration and development, mining (except gold and precious stones), jewellery production and agriculture.
- In the 2010/2011 financial year, foreign direct investment soared from US\$302 million to US\$20 billion, predominantly from China, Hong Kong and Thailand. Approximately half of this money was invested into the natural gas and oil sector (particularly with respect to the Shwe Project’s gas pipeline to China).

### FOREIGN OWNERSHIP

- Private freehold land ownership is not available.

### TAX

- *Royalties*: vary between gemstones (5% to 7%), gold and other metallic minerals (4% to 5%) and industrial minerals such as coal (1% to 3%). These rates are subject to Ministerial adjustment.
- *Income tax*: applies to foreign companies at a rate of 30%.
- *Withholding tax*: applies on royalties and interest depending upon residency for taxation purposes.

### DEVELOPMENTS

- The offshore Yadana gas field holds more than 150 billion cubic metres of gas. In 2009, approximately 22 million cubic metres per day was extracted from the gas field. The gas field is expected to have a lifespan of 30 years.
- In November 2009, China and Burma agreed to build the US\$1.05 billion oil pipeline and US\$1.04 billion natural gas pipeline. China expects to start receiving natural gas from Burma’s Shwe project in April 2013.

### RELEVANT WEBSITES

- Ministry of Mining: <http://www.mining.com.mm/>
- Ministry of Energy: <http://www.energy.gov.mm/>

### SNAPSHOT

- Myanmar Oil and Gas Enterprise is a state-owned oil and gas company and is the sole operator of oil and gas exploration and production in the country. The company is also responsible for the domestic transmission of gas through a 1900km onshore pipeline grid.

# NEPAL



OVERVIEW	
JURISDICTION	LANGUAGE
Hybrid of English common law and Hindu legal concepts	Nepali

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 107 out of 183 (increased three rankings from 2011)</li> <li>Index of Economic Freedom 2012: 147 out of 179 (Asia Pacific Ranking: 32 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 154 out of 183 (Score of 2.2)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Low Income	29,852,682	US\$490

## PROFILE

- Mineral commodities account for approximately 8% of Nepal’s export earnings. Imports of mineral commodities (mainly petroleum products) account for 9% of Nepal’s imports. Notwithstanding this, much of the country’s resources are yet to be exploited.

## MINING INDUSTRY

- Nepal’s mineral resources include small deposits of cobalt, copper, iron ore, lead, limestone, magnetite, mica and zinc. The country has small scale mines of coal, peat, clay, salt, talc, quartz crystals and gem stones in operation.
  - Coal*: Dang District.
  - Lignite*: Kathmandu Valley.

- *Talc*: Chiwan, small scale production in the Dolkha, the Gorkha, the Kaski, the Syangja and the Sindupalchok regions.
- *Limestone*: Jogimara and the Beldanda regions in the Dhading District of the Bagmati Zone.
- *Other*: the Terai region has potential for gravel, sand and petroleum reserves and the Himalayas have potential for mining of construction materials, petroleum and natural gas and gemstones. Semiprecious stones (such as garnet and tourmaline) and precious stones (such as ruby and sapphire) have been found in several parts of the country and are of good quality, although the cost of extraction is high due to the remoteness of these locations and lack of infrastructure.

## MINING LAWS

- The *Mines and Mineral Act, 2042 (1985)* and Regulations provide a two stage licensing system, namely:
  - Prospecting Licence, and
  - Mining Licence.
- Any person having the specific technical and financial capabilities to undertake mining operations can obtain these licences. A mining licence allows the licence holder to conduct mineral works in an area not less than 0.25 sq.km and not more than 25 sq.km for an initial period of five to 30 years depending on the level of mineral works. This may be extended for an additional one to 10 years.
- A prospecting licence allows the licence holder to conduct exploration in an area not less than 0.25sq. km and not more than 250 sq.km for a period of two to four years. This may be extended for an additional two years. Exploration activities should be completed:
  - Within two years for ordinary non metallic minerals
  - Four years for metallic and valuable non metallic minerals.

## FOREIGN INVESTMENT

- Foreign investment is welcomed.
- Foreign investment is encouraged by the Nepalese Government, predominantly through a joint venture structure with a Nepalese investor or as a 100% owned foreign enterprise. Foreign investment may be subject to the Department of Industry's approval.

## FOREIGN OWNERSHIP

- 100% foreign ownership is permitted. In 1999, minimum investment requirements were lifted.

## TAX

- *Income tax*: The top income and corporate tax rates are 25%.
- *VAT*: 13%.
- *Other*: property taxes and land revenue tax may also be payable.

## DEVELOPMENTS

- Development post internal disputes have included the encouragement of small scale mining and the continuing of mineral surveys. In doing so, the Nepalese Government has placed a particular emphasis on foreign investment reform by enacting the *One Window Policy Act of 1992* and establishing the Investment Promotion Board.

## RELEVANT WEBSITES

- Government of Nepal Ministry of Industry: <http://moi.gov.np/en/>

# NEW CALEDONIA



OVERVIEW	
JURISDICTION	LANGUAGE
Civil	French

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: Not available</li> <li>Index of Economic Freedom 2012: Not available</li> <li>Transparency International - Corruptions Perceptions Index 2011: Not available</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
High Middle Income	256,275	US\$31,844.34

## PROFILE

- New Caledonia is a French territory in the Pacific Ocean.
- New Caledonia has one of the largest economies in the South Pacific, with a Gross Domestic Product per capita slightly higher than New Zealand.

## MINING INDUSTRY

- New Caledonia has 25% of the world's nickel reserves. The local economy is driven by the nickel industry (mining and processing), which employs 3,200 workers and generates 90% of total exports.
- Recession in the late 2000s meant the sector faced a significant drop in nickel prices (-31% year-on-year in 2009).

- The fall in prices has led a number of producers to reduce or cease production altogether, resulting in a reduction of the global supply of nickel by 6% compared to 2008.
- A trend reversal and a recovery in demand were recorded early in the second half of 2009, allowing a 2% increase in the local metal production.
- In 2010, nickel and nickel products still represented 94% of exports.

## MINING LAWS

- The organisations responsible for coordinating mining regulation amongst the Provinces are the Mines Board (*Conseil des Mines*) and the Mines Advisory Committee (*Comité Consultatif des Mines*).
- Mining law was codified pursuant to Article 39 of New Caledonia's *Organic Law* in 2009.
- The new *Mining Law* in 2009 established a Mining Code (the Mining Code). (*This has not yet been translated into English*).
- Along with the Mining Code, New Caledonia passed a mining resources development scheme (*Schéma de mise en valeur des richesses minières*). This scheme was implemented to ensure clarity and transparency, make out an inventory of resources, preserve the environment and manage long-term mining profits.
- The Mining Code also includes an inventory of New Caledonia's mineral resources, extraction perspectives and an industry overview (regarding logistics mechanisms, infrastructure, etc) as well as a framework of principles for the export of metallurgical transformed products and laterites.
- The Direction of the Mines and Energy in New Caledonia (*Direction de l'Industrie, des Mines et de l'Energie de la Nouvelle Calédonie*) is an agency established with the New Caledonian Mines and Geology Department and is responsible for regulation and administration of the mining sector.
- Issued in the 1950s, a personal mining authorisation (APM) is required to mine in New Caledonia, although it does not of itself provide a right to mine. They were previously used to protect local resources and enterprises.

- An APM allows its holder to apply for an exploration permit or mining concession and qualify for a right to prospect and export ore.
- The Mining Code establishes one type of exploration permit. Once an exploration licence has been granted and testing carried out, the holder of an APM can apply for a Mining Concession (mining title).
- The Mining Concessions can be issued for six to 50 year terms.

## FOREIGN INVESTMENT

- The Mining Code ended the nationality requirement for directors and boards of foreign companies as part of its aim to facilitate foreign investors.
- A 15% tax rebate is available for direct investment between XPF 10 million and XPF 50 million to companies in sectors including industry, new energy sources and construction. The tax rebate cannot be applied to more than 50% of the income tax payable but can be carried forward over two years.

## FOREIGN OWNERSHIP

- Legal entities carrying on mining activities must have a legal agent in New Caledonia and the company must be incorporated under either French law, or the law of a member country of the European Economic Community.
- An APM or a Mining Title may only be granted to a person residing in New Caledonia or to a company which has a registered office or branch in New Caledonia.

## TAX

- Domestic taxation is relatively low, with a general tax on services of 5%.
- Value Added Tax (VAT) is not applied in New Caledonia.
- Corporate Tax is 30% on New Caledonia-source income only.
- Nickel-related industries are taxable at the rate of 35%.

## DEVELOPMENTS

- The Goro Project (more information below), which is two years behind schedule and around US\$2 billion over budget, is expected to commence operations in 2012. Upon commencement, the Goro Project is expected to have an annual capacity of 60,000 tonnes of nickel and 4,300 to 5,000 tonnes of cobalt.

## RELEVANT WEBSITES

- Direction of the Mines and Energy in New Caledonia: <http://dimenc.gouv.nc> (in French)
- New Caledonia Nickel: <http://www.newcaledonianickel.com/>

## SNAPSHOT

- The local nickel industry is dominated by the French company Eramet which has a 60% interest in its nickel mining subsidiary, SLN (Societe Le Nickel) in New Caledonia: <http://www.eramet.fr>; <http://www.sln.nc/>
- The Goro Project is the world's best known undeveloped laterite ore bodies and is owned by Vale (69%), Sumitomo Metal Mining Co. Ltd. and Mitsui Co. Ltd (21%) and the three provinces of New Caledonia (10%): <http://www.vale.nc/>



# NEW ZEALAND



OVERVIEW	
JURISDICTION	LANGUAGE
Common Law	English

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 3 out of 183 (same as 2011)</li> <li>Index of Economic Freedom 2012: 4 out of 179 (Asia Pacific Ranking: 17 out of 41)</li> <li>Transparency International - Corruptions Perceptions Index 2011: 1 out of 183 (Score of 9.5)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
High Income	4,400,000	US\$32,145

## PROFILE

- New Zealand's natural resources include natural gas, iron ore, sand, coal, timber, hydropower, gold and limestone.

## MINING INDUSTRY

- New Zealand is ranked 22nd in the world for iron ore production and 29th for gold production.
- Coal mining produced 5.3 million tonnes of coal in 2010, of which over 2 million tonnes were exported.
- Coal reserves are in excess of 15 billion tonnes. This is mainly in the areas of Southland (over 80% of reserves), Otago, Taranaki, Waikato and the West Coast.
- Coal mining is predominantly opencast mining. There are around 21 opencast mines and only four underground mines in New Zealand.
- Macraes Mine in East Otago is the country's largest gold mine.

- Straterra was set up in 2008 as an industry representative group representing the New Zealand resources and mining sector. Straterra participates in government policy processes and engages in government and industry relations.
- The mining sector (including those who mine coal, natural gas and gold) have obligations to report their activities and surrender emissions units under New Zealand's Emissions Trading Scheme.

## MINING LAWS

### *Crown Minerals Act 1991*

- The Crown owns all gold, silver, uranium and petroleum as well as any other minerals on Crown-owned land.
- A permit is required under the Act to explore, prospect or mine for any Crown-owned minerals.
- The Act grants the Crown the right to charge royalties.

The statutory regulation of mines is covered by separate environmental and health and safety legislation.

## FOREIGN INVESTMENT

- The New Zealand Government (Government) generally welcomes foreign investment. Foreign direct investment represented US\$700,941,353 in 2010.

## FOREIGN OWNERSHIP

- Foreign ownership in New Zealand is permitted, but strategic assets can require overseas investment office consent.
- Overseas companies wishing to mine in New Zealand have two options:
  - Register with the New Zealand Companies Office to establish branch operations; or
  - Set up a wholly owned subsidiary.

## TAX

- Company income tax is 28%.
- There is a tax regime for mining companies that mine specified minerals (eg. gold and silver).

- Generally, New Zealand's tax regime is considered a concessionary regime. One of the relevant concessions includes, for income tax purposes, exploration expenditure and any expenditure incurred in the development of the mining licence.

## DEVELOPMENTS

- The Government is looking seriously at mining options to boost economic growth in the country. This includes exploration in Northland, the East Coast, Taranaki, the West Coast and Southland. It has recently opened oil and gas tenders for exploration work programme for onshore and offshore areas in Taranaki, the West Coast and Southland.
- The Government recently released its Energy Strategy for 2011 to 2021 - <http://www.med.govt.nz/sectors-industries/energy/pdf-docs-library/energy-strategies/nz-energy-strategy-lr.pdf>
- The Government is currently undertaking a review of the *Crown Minerals Act* and health and safety

## RELEVANT WEBSITES

- Ministry of Business, Innovation and Employment: <http://www.osh.dol.govt.nz/index.asp>
- Straterra: <http://www.straterra.co.nz>
- Ministry of Economic Development: <http://www.med.govt.nz/sectors-industries/energy>
- New Zealand Petroleum and Minerals: <http://www.nzpam.govt.nz/cms>

## SNAPSHOT

- The largest coal mining company in New Zealand is Solid Energy, a state-owned enterprise. Solid Energy is responsible for approximately 85% of New Zealand's coal production. Annual production at present is approximately 4 million tonnes: <http://www.solidenergy.co.nz>

# PAKISTAN



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Hybrid of English common law and Islamic civil law	Urdu

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 105 out of 183 (decreased nine rankings from 2011)</li> <li>Index of Economic Freedom 2012: 123 out of 179 (Asia Pacific Ranking: 24 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 143 out of 183 (Score of 2.3)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Middle Income	173,383,000	US\$1,050

## PROFILE

- Pakistan has emerged as a promising area for exploration of mineral deposits with significant mineral resources. There are currently over 50 minerals under exploration in Pakistan, albeit at a small scale, with mining accounting for 11% of total industrial production in 2010.

- Major resources include coal, rock salt and other construction minerals. Gas and oil production are currently not meeting the country’s needs, however exploration has slowed due to political instability.

## MINING INDUSTRY

- Coal reserves are largely found in the Thar (in the Sindh province), Chamalang and Quetta.

- The Khewra Salt Mines have been in operation for hundreds of years, producing 325,000 tons of salt per year.
- Copper and gold deposits are found in Reqa Diq. The largest iron ore deposit is located in Kalabagh, with the regions in the north also containing metal. Copper and gold are expected to continue to be mined until 2015.
- The production of zinc and lead is expected to gradually increase as further mine operations are developed.

## MINING LAWS

- Under the Pakistani Constitution, the Provincial Governments are responsible for the development and exploitation of minerals under their authority. The Pakistani Government (Government) has exclusive authority over petroleum and natural gas.
- The *Mining Concession Rules* provide for four types of mineral titles which are regulated by the *Mines Act 1923*:
  1. *Reconnaissance Licence*: granted over an area of 100-1,000 square km. This licence is non exclusive for 12 months and is not renewable.
  2. *Exploration Licence*: granted over an area not larger than 1,000 square km for a term no longer than three years. The licence can be renewable over 50% of the area for no longer than three years subject to feasibility studies being submitted.
  3. *Mineral Deposit Retention Licence (MDRL)*: an application for an MDRL can be submitted within 180 days of the Exploration Licence expiring. The application must demonstrate that the exploration operations have progressed for as long as is practicable.
  4. *Mining Lease*: granted for the lesser of a period of 30 years or the estimated life of the mine. A mining lease may be renewed for up to 10 years.

## FOREIGN INVESTMENT

- Direct foreign investment is welcomed.
- As an incentive to stimulate foreign investment, the National Mining Policy 1995 provides that a foreign company can apply for licences without being locally incorporated.

## FOREIGN OWNERSHIP

- Foreign equity of up to 100% is allowed under the Government's investment incentives. Remittance of capital and profits are permitted, along with an expatriate facility being offered.

## TAX

- *Income Tax*: a 30% tax rate applies for public companies listed on a stock exchange in Pakistan. A 35% tax rate applies for private or non resident companies.
- *VAT*: 17%.
- *Property tax*: 18% calculated on the annual value of the property.
- Government may also request a provision in an agreement for an Additional Profits Tax and Enhanced Royalty.

## DEVELOPMENTS

- Pakistan is facing energy shortages in the near future as the World Bank did not approve the financing for the Thar coal project. There will be a heavy dependence on imported oil.
- The Government has plans to begin generating electricity through tar coal gasification.
- Pakistan and Iran signed an export deal for 25 years for Iran to supply to Pakistan 21.2 cubic meters per day of natural gas, beginning at the end of 2014.

## RELEVANT WEBSITES

- Minerals Department of the Ministry of Petroleum and Natural Resources: <http://www.mpnr.gov.pk/>
- Pakistan Mineral Development Corporation: <http://www.pmdc.gov.pk/>

## SNAPSHOT

- Reko Dig Project largest Foreign Direct Investment mining project in Pakistan: <http://www.tethyan.com/TheRekoDiqProject.aspx>
- China Metallurgical Construction Corporation: <http://www.ame.com.au/Companies/Pe/China+Metallurgical+Construction+Corporation.htm>

# PEOPLE'S REPUBLIC OF CHINA (PRC)



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil Law	Chinese (official language is standard Mandarin)

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 91 out of 183 (decreased four rankings from 2011)</li> <li>Index of Economic Freedom 2012: 138 out of 179 (Asia Pacific Ranking: 30 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 75 out of 183 (Score of 3.6)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Upper Middle Income	1,338,300,000	US\$4,260

## PROFILE

- PRC now boasts the world's second largest economy, which can be attributed in part to shifting from a centrally planned to a market based economy over the last three decades.
- Mining accounts for a significant proportion of Gross Domestic Product.
- In 2010, PRC was the top hard coal producer, producing 3,162 million tonnes.
- PRC is the world's fourth largest producer of gold.

## MINING INDUSTRY

- Known resources include coal, iron ore, petroleum, natural gas, mercury, tin, tungsten, antimony, manganese, molybdenum, vanadium, magnetite, aluminium, lead, zinc and uranium.
- The Bayan Obi Mine is thought to be the world's largest rare earth reserve.

- The Inner Mongolia region is rich in rare earth reserves.

## MINING LAWS

- The *Mineral Resources Law of the People's Republic of China* (Mineral Resources Law) provides that all mineral resources belong to the state. The Mineral Resources Law allows for exploration licences to be obtained in order to carry out specific explorations within a designated area.
- If the exploration licence holder discovers commercially viable deposits, it may then apply for approval of mining within designated boundaries. The exploration licence holder has priority right to commence full-scale mining operations.
- Once approval has been granted, the mining royalty fee must be paid within 30 days of receiving the approval notice. When this process is finalised the right to mine may be issued.

## FOREIGN INVESTMENT

- In 2010, China received US\$105.7 billion in direct foreign investment.
- China is bound pursuant to the World Trade Organisation rules to further liberate its economy to foreign investors. The Catalogue for Guiding Foreign Investment in Industries divides China's economy into categories for foreign investment purposes, being the encouraged category, the permitted category and the forbidden category. The restricted category and forbidden category involve (amongst other things) the exploration or mining of specific minerals that are protected by the state.
- *Measures for the Administration of Foreign-invested Mineral Exploration Enterprises*, which was effective on 20 August 2008, specifically regulates mineral exploration investment by the foreign investors.

## FOREIGN OWNERSHIP

- Foreign ownership is permitted, subject to restrictions.

## TAX

- *Income tax*: 30% corporate tax.
- *VAT*: 17%.
- *Withholding tax*: payable at a rate of 10% on dividends, interest and royalties.
- *Resource tax*: payable according to the types and amount of minerals.

## DEVELOPMENTS

- On 24 March 2011, the Chinese Tax Bureau announced that it would increase the tax on the mining of rare earth elements in order to mitigate environmental damage. Depending upon the minerals being classified "light" or "heavy", the tax payable by a mining company will either be 30 Yuan/tonne or 60 Yuan/tonne respectively.
- Following the amendment issued on 30 September 2011, the resource tax will gradually apply to gas and oil, iron ore, tin, molybdenum and other minerals.

## RELEVANT WEBSITES

- China State Administration of Taxation:  
<http://www.chinatax.gov.cn/n6669073/index.html>
- China Coal and Mining Expo:  
<http://www.chinaminingcoal.com/web/>

## SNAPSHOT

- China Coal Energy Company:  
<http://www.chinacoalenergy.com/n753578/n754320/index.html>
- China Shenhua Energy Company:  
<http://www.csec.com/htmlen/index.html>

# PHILIPPINES



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil Law	Filipino and English

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 136 out of 183 (decreased two rankings from 2011)</li> <li>Index of Economic Freedom 2012: 107 out of 179 (Asia Pacific Ranking: 19 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 134 out of 183 (Score of 2.4)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Middle Income	93,616,853	US\$2,050

## PROFILE

- The Philippines is one of the world’s most highly mineralised countries, with untapped mineral wealth estimated at more than US\$840 billion.
- In the 1970s and 1980s the Philippines was ranked among the top 10 leading gold and copper producers worldwide, however low metal prices, high production costs and a lack of investment in infrastructure have resulted in the industry’s decline. Recent government reforms have attempted to reverse this trend.

## MINING INDUSTRY

- Known reserves include, chromate, nickel, copper, gold, silver and coal.
- Significant offshore hydrocarbon finds have added to the country's substantial geothermal, hydro and coal energy reserves.

## MINING LAWS

- On 6 July 2012 the President of the Philippines introduced Executive Order No. 79 (EO 79).
- EO 79 provides that existing mining rights will continue, provided the mines comply with all environmental regulations. The Department of Environment and Natural Resources (DENR) will be conducting reviews of all existing mining operations, subject to the terms of their contractual agreements.
- EO 79 has suspended the granting of further mineral agreements until Congress has passed a Bill increasing royalties on the industry as part of the new rules.
- EO 79 calls for the creation of the Mining Regulatory Boards and the Mining Industry Coordinating Council (MICC). The MICC will review all mining laws and mining applications and procedures. It will also create a centralised database.
- EO 79:
  - Creates 78 no-mining zones around the country.
  - Supports full enforcement of environmental standards in mining.
  - Establishes Mineral Reservations, which are areas with known mineral reserves and resources. Once identified and after proper consultation with stakeholders, these areas will be developed to include strategic industries, as identified in the Philippine Development Plan and National Industrialization Plan.
  - Future mining rights and mining tenements will be awarded through a process of competitive public bidding rather than on the previous first in first served basis.
- All valuable metals in abandoned ores and mine wastes generated by previous and now defunct mining operations shall vest in the state. In the case of existing mining operations, this will occur at the expiry of the mining contract.
- Until it is reformed, the *Philippines Mining Act 1995* establishes the permit system that grants mining rights.
- The Philippine Constitution provides that all minerals are owned by the state. The *Philippines Mining Act 1995* establishes a permit system that grants rights to "qualified persons". Types of permits that an applicant may apply for are:
  1. *Exploration permit*: has a term of two years and is renewable for a further period of two years but cannot exceed a total term of six years for non-metallic minerals and eight years for metallic minerals. The maximum areas allowed per qualified person under an Exploration Permit are: 1,620 hectares in any one province or 3,240 hectares in the entire country for an individual; and 16,200 hectares in any one province or 32,400 hectares in the entire country for a corporation, association, cooperative or partnership.
  2. *Small scale mining permit*: pursuant to the Local Government Code and RA No. 7076, these permits are approved and issued by the City Mayor/ Provincial Governor upon recommendation of the Provincial/City Mining Regulatory Board.
  3. *Mineral processing permit*: a permit granting the right to process minerals. It is issued by the Department of Environment and Natural Resources Secretary with a term of five years and is renewable for like terms.
  4. *Ore transport permit*: minerals, mineral products and by-products can only be transported if accompanied by an Ore Transport Permit. The Ore Transport Permit is issued by the Mines and Geosciences Bureau Regional Director.

## FOREIGN INVESTMENT

- Foreign investment is welcomed.

## FOREIGN OWNERSHIP

- Foreign ownership is permitted. A foreign entity may enter a “mineral agreement” with the proviso that 60% of that entity’s capital is Filipino-owned. Generally, this requirement is satisfied by entering into a joint venture agreement with the Filipino Government.

## TAX

- *Income tax*: 30% for corporate entities.
- *Royalties*: royalties payable vary depending on the type of mineral extracted.
- *Withholding tax*: withholding tax is payable with respect to dividends, interest and royalties.
- *VAT*: 12%.

## DEVELOPMENTS

- The Filipino Government announced in November 2011 that it would grant 30 coal exploration permits in the central and northern Philippine provinces. The investment from these activities is expected to total approximately US\$600 million.
- The effect of Executive Order No.79 on the mining industry is yet to be seen.

## RELEVANT WEBSITES

- Department of Environment and Natural Resources: <http://www.denr.gov.ph/>
- Mines and Geosciences Bureau Philippines: <http://www.mgb.gov.ph/>

## SNAPSHOT

- Freeport McMoRan Copper & Gold Inc.: <http://www.fcx.com/>
- AngloGold Ashanti Ltd.: [www.anglogold.co.za](http://www.anglogold.co.za)
- CGA/Thistle: Masbate Gold project: <http://www.cgamining.com/projects.php?id=3>

# THE INDEPENDENT STATE OF PAPUA NEW GUINEA (PNG)



OVERVIEW	
JURISDICTION	LANGUAGE
Common Law	Tok Pisin, English and Hiri Motu

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 101 out of 183 (decreased four rankings from 2011)</li> <li>Index of Economic Freedom 2012: 128 out of 179 (Asia Pacific Ranking: 26 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 154 out of 183 (Score 2.1)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Low Middle Income	6,888,387	US\$1,300

## PROFILE

- Since the 1970s, mineral extraction in PNG has enjoyed a period of robust activity, with mining now dominating the national economy.
- PNG is richly endowed with numerous resources. Specifically, it is the world’s 12th largest producer of gold and the 13th largest producer of copper (although production in copper is expected to decline).

## MINING INDUSTRY

- Further to PNG’s primary metals of gold and copper, PNG also has reserves of chromite, nickel, iron and platinum group metals.
- Gold:* the major gold reserves are in the Enga province. Other reserves are found at Lihir Island, Porgera Gold Mine and the Hidden Valley Gold and Silver Mine.

- *Copper*: traditionally, the Ok Tedi Mine at Mount Febilan in Star Mountains was the sole producer of copper. This mine is expected to close due to exhausted stockpiles in mid to late 2013.
- *Oil and gas production*: resources are found in the southern and western Highlands provinces. Significant foreign investment has been particularly forthcoming in the LNG sector.

## MINING LAWS

- Pursuant to the *Mining Act of 1992*, all mineral rights vest with the state. This includes minerals on or below the surface or contained in water. The Mineral Resources Authority (MRA) is responsible for managing and regulating the industry. Rights to explore and operate are subject to a licence regime that includes the following licences:
  1. *Exploration Licence*: a two-year licence that allows the licence holder to occupy and explore a specified area. The process of obtaining an exploration licence begins with submitting an application to the Tenement Management Branch of the MRA. Upon receipt, the MRA will investigate the land and seek advice from the Department of Environment and Conservation. The MRA will then host a Mining Warden's Consultation Forum between landowners and affected locals.
  2. *Mining Lease*: a 20-year lease that allows the licence holder to mine within a specified area. Licence holders must first provide the following studies: Banking Feasibility Statement, Scoping Study, Environmental Inception Report, Environmental Impact Statement and Compensation Agreement.
  3. *Special Mining Lease*: a mining lease typically for a period of 25 to 40 years for large and complex projects.
  4. *Alluvial Mining Lease*: a five-year lease reserved for PNG nationals conducting non-mechanised operations on their own land. This can include joint ventures with overseas partners, provided the project consists of at least 51% PNG nationals.
  5. *Lease for Mining Purpose and Mining Easement*: issued explicitly for the development of roads, powerlines, ports sites and other associated infrastructure related to a mining project.

## FOREIGN INVESTMENT

- Foreign investment in Papua New Guinea is welcome and the Investment Promotion Authority (IPA) has been established to develop policies that encourage and facilitate foreign investment. As a result, foreign direct investment has increased significantly over the 2010/2011 fiscal year.

## FOREIGN OWNERSHIP

- The state has the right to enter into an agreement to acquire an interest in a mining development.
- The PNG understanding of land ownership contrasts sharply from that of the Western world. Land is usually not considered a tradable commodity. As such, transferring the title to the land does not usually occur. Commonly, foreign investors usually engage with local villagers directly to negotiate usage rights over the land.

## TAX

The taxation provisions for the mining sector in PNG are relatively favourable.

- *Royalties*: A royalty rate of 2% is calculated on gross revenue.
- *Income tax*: 30% for resident companies. 48% for non-resident companies.
- *Mining Levy*: imposed on every mining operation and is calculated in accordance with the *Income Tax Act 1959*.
- *Other incentives*:
  - Interest paid by a resource project to a non-resident lender is exempt from income tax and interest withholding tax.
  - Deductions are allowable for development expenditure on a project on a 25% diminishing value basis.
  - Under the PNG Infrastructure Tax Credit Scheme, eligible expenditure on certain approved infrastructure may be deductible.

## DEVELOPMENTS

- The increase in foreign investment has resulted in a sharp increase in exploration activity.

- The Hidden Valley gold mine located in the Morobe Province (approximately 300km north west of Port Moresby) officially opened on 30 September 2010. In the financial year ending 2011, the mine processed 100,246oz of gold and 20,934oz of silver.
- PNG has become a world leader in deep sea mining. The Nautilus Minerals Solwara 1 project located in the Mismarck Sea is due to commence production in 2012. It will primarily mine high grade copper.
- A consortium of companies, led by ExxonMobil, has discovered new gas deposits in the Hides, Angore and Juha gas fields. It is projected these discoveries will result in two trillion cubic feet of gas. Production is due to commence by 2014. The project has the potential to triple the export revenue of PNG.

## RELEVANT WEBSITES

- Mineral Policy Institute: <http://www.mpi.org.au/>
- Investment Promotion Authority Papua New Guinea: <http://www.ipa.gov.pg/>

## SNAPSHOT

- BHP Billiton Limited: <http://www.bhpbilliton.com/home/Pages/default.aspx>
- Newcrest Mining Limited: <http://www.newcrest.com.au/>
- Rio Tinto: <http://www.riotinto.com/>
- Nautilus Minerals: <http://www.nautilusminerals.com>



# SOUTH KOREA



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Civil Law	Korean

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 8 (increased seven rankings from 2011)</li> <li>Index of Economic Freedom 2012: 31 out of 179 (Asia Pacific Ranking: 8 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 39 out of 183 (Score 5.4)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
High Income	48,875,000	US\$19,890

## PROFILE

- South Korean metals and mining industry experienced a revenue of US\$58.5 billion in 2010.
- The period of 2010-2015 is expected to see accelerated performance, to a value of US \$ 141.4 billion.
- South Korea is one of the world’s leading steel producers and producers of cadmium and slab zinc. The country has small reserves of antimony, gold, copper, iron ore, lead, molybdenum, silver, tin, tungsten and zinc.

- Domestic coal reserves have been exhausted, although it holds reasonable quantities of non-metallic mineral such as kaolin, limestone, feldspar, quartzite and mica.

## MINING INDUSTRY

- By the end of 2009, South Korea had coal reserves of 133 million tonnes, coal production of 2.51 million tonnes and coal consumption of 69.6 million tonnes, which represents just over 2% of the world’s total.

- Most of South Korea's large coal mining, natural gas, petrochemical and petroleum refining companies are state-owned and come under the supervision of the Ministry of Commerce, Industry and Energy. Other small, mid-sized mining, quarrying and metal processing companies are privately owned and operated.
- South Korea is a net importer of mineral commodities and one of the region's main importers of coal, natural gas, nickel oxide sinter, ores and concentrates of copper, iron, lead and zinc.

### MINING LAWS

- South Korean law mandates that all land and resources will be governed by the state, accordingly the Government of South Korea (Government) determines the issuance of mining and processing licences.

### FOREIGN INVESTMENT

- Foreign direct investment is welcomed. The *Foreign Investment Promotion Act 1998* permits foreign-owned companies the same rights as Korean companies, and applies the same taxes as would apply to Korean companies and nationals.
- Since 2008, the Ministry of Knowledge Economy has aimed to deregulate and strengthen free market principles in order to boost corporate investment and job creation. The Government estimates that recent foreign investment reforms could result in up to US\$20 billion of foreign investment by 2012.

### FOREIGN OWNERSHIP

- Foreign ownership of South Korean companies is common and the rules governing formations of companies allow for 100% foreign ownership.

### TAX

- *Income tax*: the top corporate tax rate is 24.5%.
- *Withholding tax*: withholding tax is payable on dividends, interest and royalties at a rate of 20%.
- *VAT*: 10%.

### DEVELOPMENTS

- South Korea's mining and refining sector could be boosted by the recent natural disasters in Japan. In the short term, South Korean companies such as Korea Zinc are likely to benefit from greater demand for lead, as consumers resort to battery power for energy supplies. Looking ahead, reconstruction efforts in Japan are likely to increase demand for South Korean steel and copper. That said, demand for uranium may be down given Government concern over safety following the earthquake.

### SNAPSHOT

- Woulfe Mining with 100% ownership of the Tungsten Sangdong tungsten molybdenum project: <http://www.mining.com/2012/01/24/woulfe-mining-ups-indicated-resource-at-sangdon-tungsten-project-2-75-times/>
- GE and Korean Western Power Co: one of the first Asian, and the first Korean integrated gasification combined cycle power plant to be built: <http://www.ge.com/index.html>
- The largest Southern Korean, and the world's third largest, steelmaker is Pohang Iron and Steel Company (POSCO): [www.posco.co.kr](http://www.posco.co.kr)
- Korea Zinc is South Korea's leading lead and zinc producer, covering 46% and 68% of domestic lead and zinc production respectively: <http://www.koreazinc.co.kr/main/page/main.aspx>
- LS Nikko Copper is the country's main copper producer: <http://www.lsnikko.com/english/>

# SRI LANKA



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Roman Dutch civil law, English common law, and Jaffna Tamil customary law	Sinhala (official) and Tamil

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 89 out of 183 (increased nine rankings from 2011)</li> <li>Index of Economic Freedom 2012: 97 out of 183 (Asia Pacific Ranking: 16 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 86 out of 179 (Score of 3.3)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Middle Income	20,451,826	US\$2,290

## PROFILE

- 2010 saw the end of the 26-year conflict with the Liberation Tigers of Tamil Eelam. Since then, economic growth has been bolstered by reconstruction and development projects.
- Sri Lanka’s natural resources include limestone, graphite, mineral sands, gems and phosphate.
- Graphite is a major resource in Sri Lanka’s mining industry.
- Other major exports include gems and semi-precious and precious stones.
- The region of Eppawala has substantial deposits of rock phosphate.

## MINING INDUSTRY

- Three large graphite mines, Bogala, Kahatagaha and Kalangaha, have already been exploited.
- There are topaz deposits at Polwatta and these are controlled by the state-owned company, State Gem Corp.
- Lanka Mineral Sands, a wholly owned Government company, mines, processes and exports heavy beach sands.

## MINING LAWS

- *Mines and Minerals Act 1992*
  - Under Article 26, ownership of minerals is vested in the Republic.
  - Under Article 28, a corporation may only receive a mining licence if they are registered to do business in Sri Lanka.
  - The Geological Surveys and Mines Bureau has the right to demand royalties.

## FOREIGN INVESTMENT

- Foreign investment is protected through bilateral investment agreements, which are guaranteed by constitutional protection under Article 157.

## FOREIGN OWNERSHIP

- Foreign equity ownership is restricted in the mining, oil and gas sectors.

## TAX

- *Income Tax*: the top income tax rate is 35%.
- *Corporate Tax*: the top corporate tax rate is 35.5%.

## RELEVANT WEBSITES

- <https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html>
- <http://www.doingbusiness.org/~media/FPKM/Doing%20Business/Documents/Profiles/Country/LKA.pdf>
- <http://www.slemb.com/>

## SNAPSHOT

- Blue Diamonds is a major exporter of Sri Lanka's diamonds:  
<http://www.bluediamondjewellery.lk/#page:1>
- Lanka Mineral Sands:  
<http://www.lankamineralsands.com/>

# THAILAND



OVERVIEW	
JURISDICTION	LANGUAGE
Civil Law	Thai

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 17 (decreased one ranking from 2011)</li> <li>Index of Economic Freedom 2012: 60 out of 179 (Asia Pacific Ranking: 10 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 78 out of 183 (Score of 3.5)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Upper Middle Income	68,139,238	US\$4,210

## PROFILE

- Thailand’s mineral resources include copper, gold, steel, lead, manganese, silver, tantalum, tin (although recent production in this commodity has declined), dolomite, granite, gypsum, lignite and limestone, zinc, tungsten, niobium, lead, iron, barite, stinbniteare, feldspar, fluorite and potash reserves.

## MINING INDUSTRY

For the fiscal year ending 2011, Thailand’s primary mineral production included:

- Basalt (industrial rock): 9,497,553 tonnes.
- Dolomite: 2,037,610 tonnes.
- Granite (industrial rock): 4,590,707 tonnes.
- Gypsum: 9,049,651 tonnes.
- Lignite: 17,007,778 tonnes.
- Limestone: 111,977,301 tonnes.

## MINING LAWS

- The Department of Mineral Resources (DMR) within the Ministry of Natural Resources and the Environment is responsible for preservation and administration of mineral resources. Specific duties include: (1) recommending areas, policies, and plans for management of mineral resources; (2) enforcing minerals legislation; (3) recommending changes and updates to the legal framework; (4) conducting surveys and cooperating with foreign and international organisations regarding geology and mineral resources; and (5) setting geological and mineral standards.
- Mining laws are principally governed by the *Minerals Act (1967)* (MA) as amended in 1979. Under the MA, Thailand's mineral resources are vested in the state.
- No mining can occur until the appropriate licence is obtained, either a type of exploration licence or a mining licence as follows:

*Exploration Licences* (these licences are not transferable and require the permission of the owner or possessor of the surface rights before exploration may begin), including:

1. *General Prospecting Licence*: one year, non-exclusive, non-renewable licence that is issued by the Local Mineral Resources Office. It permits the holder to explore for minerals in a specified area.
2. *Exclusive Prospecting Licence (EPL)*: this licence is exclusive to the area it covers. It requires exploration to commence within 60 days of its issue, a suitable amount of work to be performed and reports to be made. An EPL for onshore exploration is valid for one year while an EPL for offshore exploration is valid for three years.
3. *Special Prospecting Licence (SPL)*: the applicant is required to submit an annual estimate of expenses incurred over the term of the licence as well as itemising any government incentives. A SPL is valid for five years and is non-renewable. Exploration must commence within 90 days of the SPL being issued.

*Mining Licence (ML)*:

- Before a ML is granted the applicant must satisfy the Ministry of Interior's policy guidelines, which include financial capital requirements and obtaining the consent of the land owner or possessor for the use of their land). A ML is valid for a period of up to 25

years. Pending the issuance of an ML, a Provisional Mining Lease (PML, valid for a period of one year, may be issued).

- A ML is potentially transferable, subject to the DMR's approval. Pending approval, a one-year PML may be issued. Different requirements are imposed for MLs for the following: underground mining, surface mining, foreign involvement in mining activities and offshore mining in shallow waters. Importantly, there is no guarantee that a prospector will automatically qualify for a ML if there are deposits of minerals discovered during the term of the exploration licence.
- The *Petroleum Act (1971)* regulates the exploration, production, transportation and the sale of petroleum. The Department of Mineral Fuels and Petroleum Committee governs the Act under the delegated authority of the Ministry of Energy.

## FOREIGN INVESTMENT

- Foreign ownership is welcome in Thailand and there have been legislative amendments in the past to increase opportunities for foreign investors. However, it is recommended that foreign investors to engage local advisors to navigate Thailand's complex bureaucracy.

## FOREIGN OWNERSHIP

- The Thai Government policy is not to grant mineral rights to foreigners. However, it is possible the Department of Primary Industry and Mining will grant mineral rights to a foreign company under a special agreement or if the project were promoted by the Board of Investment. Generally, it is best for a foreign entity to obtain a foreign business licence under Schedule 2(3)(4) of the *Foreign Business Operation Act (1999)*.
- Under an existing mining licence, Thai nationals must own not less than 40% of the shares. However, with the approval by the Minister of Commerce with Cabinet approval, such 40% requirements may be reduced to 25%.

## TAX

- *Royalties*: The *Mineral Royalty Rates Act (1966)* assesses the royalties payable. Generally, the value of minerals extracted determines the royalties payable by the mining operator. The exception to this, however, is mining for gemstones. Royalties payable under this particular operation are calculated on the value of the gems in each locality and the size of the land pursuant to the mining lease.

The major taxes in addition to royalties are:

- *Company income tax*: Mining companies will be taxed at the standard company income tax rate of 23%. A further reduction in the company income tax rate of 20% is proposed for the next two accounting periods commencing 1 January 2013 (legislation is still pending but the reduced rate has been approved by the cabinet). Deductions from assessable income may include, amongst other things, business related expenses and depreciation.
- *VAT*: Mining companies are subject to a VAT rate of 7%. It is scheduled that the VAT will revert back to its standard rate of 10% by October 2012. A zero VAT rate applies to exports of minerals by mineral traders.

- *Withholding tax*: applies for dividends, interests, royalties and technical service fees (amongst other things).

## DEVELOPMENTS

- Additional foreign investment is likely to be contingent on political stability.

## RELEVANT WEBSITES

- The Department of Primary Industry and Mining: <http://osos.boi.go.th/>
- The Ministry of Natural Resources and Environmental: <http://www.mnre.go.th/>
- Department of Mineral Resources: [http://www.dmr.go.th/main.php?filename=Mineral\\_re\\_En](http://www.dmr.go.th/main.php?filename=Mineral_re_En)

## SNAPSHOT

- Banpu Mineral Company Limited: <http://www.banpu.com/en/index.php>
- Vanich Gypsum Company Limited: <http://www.thailandgypsum.com>



# TIMOR LESTE (EAST TIMOR)



OVERVIEW	
<b>JURISDICTION</b>	<b>LANGUAGE</b>
Combination of Civil Law and Customary Law	Tetum and Portuguese

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 168 out of 183 (increased one ranking from 2011)</li> <li>Index of Economic Freedom 2012: 169 out of 179 (Asia Pacific Ranking: 39 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 143 out of 183 (Score of 2.4)</li> </ul>		
<b>INCOME</b>	<b>POPULATION</b>	<b>GNI PER CAPITA</b>
Lower Middle Income	1,171,163	US\$2,200

## PROFILE

- There has been a continued attempt by the Timor Leste Government (Government) to take advantage of the country’s natural resources, including the development of a mapping program in 2008.

## MINING INDUSTRY

- Considerable hydrocarbon reserves, both on and offshore.
- Known resource reserves include copper, gold, petroleum, natural gas, manganese and marble.

- Proved reserves of oil: 553 million barrels, estimated at 1 January 2011.

There are three primary exploration areas:

1. The Joint Petroleum Development Area (JPDA) (which is the subject of the Timor Gap Treaty with Australia)
  - Australia applies its tax system to 10% of the income derived from the JPDA and Timor Leste applies its tax system to the remaining 90% of the income.
  - 50-year development and revenue sharing agreement.
2. The Timor Leste Exclusive Area (offshore)
  - In 2006, six contract areas out of 11 were awarded to two companies, Reliance and Eni Timor Leste.
3. The Timor Leste Onshore area
  - Government currently has no immediate plans to start exploration on shore.

Four commercially viable fields have been identified and developed in the Timor Gap, the three largest of which are:

1. Bayu Undan – oil and gas
  - Of all producing fields, the Bayu Undan field currently provides the majority of the income to Timor Leste.
  - It is operated by ConocoPhillips, and the partners are Eni, INPEX, Santos, Tokyo Electric Power and Tokyo Gas.
  - Potential revenue of as much as US\$15 billion in revenue from the Bayu Undan project.
  - It is anticipated to be exhausted by 2023.
2. The Greater Sunrise Field – natural gas (20.1% of which lies within the JPDA)
  - Under the terms of the treaty, Greater Sunrise is to be developed by a commercial joint venture.
  - Woodside is the operator of the field, with ConocoPhillips, Shell and Osaka Gas being major equity holders.
  - East Timor receives 18.1% of the tax revenue of the Greater Sunrise field, and the remainder goes to Australia, which could result in revenue of up to US \$4 billion to East Timor over the life of the project.

3. Kitan oil field

- Kitan is being operated by Eni, INPEX and Talisman Energy.

## MINING LAWS

- According to the 2010 Report to the Coordinating Committee for Geoscience Programmes in East and Southeast Asia, a draft mining law for Timor Leste is currently still in progress.
- The Bill still needs to satisfy the approval process, which includes a public consultation and debate with relevant institutions.
- The *Petroleum Fund Law 2005* was set up by the Government to reserve funds from petroleum resources to be used in the public interest for current and future generations. All petroleum resources are owned by the state.

## FOREIGN INVESTMENT

- Foreign investment is encouraged by the Government.
- There is currently a push for private sector-enabling legislation designed to present an attractive, open and competitive environment for investment, however it is yet to be finalised.

## FOREIGN OWNERSHIP

- Foreign ownership of land is not available. Land must be leased from the Government.
- Foreign ownership of assets is possible.

## TAX

- East Timor does not have a specific mining tax. A top corporate tax rate of 10% may be applied to taxable income.

## DEVELOPMENTS

- On the 23 February 2012, the United Nations announced that it would continue its peacekeeping mission in Timor Leste until 31 December 2012 to assist with the elections scheduled for later this year.

## RELEVANT WEBSITES

- Government website: <http://timor-leste.gov.tl/?lang=en>
- Timor-Leste eProcurement Portal:  
<http://www.eprocurement.gov.tl/public/indexeprtl>

## SNAPSHOT

- Conoco Phillips operates Bayu Undan Oil Field:  
<http://www.conocophillips.com.au/EN/business/timorleste/Pages/index.aspx>
- Bligh Mining is involved in manganese mining in Timor Leste, after it recently secured a 90% share of the Elang Group: <http://www.blighmining.com.au/timor>



# VIETNAM



OVERVIEW	
JURISDICTION	LANGUAGE
Civil Law	Vietnamese

BUSINESS ENVIRONMENT		
<ul style="list-style-type: none"> <li>Ease of Doing Business Report 2012: 98 out of 183 (decreased eight rankings from 2011)</li> <li>Index of Economic Freedom 2012: 136 out of 179 (Asia Pacific Ranking: 29 out of 41)</li> <li>Transparency International – Corruptions Perceptions Index 2011: 116 out of 183 (Score of 2.7)</li> </ul>		
INCOME	POPULATION	GNI PER CAPITA
Lower Middle Income	88,361,983	US\$1,100

## PROFILE

- Vietnam has significant reserves of minerals, including coal, bauxite and mineral sand. At present it is not thoroughly exploiting its available resources.
- Vietnam has been named one of Asia’s fastest growing economies. In line with this economic growth, Vietnam has undertaken many reforms to modernise its legal and regulatory framework.

## MINING INDUSTRY

- Bauxite:** central Highlands region: 5.4 billion metric tons. The third largest reserve.
- Coal:** currently a proposed project at Red River Delta containing 210 billion tons of coal. Red River Delta is located in the northern Provinces of Hai Duong, Hai Phong, Hung Yen, Nam Dinh and Thai Binh.
- Oil and gas:** in 2009, natural gas production in Vietnam increased by 6.8% to 8,010 million cubic meters from 7,499 million cubic meters in 2008.

## MINING LAWS

- Pursuant to *The Mineral Law (2010)*, all mineral resources of Vietnam are owned by the people and are to be managed by the state.
- *Licences*: *The Mineral Law* also establishes and regulates a licensing regime. A prospecting licence is no longer required. An entity can conduct field surveys and may take specimens from the land surface for mineral exploration purposes with only a written consent from the People's Committee in the locality of the proposed site. As a result of these reforms, there are now only two types of mineral licences:
  - *Mineral Exploration Licence*: the period of validity of an exploration licence has been extended to 48 months. There are a number of requirements that need to be complied with, including but not limited to, the entity must have technical personnel and workers who are trained in the exploration process. Additionally, the entity must have specialised equipment and tools for the implementation of mineral exploration works.
  - *Mineral Mining Licence*: an entity must satisfy the following requirements:
    - Mineral mining project for an area already explored and been approved.
    - Obtained an environmental impact assessment report.
- Auction of mining rights: the issuance of mining rights is to be conducted via auction. This is to enhance transparency.

## FOREIGN INVESTMENT

- Historically, foreign investment has been minimal. However, the Prime Minister has been playing a direct role in approving foreign investments as foreign investment has helped the country realise its rich mineral reserves.

## FOREIGN OWNERSHIP

- Foreign ownership is possible. With respect to mining rights:
  - An exploration project requires not less than 50%, and
  - a mining project requires investment of not less than 30% by the foreign investor.

## TAX

- *Royalties*: Decree 50/2010/ND CP (dated in May 2010 and implemented in July 2010) set out new rules and royalty rates payable by mining companies including:
  - Gold: 9-25%.
  - Iron and Manganese: 7-20%.
  - Lead, bauxite, aluminium, copper, silver and tin: 7-25%.
  - Crude Oil: 6-40%.
  - Natural gas and coal gas: 1-30%.
  - Diamonds, rubies and sapphires: 16-30%.
- *Income Tax*: Corporate entities are taxed at a rate of 25%.
- *VAT*: 10%.
- *Withholding tax*: withholding tax is payable on interest and royalties at a rate of 10%.

## DEVELOPMENTS

- A new mining law came into force on 1 July 2011, which is said will be received warmly by international investors due to the favourable regulatory measures.
- The duration of a exploration licence has been doubled by the new law, extending the maximum period to 48 months.
- The *2010 Mineral Law* replaced the *1996 Mineral Law*. The new version is much more accommodating to international investors.

## RELEVANT WEBSITES

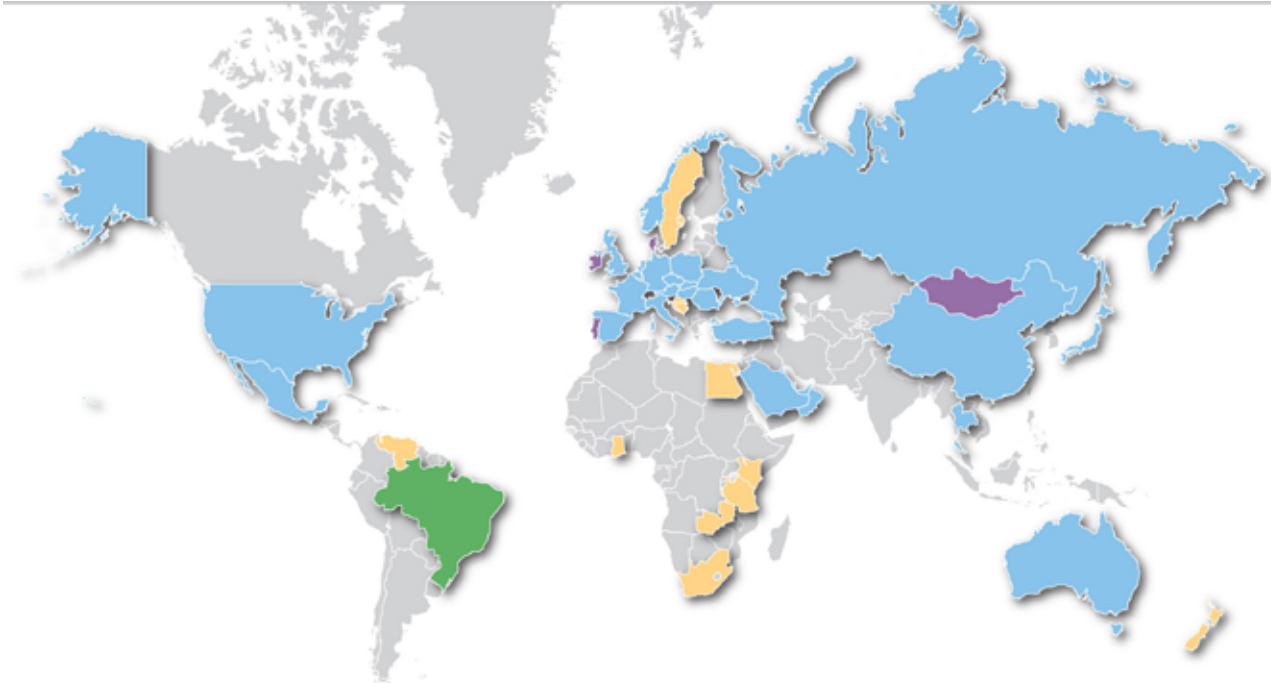
- Vietnam Ministry of Finance:  
[http://www.mof.gov.vn/portal/page/portal/mof\\_en](http://www.mof.gov.vn/portal/page/portal/mof_en)
- Vietnamese National Assembly:  
<http://www.na.gov.vn/>

## SNAPSHOT

- Vincacomin Group: <http://www.vinacomin.vn/>
- Vinacoal: <http://vinacoal.tradenote.net/>
- POSCO: <http://www.posco.co.kr/>



# OUR GLOBAL PRESENCE



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Hamburg  
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Tokyo

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Kuwait City

### MEXICO

Mexico City

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Oslo

### OMAN

Muscat

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Warsaw

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Houston  
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Miami  
Minneapolis  
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New York  
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Tampa  
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## PREFERRED FIRMS

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São Paulo

### TURKEY

Istanbul

Ankara

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