

BURKINA FASO

SCPA KAM & SOME AVOCATS



FIRM INFORMATION

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RELEVANT AUTHORITIES AND LEGISLATION

What laws regulate mining?

In Burkina Faso, mining is regulated:

- The mining code which is made up of *Loi n° 036-2015/CNT du 26 juin 2014 portant code minier du Burkina Faso* and its enforcement regulations;
- The companies laws.

Which Government Bodies administer mining law?

The Government bodies administering mining law are the ministry in charge of mining and the courts.

TYPES OF AND MANNER OF ACQUISITION OF RIGHTS

What rights are granted to conduct reconnaissance, exploration and mining operations?

The research and exploitation of mineral substances in Burkina Faso shall be authorized under mining titles or authorizations:

- Research operations are conducted under a research permit;
- Exploitation operations are conducted under an exploitation permit, which may be industrial or semi-mechanized exploitation;
- Prospecting authorization;
- Artisanal exploitation authorization;
- Quarry substances research and exploitation authorizations.

OIL AND GAS

What rights are granted to conduct oil and gas exploration and production?

There is no specific law regarding oil and gas exploration and production in Burkina Faso. Therefore, any investor who might be interested in must negotiate with the government the rights of conducting these activities.

INDIGENISATION REQUIREMENTS

Are there any requirements in relation to the holding of equity in exploration and mining projects by indigenous peoples?

Burkina's mining law does not set up any requirement in relation to the holding of equity in exploration and mining projects by indigenous peoples.

Are there any special rules or restrictions applicable to foreign applicants?

There are no special rules or restrictions applicable to foreign nationals in relation to the holding of equity in mining projects.

Identify any rights that the State may have. Does the State have any rights to equity in mining projects?

Concession of an exploitation permit entitles the State 10% free of charge participation in the share capital of industrial exploitation companies.

PROCESSING AND BENEFICIATION

Are there any requirements to beneficiate minerals mined?

Exploitation permit imparts to its holder, within the limits of his area, in surface and in depth:

- An exclusive right of research and exploitation of the deposits therein, under the conditions set by the mining law;
- A right to possess, hold, transport or have transported extracted mineral substances to storage, processing or loading places;
- A right to display these products on internal and external markets places at prices set by free markets and exports them;
- A right to establish in Burkina Faso, installations for conditioning, processing, refining and transforming mining substances.

Are there any restrictions on the export of minerals?

There are no restrictions on the export of minerals.

DISPOSALS OF RIGHTS AND CONTROLLING INTERESTS

Are there any statutory consents required to dispose of rights to explore and mine?

The disposal of the rights to research and mine in Burkina Faso is transferable subject to the prior authorization of the minister in charge of mining.



Are there any restrictions on disposals of controlling interests in entities holding exploration or mining rights?

There are no restrictions in relation to the disposal of controlling interests in entities holding exploration or mining rights.

USE OF SURFACE OF LAND INVOLVED IN PROSPECTING AND MINING ACTIVITIES

What are the rights of the holder of an exploration right or mining right to use the surface necessary or incidental to an exploration or mining operation?

The occupation of lands for exploration or exploitation activities shall entitle the owner or traditional occupant of the lands to a compensation. The mere passage across these lands does not entitle to any compensation if no damage is incurred.

ENVIRONMENTAL

What legislation governs environmental protection of exploration and mining sites?

The mining activities shall be conducted in a way that ensures environmental conservation, management and the rehabilitation of the exploited sites according to standards, conditions and modalities set by the regulation in force. Mining titles holders, prior to any field work likely to impair the environment shall:

- Obtain a feasibility opinion from the ministry in charge of the environment;
- Set up an environmental conservation and management programme including a rehabilitation plan of the exploited site;
- Open an account at the central bank or a commercial bank and make a deposit in a trust fund to be used to cover the implementation cost of the environmental conservation and management programme;

Note that the exploitation of radioactive minerals, the use of radioactive sources must be subject to radiation monitoring.

In addition to these special provisions, mining is subject to general environmental laws.

NATIVE TITLE AND LAND RIGHTS

Is there any native title which has any implication for the exploration and mining industry?

There are no native land title having implication on exploration and mining industry.

HEALTH AND SAFETY

What legislation governs health and safety in mining?

Health and safety in mining are governed by:

- The mining code;
- The labour code.

CONSTITUTIONAL ADMINISTRATIVE LAW

Is there a constitution which has an impact upon rights to prospect and mine?

Yes, the Constitution of June 2, 1991.

Are there administrative appeals in the mining law?

Yes, all decisions taken by the administration in the mining may be appealed.

ROYALTIES AND TAXES

Are there special rules applicable to taxation of exploration and mining companies?

There are special rules applicable to taxation of exploration and mining companies in the mining code.

Are there any royalties payable to the State over and above any taxes?

Yes, there are royalties payables to the State.

