

Corporate responsibility for health in the extractive sectors in east and southern Africa

APPENDICES



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Appendix 1: Framework for the legal analysis

1. Framework used for review of international documents

| Col 1: Broad categories of law | Col 2: Specific content areas / provisions of law |
|---|--|
| Consultation and protection of health in negotiation of prospecting rights / licenses and EI agreements | <ul style="list-style-type: none"> • Information to affected communities; public on EI agreements, licenses • Fair process, consultation and involvement of affected communities / civil society in EI agreements • Inclusion of environment, health and social impact assessments prior to concluding agreements / granting licenses • Involvement of health and related ministries in decisions on prospecting rights • State powers to audit, renegotiate / renew leases to include new concerns |
| Health and social protections in resettlement / relocation of affected communities | <ul style="list-style-type: none"> • EI recognition of community status, duties for assessment of and compensation for health/ social impacts; duties of developers • EI duty to co-determine resettlement and ongoing engagement with direct participation of those affected • EI duty to provide schools, clinics of adequate standard, housing, water, sanitation, communication and transport infrastructures built and staffed <i>before</i> communities are resettled • Grievance handling mechanisms/ procedures around resettlement |
| OHS for employed workers / contractees | <ul style="list-style-type: none"> • Measures to detect, prevent and manage OHS in line with ILO Conventions • Joint management-worker mechanisms to co-determine risk and measures • Right to refuse dangerous work • Occupational health inspection, training, surveillance services • Prevention, management of and compensation for injury and rehabilitation of injured workers • Duty to protect health / prevent risk for those involved in work, subcontracts related to EIs |
| Health benefits for workers and families | <ul style="list-style-type: none"> • Occupational benefits (health, maternity, pension, disability, funeral) for all local employees and their immediate dependents, including for migrant workers and for use of public services • Rights to join trade unions; union access to employees / workplaces |
| Environment, health and social protection for surrounding communities | <ul style="list-style-type: none"> • Duty to assess (through EIAs, HIAs and cumulative impacts assessments), implement recommendations and to protect health / ensure standards / prevent risk in communities, living on or near EIs • Duty to prevent and control and report on emissions (water, air, land) specific to EI activities • State and community powers to audit, monitor, inspect and control emissions from EI activities • EI duties to plan, publicly report on and manage control of waste (ie recycling, reuse, reclaiming and safe disposal). |
| Health benefits for surrounding communities | <ul style="list-style-type: none"> • Contribution to health services in areas surrounding EIs • Access by communities surrounding EIs to company health facilities • Investment for community development (schools, health care, water and sanitation infrastructure, other) • Duty to prevent and manage public health risks associated with EIs, (including alcohol consumption, STIs, injury non communicable diseases (NCDs), TB, malaria and other communicable diseases) • EI duties for health related infrastructure (eg water, sanitation, transport, shelter) |
| Fiscal contributions towards health and health services specifically in | <p>Specific statement in health, mining, EI or related laws of EI tax obligations / exemptions for specific health/ environment taxes / duties etc eg</p> <ul style="list-style-type: none"> • to inspect occupational and environmental hazards and emissions, bear costs of health and environmental impact assessments. • to support health and related public services, including specific interventions such as for HIV prevention and care |

| Col 1: Broad categories of law | Col 2: Specific content areas / provisions of law |
|--|--|
| relation to EIs | <ul style="list-style-type: none"> • Micro / other levies from EIs used for health • Existence of windfall / superprofit taxes and other EI specific taxes in law • Tax concessions / exemptions EIs |
| Forward and backward links with local sectors and services supporting health; Use of wealth funds, community ownership for local wellbeing | <ul style="list-style-type: none"> • Obligations for local procurement; Support for links between EIs and local / small scale producers and provisions, incentives for local beneficiation in areas that benefit health (eg food and nutrition; infrastructure) • Provisions for indigenous ownership, community share ownership; government shares; inclusion of health/ social benefit in fund objectives • Roles, duties, powers and ethical standards of and rules binding government agencies, fund managers and fund use, investment re health objectives • Formalised oversight mechanism; penalties for misconduct; regularly compiled fund reports, audits reports for public disclosure |
| Post mine closure obligations | <ul style="list-style-type: none"> • EI obligation to set post mine closure plans; EI and state duties on and fund provisions for post mining environment and social rehabilitation • Access to information, participation in decision making and consultations for workers, communities and relocated communities on post mine closure plans • EI duties and measures to address risks (sinkholes, chemicals etc) after mine closure; in relation to abandoned mines (sinkholes, chemical waste) and in relation to mine dumps • Monitoring and reporting of environment and health impacts after closure |
| General governance issues | <ul style="list-style-type: none"> • Access to information, participation in decision making and consultations affecting them for workers, communities, relocated communities and small scale miners (and whether direct or via the state) • Division and co-ordination of state roles on economic, environment and health / social duties of EIs • EI reporting and government public reporting on licenses, investments and profits, on relocation and social plans • Legal precedence / management of conflicts between mining laws and laws for public health, environment and social protection • Regulation of gender equality and migrant workers' rights • Mechanisms for monitoring and public reporting on EI duties and legal provisions • Specified funding source for implementation of audit, monitoring, and enforcement of laws • Levels of penalties and sanctions for non-compliance • Provisions and penalties for bribery |

2. Framework from International document review used for review of national documents

| Broad categories | General Provisions in International documents |
|---|---|
| GENERAL PROVISIONS, GOVERNANCE AFFECTING HEALTH OBLIGATIONS | |
| Consultation and protection of health in negotiation of prospecting rights / licenses/ agreements | <ul style="list-style-type: none"> • Respect human rights, avoiding infringing on the rights of others and addressing negative impacts with which they are involved • Integrate health impact within environmental +social impact assessments. • Integrated assessment to identify the environmental and social impacts, risks, and opportunities of projects; |
| Health and social protections in resettlement / relocation of affected communities | <ul style="list-style-type: none"> • No arbitrary or unlawful interference with privacy, family and home and protection of minors; avoid forced eviction; • Avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs; • Ensure resettlement activities are implemented with appropriate disclosure of information, consultation, and informed participation of those affected • Improve, or restore, livelihoods and living standards of persons displaced by provision of adequate housing with security of tenure at resettlement sites. |

| Broad categories | General Provisions in International documents |
|---|---|
| General governance issues | <ul style="list-style-type: none"> • Freedom of information; right of peaceful assembly; freedom of association, including forming and joining trade unions • Self-regulatory practices and management systems that foster confidence and mutual trust between enterprises and societies in which they operate. • Discuss social responsibility matters with all relevant stake holders. • Access to effective remedies for victims of business-related human rights abuses, both through judicial and non-judicial means. |
| Broad categories | Specific provisions in International documents |
| SPECIFIC HEALTH, PUBLIC HEALTH, OCCUPATIONAL HEALTH PROVISIONS | |
| OHS for employed workers / contractees | <ul style="list-style-type: none"> • No forced, compulsory or child labour ; reasonable working hours • Identification, analysis of workplace hazards to assess and control risks to health, fatalities, injuries and to protect health and wellbeing of workers. • Make available to workers representatives, competent authorities and the workers' and employers' organizations information on the safety and health standards relevant to their local operations, those observed in other countries, and relevant special hazards and protective measures. • Freedom of association and rights to collective bargaining • Disseminate policies, including through education and training on environmental health and safety, handling of hazardous materials and the prevention of environmental accidents, environmental impact assessment |
| Health benefits for workers and families | <ul style="list-style-type: none"> • Environmental and industrial hygiene; and access to medical care. |
| Environment, health and social protection for surrounding communities | <ul style="list-style-type: none"> • Avoid or minimize the risks and impacts to community health, safety, and security, environment that may arise from project related-activities, with particular attention to vulnerable groups; Prevent fatalities, injuries or ill health affecting members of the public arising from mining operations and minimize and/or compensate for such impacts. • Provide public and employees with adequate, timely information on potential health, environment and safety impacts of the enterprise, consult communities directly affected; maintain plans for preventing, mitigating, and controlling health and environmental damage from operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities, • Fair and adequate compensation for violation of rights and fair and mutually acceptable procedures to resolve conflicts. |
| EI Fiscal contributions towards health and health services | <ul style="list-style-type: none"> • Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues. |

Appendix 2: ESA Country national laws sourced

| Country | Title of law/regulation |
|------------|---|
| Angola | <ul style="list-style-type: none"> • Commercial Companies Law 2004 • Mining Code 2011 • General Environmental Law 1998 • Petroleum Act 2004 • Mining Law 1992 • Petroleum Taxation Law 2004 • Petroleum Activities Law 2004 |
| Botswana | <ul style="list-style-type: none"> • Atmospheric Pollution Act 1971 • Companies Act 2004 • Mines, Quarries, Works and Machinery Act 1973 • Mines, Quarries, Works and Machinery Regulations 1978 • Mines and Minerals Act 1999 • Public Health Act, 1981 |
| DR Congo | <ul style="list-style-type: none"> • Public Procurement Law 2010 • Investment Code 2002 • Electricity Sector Code 2014 • Mining Code 2002 • Mining Regulations 2003 • Constitution 2006/2011 • Forest (environmental) Code 2002 • Labour Code 2002 • Fundamental Environmental Protection Principles Law 2011 |
| Kenya | <ul style="list-style-type: none"> • Constitution 2010 • Environmental Management and Coordination Act 1999 • Environmental Management and Coordination (Amendment) Act 2015 • Export Processing Zones Act 1990 • HIV and AIDS Prevention and Control Act 2006 • Mining Act 2016 • Occupational Safety and Health Act 2007 • Petroleum (Exploration and Production) Act 1985 • Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012 • Public Health Act 2012 • Work Injury Benefits Act 2007 • Energy Act 2006 • Model Production Sharing Contract 2015 |
| Lesotho | <ul style="list-style-type: none"> • Companies Act 2011 • Environment Act 2008 • Labour Code Order 1992 • Millennium Challenge Account Lesotho Authority Act 2008 • Mine Safety Act 1981 • Mines and Minerals Act 2005 |
| Madagascar | <ul style="list-style-type: none"> • Constitution 1992 • Law on Large Scale Investment in Mining 2002 • Environmental Charter 2004 • Decree relatif à la mise en compatibilité des investissements avec l'environnement 2004 • Environmental Protection Regulation 2000 • Mining Code 1999 |
| Malawi | <ul style="list-style-type: none"> • Constitution 1994 • Mines and Minerals Act 1981 • Mines and Minerals (Mineral Rights) Regulations 1988 • Mines and Minerals (Royalty) Regulations 1981 |

| Country | Title of law/regulation |
|--------------|---|
| | <ul style="list-style-type: none"> • Occupational Safety, Health and Welfare Act 1997 • Public Health Act 1948 • Mining (Safety) Regulations 1982 • Petroleum (Exploration and Production) Act 1983 • Environment Management Act 1996 |
| Mauritius | <ul style="list-style-type: none"> • Dangerous Chemicals Control Act 2004 • Employment and Training Act 1963 • Employment Rights (Amendment) Act 2013 • Environmental and Land Use Appeal Tribunal Act 2012 • Environment Protection Act 2002 • Export Processing Zones Development Authority Act 1990 • Occupational Safety and Health (Amendment) Act 2009 • Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011 • Protection of Human Rights Act 1998 • Public Health Act 1925 • Workmen's Compensation Act 1931 |
| Mozambique | <ul style="list-style-type: none"> • Commercial Code 2005 • Fiscal Benefits Code 2002 • Labour Law 2007 • Mining Law 2002 • Mining Law Regulations 2003 • Regulations for the Resettlement Process Resulting from Economic Activities Decree 31 of 2012 • National Health Services Act Law 25 of 1991 • Waste Management Regulations Decree 13 of 2006 • Protection Mining and Quarrying Workers Decree 61 of 2006 • Regulation of Minimum Social Security Obligations 2007 • Mining Law Code of Fiscal Benefits Decree 16 of 2002 • Mining Law 2014 • Mining Law Regulations Decree 63 2006 |
| Namibia | <ul style="list-style-type: none"> • Constitution 1990 • Employment Service Act 2011 • Environmental Management Act 2007 • Environmental Investment Fund of Namibia Act 2001 • Minerals (Prospecting and Mining) Act 1992 • Diamond Act 1999 • Labour Act 2007 • Minerals (Prospecting and Mining) Amendment Act 2008 • Petroleum (Exploration and Production) Act 1991 • Regulations relating to the Health, Safety and Welfare of Persons Employed, and Protection of other Persons, Property, the Environment and Natural Resources, in, at or in the vicinity of exploration and production areas (No. 190 of 1999) • Regulations relating to the health and safety of employees at work (Government Notice No. 156 of 1997) • Model Petroleum Agreement 2007 |
| South Africa | <ul style="list-style-type: none"> • Mine Health and Safety Act 1996 • National Health Act 2004 • Mine Environmental Engineering and Occupational Hygiene Regulations 1997 • Occupational Health and Safety Act 1993 • Mineral & Petroleum Resources Development Act 2002 • Mineral and Petroleum Resources Royalty Act 2008 • Mineral and Petroleum Resources Royalty (Administration) Act 2008 • Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry (The Mining Charter) 2014 • Codes of Good Practice for the Minerals Industry (Mining Code) 2009 |

| Country | Title of law/regulation |
|-----------|--|
| Swaziland | <ul style="list-style-type: none"> • Constitution Act 2005 • Diamonds Act 2011 • Employment Act 1980 • Environment Management Act 2002 • Mines and Minerals Act 2011 • Occupational Safety and Health Act 2001 |
| Tanzania | <ul style="list-style-type: none"> • Constitution 1977 • Employment and Labour Relations Act 2004 • Employment Act 2005 • Mining Act 2010 • Workers Compensation Act 2008 • Tanzania Extractive Industries (Transparency and Accountability) Act 2015 • Oil and Gas Revenues Management Act 2015 • Petroleum Act 2015 |
| Uganda | <ul style="list-style-type: none"> • Constitution 1995 • Employment Act 2007 • Free Zones Act 2014 • Investment Code Act 1991 • Mining Act 2003 • Mining Regulations 2004 • National Environment Statute 1995 • Occupational Safety and Health Act 2006 • Petroleum (Exploration and Production) Act 1985 • Petroleum (Exploration, Development and Production) Act 2013 • Oil & Gas Revenue Management Policy 2012 • Model PSA 1999 |
| Zambia | <ul style="list-style-type: none"> • Constitution 1996 • Constitution (Amendment) Act 2016 • Companies Act 1994 • Environmental Protection and Pollution Control (Amendment) Act 1999 • Export Processing Zones Act 2001 • Millennium Challenge Compact Act 2013 • Mines and Minerals Development Act 2015 • Water Resources Management Act 2011 • Zambia Development Agency Act 2006 • Zambia Development Agency (Amendment) Act 2013 • Environmental Management Act 2011 • Environmental Management (Amendment) Act 2013 • Public Health Act 1930 |
| Zimbabwe | <ul style="list-style-type: none"> • Constitution 2013 • Environmental Management Act 2002 • Indigenisation and Economic Empowerment Act 2007 • Indigenisation and Economic Empowerment (General) Regulations 2010 • Labour Act 1985 (amended 2002) • Mines and Minerals Act 1961 • National AIDS Council of Zimbabwe Act 2001 • Pneumoconiosis Act 1971 • Public Health Act 1924 • Public Health (Effluent) Regulations 1972 • Minerals Marketing Corporation of Zimbabwe Act 1982 • Water Act 2002 |

Appendix 3: International standards on health and social protection in EIs

| Broad categories | Provisions in International documents |
|--|--|
| <p>Consultation and protection of health in negotiation of prospecting rights / licenses and EI agreements</p> | <ul style="list-style-type: none"> • United Nations Guiding Principles on Business and Human Rights and the UN Protect, Respect, Remedy Framework: Corporate responsibility to respect human rights, avoiding infringing on the rights of others and addressing negative impacts with which they are involved, as applied also to a corporation's business relationships; • International Covenant on Economic, Social and Cultural Rights: Article 12, establishes 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'; States parties to: ensure the healthy development of children; improve environmental and industrial hygiene; and prevent, treat and control diseases; and provide access to medical care for all. • International Council on Mining & Metals (ICMM) Good Practice Guidance on Health Impact Assessment, 2010: to integrate health impact assessment with environmental and social impact assessments with management tools to achieve this. • International Finance Corporation (IFC) Performance Standards 2012: Performance Standard 1 provides for (i) integrated assessment to identify the environmental and social impacts, risks, and opportunities of projects; • Natural resource charter: Precept 3: The government should encourage efficient exploration and production operations, and allocate rights transparently. |
| <p>Health and social protections in resettlement / relocation of affected communities</p> | <ul style="list-style-type: none"> • International Covenant on Civil and Political Rights: the right to life (article 6); the right to liberty and security of person (article 9) ; the right of liberty of movement for everyone who is lawfully within a State party's territory (article 12); the right to privacy, whereby no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, or to unlawful attacks on their honour or reputation (article 17); the right of the family, being the natural and fundamental group unit of society, to protection by society and the State (article 23[1]); and the right of every child, on the basis of their status as a minor, to measures of protection on the part of their family, society and the State without discrimination on the basis of race, colour, sex, language, religion, national or social origin, property or birth (article 24). • International Finance Corporation (IFC) Performance Standards 2012: Performance Standard 4 provides a responsibilities on EIs to avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs; to avoid forced eviction; to anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected and to improve, or restore, the livelihoods and standards of living of displaced persons and living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites. |
| <p>OHS for employed workers / contractees</p> | <ul style="list-style-type: none"> • International Covenant on Civil and Political Rights: The right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment (article 7); and not be held in slavery or servitude or to be required to perform forced labour (article 8). • International Covenant on Economic, Social and Cultural Rights: the right to work under safe and health working conditions and within reasonable working hours (articles 6 and 7); the special protection and assistance for children, to avoid economic and social exploitation, including labour harmful to their morals or health (article 10). • International Labour Organisation's (ILO) Declaration on Fundamental Principles and Rights at Work: Provides for freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. • ILO Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration) - 4th Edition: Multinational enterprises, particularly when operating in developing countries, should endeavour to increase employment |

| Broad categories | Provisions in International documents |
|--|---|
| | <p>opportunities and standards, taking into account the employment policies and objectives of the governments, as well as security of employment and the long-term development of the enterprise; Art 34: When multinational enterprises operate in developing countries, where comparable employers may not exist, they should provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to satisfy basic needs of the workers and their families. Where they provide workers with basic amenities such as housing, medical care or food, these amenities should be of a good standard. Art 35: Governments, especially in developing countries, should endeavour to adopt suitable measures to ensure that lower income groups and less developed areas benefit as much as possible from the activities of multinational enterprises. Art 38. Multinational enterprises should maintain the highest standards of safety and health, make available to the representatives of the workers in the enterprise, and upon request, to the competent authorities and the workers' and employers' organizations in all countries in which they operate, information on the safety and health standards relevant to their local operations, which they observe in other countries and make known to those concerned any special hazards and related protective measures associated with new products and processes.</p> <ul style="list-style-type: none"> • United Nations Global Compact: Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; Principle 4: the elimination of all forms of forced and compulsory labour; Principle 5: the effective abolition of child labour; and Principle 6: the elimination of discrimination in respect of employment and occupation. • ILO Safety and Health in Mines Convention: Obligation on enterprises to prevent fatalities, injuries or ill health affecting workers arising from mining operations. • OECD Guidelines for Multinational Enterprises: Enterprises should promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes; and refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies. Enterprises should provide adequate education and training to employees in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies. • ICMM Good Practice Guidance on Occupational Health Risk Assessment, 2009: structured, systematic identification and analysis of workplace hazards to assess their potential risks to health and determine appropriate control measures to protect the health and wellbeing of workers. Implement risk management strategies based on valid data and sound science. Seek continual improvement of our health and safety performance. • International Finance Corporation (IFC) Performance Standards 2012: Performance Standard 2 promotes safe and healthy working conditions, and the health of workers, including vulnerable categories of workers such as children, migrant workers, workers engaged by third parties, and workers in the client's supply chain. • African Mining Vision: Improve mining regulatory regimes adopting the highest environmental, social, occupational, safety & health standards; strengthen enforcement capacity. |
| Health benefits for workers and families | <ul style="list-style-type: none"> • International Covenant on Economic, Social and Cultural Rights: Article 12, establishes 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'; States parties to: ensure the healthy development of children; improve environmental and industrial hygiene; and prevent, treat and control diseases; and provide access to medical care for all. • International Covenant on Economic, Social and Cultural Rights:: the special protection to be accorded to mothers before and after childbirth (article 10); • African Charter on Human and Peoples' Rights Article 16: Every individual shall |

| Broad categories | Provisions in International documents |
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| | <p>have the right to enjoy the best attainable state of physical and mental health. States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.</p> |
| <p>Environment, health and social protection for surrounding communities</p> | <ul style="list-style-type: none"> • The UN Protect, Respect, Remedy Framework: Corporate responsibility to respect human rights, avoiding infringing on the rights of others and addressing negative impacts with which they are involved, with such responsibility also applying to a corporation's business relationships; • UN Guiding Principles: Any state should manage natural exploitation in a way that protects the population from any adverse impacts created by the exploration and exploitation of those resources and to offer effective avenues for remedy to victims where human rights abuses occur. • UN Declaration on the Rights of Indigenous Peoples (UNDRIP): Recognises the right to unrestricted self-determination, an inalienable collective right to the ownership, use and control of lands, territories and other natural resources and establishes the requirement for fair and adequate compensation for violation of such rights. It further provides for fair and mutually acceptable procedures to resolve conflicts between indigenous peoples and States. • ILO Safety and Health in Mines Convention: Obligation on enterprises to prevent fatalities, injuries or ill health affecting members of the public, or damage to the environment arising from mining operations. • United Nations Global Compact: Principle 7: Businesses should support a precautionary approach to environmental challenges; Principle 8: undertake initiatives to promote greater environmental responsibility; and Principle 9: encourage the development and diffusion of environmentally friendly technologies. • International Finance Corporation (IFC) Performance Standards 2012: Performance Standard 1 establishes (i) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (ii) the client's management of environmental and social performance throughout the life of the project. Performance Standard 3 sets out measures to avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities; promoting more sustainable use of resources, including energy and water, and reducing project-related GHG emissions and Performance Standard 5 sets duties to anticipate and avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not possible, to minimize and/or compensate for such impacts. • OECD Guidelines for Multinational Enterprises: Enterprises should establish and maintain a system of environmental management appropriate to the enterprise, a) provide the public and employees with adequate and timely information on the potential environmental, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; b) engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation, and assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment. Enterprises should maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities and continually seek to improve corporate environmental performance, • ICMM Good Practice Guide – Indigenous Peoples and Mining, (2nd edition) 2015. Provides guidance to companies on good practice where mining-related activities occur on or near traditional indigenous land and territory, viz that Indigenous Peoples have an understanding of their rights; are informed about, and comprehend the full range of social and environmental impacts that can result from mining; that any concerns that |

| Broad categories | Provisions in International documents |
|--|---|
| | <p>communities have about potentially negative impacts are understood and addressed by the company with respect for traditional knowledge; mutual understanding and for indigenous aspirations in project planning so that people have ownership of, and participate fully in decisions about, community development programs and initiatives; that the project has the broad, ongoing support of the community and that the voices of all in the community are heard.</p> <ul style="list-style-type: none"> • Natural resource charter: Precept 1: Resource management should secure the greatest benefit for citizens through an inclusive and comprehensive national strategy, a clear legal framework, and competent institutions. Precept 11: Companies should commit to the highest environmental, social and human rights standards, and to sustainable development. |
| Health benefits for surrounding communities | <ul style="list-style-type: none"> • International Covenant on Economic, Social and Cultural Rights: Article 12, establishes 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'; States parties to: ensure the healthy development of children; improve environmental and industrial hygiene; and prevent, treat and control diseases; and provide access to medical care for all. • International Finance Corporation (IFC) Performance Standards 2012: define IFC clients' client's responsibilities to avoid or minimize the risks and impacts to community health, safety, and security that may arise from project related-activities, with particular attention to vulnerable groups. |
| Fiscal contributions towards health and health services specifically in relation to EIs | <ul style="list-style-type: none"> • OECD Guidelines for Multinational Enterprises: Enterprises should Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues. • Extractive Industries Transparency Initiative (EITI): revenue transparency and accountability through a robust, flexible methodology for monitoring and reconciling company payments and government revenues from EIs • Natural resource charter: Precept 4: Tax regimes and contractual terms should enable the government to realize the full value of its resources consistent with attracting necessary investment, and should be robust to changing circumstances. |
| Forward and backward links with local sectors and services supporting health; Use of wealth funds, community ownership for local wellbeing | <ul style="list-style-type: none"> • OECD Guidelines for Multinational Enterprises: Enterprises should contribute to economic, social and environmental progress with a view to achieving sustainable development; encourage local capacity building through close co-operation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice, and encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.. • African Charter on Human and Peoples' Rights Article 21 All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law. States parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources. Natural resource charter: Precept 5: The government should pursue opportunities for local benefits, and account for, mitigate and offset the environmental and social costs of resource extraction projects. African Mining vision: Action to establish an industrial base through backward and forward linkages; and to encourage and support small and medium-scale enterprises to enter the supply chain. |
| Post mine closure | <ul style="list-style-type: none"> • ICMM, Planning for Integrated Mine Closure: Toolkit, 2011: practical guidance for closing a mine in a sustainable manner. |
| General | <ul style="list-style-type: none"> • United Nations Guiding Principles on Business and Human Rights and UN |

| Broad categories | Provisions in International documents |
|-------------------|---|
| governance issues | <p>Protect, Respect, Remedy Framework: The state has a duty to protect against human rights abuses by third parties, including EIs, through effective policies, legislation, regulations and adjudication</p> <ul style="list-style-type: none"> • United Nations Guiding Principles on Business and Human Rights and UN Protect, Respect, Remedy Framework: Access to effective remedies for victims of business-related human rights abuses, both through judicial and non-judicial means. • International Covenant on Civil and Political Rights: the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds (article 19); the right of peaceful assembly and the freedom of association, including forming and joining trade unions (articles 21 and 22); • OECD Guidelines for Multinational Enterprises: Enterprises should support and uphold good corporate governance principles, develop and apply good corporate governance practices and develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate. • ISO 26000, International Organization for Standardization (ISO) encourages companies to discuss social responsibility matters with all relevant stake holders • United Nations Global Compact: Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery. |

APPENDIX 4: Tabulation of laws in ESA countries

Table A1 Legal analysis international vs. national regulations by ESA country – Part 1 (See reference list for laws)

| Area of law | Consultation and protection of health prospecting rights / licenses (1) | Health and social protections in resettlement affected communities (2) | Occupational health and safety (OHS) for employed workers / contractors (3) | Health benefits for workers and families (4) | Environment, health and social protection for surrounding communities (5) |
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| Angola | <p>General Environmental Law <u>Art 10 (Public Consultation):</u> Public consultation in Environmental and Social Impact Assessments; ensuring [...]</p> <p><u>Art 12 (Environmental Heritage):</u> [...] that permanent measures are taken to defend and enhance natural, historical and cultural heritage, and an adequate level of community involvement.</p> <p><u>Art 21 (Right to Information):</u> Citizens' right to be informed about the management of the country's environment.</p> <p><u>Art 23 (Right of Access to Justice):</u> Any citizen who deems that rights have been or may be violated has recourse to the courts in order to restore rights or prevent</p> | <p>General Environmental Law <u>Art 23 (Right of Access to Justice):</u> Any citizen who deems that rights have been or may be violated has recourse to the courts in order to restore rights or prevent violation.</p> <p><u>Art 24 (Immediate Measures of Relief):</u> Any person who deems that rights have been violated may apply for the immediate suspension of the activity.</p> <p><u>Art 32 (Participation by the Community):</u> Ensure that local communities duly participate.</p> <p>See also <u>Art 6 (The Responsibilities of the State)</u>, <u>Art 10 (Public Consultation)</u>; <u>Art 12 (Environmental Heritage)</u>; <u>Art 21 (Right to Information):</u> raised in <u>column 1</u>.</p> <p>Mining Code</p> | <p>Mining Code <u>Art 53: (Suspension of Mining Activities)</u> Order for the suspension of mining operations in the event of serious risk to the life and health of the population, for the safety of mines, hygiene in workplaces, the environment, fauna, flora.</p> <p><u>Art 59 (Hygiene, Health & Safety) Measures</u> to ensure hygiene, health and safety in the workplace, as well as the prevention of professional risks and accidents in workplaces.</p> <p><u>Art 60 (Training)</u> Promote training for hygiene, health and safety in the workplace. Immediate reporting of work-related accidents and professional diseases.</p> <p><u>Art 93 (Titleholder Obligations):</u> Ensure</p> | <p>Mining Code <u>Art 153 (Insurance):</u> Industrial-scale mining must take out insurance to cover third-party liability and work-related accidents of personnel.</p> <p>See also <u>Art 53 (Suspension of Mining Activities)</u>; <u>Art 59 (Hygiene, Health & Safety)</u>; <u>Art 60 (Training)</u>; <u>Art 93 (Titleholder Obligations)</u>: in Col 3 and <u>Art 143 (Contents of Mining Plan)</u>: in Col 1</p> | <p>General Environmental Law <u>Art 3 (General Principles):</u> Citizens' right to live in a healthy environment and benefit from rational use of natural resources but also obligated to participate in defending the environment make rational use of natural resources. Obligation on the state to prepare National Environmental Plan, structures and legislation to achieve goals.</p> <p><u>Art 4 (Specific Principles):</u> (c) Prevention: activities with immediate or long term effects on the environment to be analysed in advance, to eliminate or minimize negative effects; (d) Balance: economic and social development policies to be tied to principles of environmental conservation and protection and rational use of natural resources - objectives of Sustainable Development; (f) International cooperation: coordinated solutions to be sought with other countries, regional and international organizations, in respect of environmental problems and management of natural resources; (g) Liability: all persons or organisations which through their actions cause harm to the environment, or the degradation, destruction or depletion of national resources, shall be held liable for the same, and shall be required to repair such damage and/or pay compensation for the damage caused.</p> <p><u>Art 5 (Aims and Measures):</u> Adopt measures to: (h) Ensure that citizens participate in all decisions which cause environmental and social</p> |

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| | <p>violation.</p> <p><u>Art 32 (Participation by the Community):</u> Ensure that local communities duly participate.</p> <p><u>See also in Col 5 Art 6 (The Responsibilities of the State): Art 24 (Immediate Measures of Relief):</u></p> <p>Mining Code <u>Art 6 (Mining Policy):</u> Executive Power must respect the fundamental principles and rules of the Constitution.</p> <p><u>Art 7 (Planning for Mining):</u> Executive Power must provide for effective measures of sustainable economic development and for the protection of the rights and legitimate interests of local communities, as well as the development of national human resources.</p> <p><u>Art 25 (Investment & Concession of Rights):</u> Prospecting, research, investigation and mining of mineral resources must always contain specific clauses in</p> | <p><u>See also shown in Col 1 Art 6 (Mining Policy) and Art 93 (Titleholder Obligations):</u> in Col 3</p> <p><u>Art 7(Planning for Mining):</u> Executive Power must provide for effective measures of sustainable economic development and for the protection of the rights and legitimate interests of local communities, as well as the development of national human resources.</p> <p><u>Art 8 (Strategic Goals for Mining Sector):</u> p) implement ventures that provide new jobs for workers and avoid displacement of inhabitants and economic recession in abandoned areas.</p> <p><u>Art 9 (Sustainable Mining of Mineral Resources):</u> Mining to be sustainable and for the benefit of the national economy, observing local community rights and environmental protection.</p> <p><u>Art 16 (Community Rights):</u> 1. Customs of communities in mining areas to be taken into account and contribute to</p> | <p>employment of Angolan technicians and workers, and providing technical professional training and qualification schemes; Comply with hygiene and safety standards in the workplace; Comply with Environmental Impact Assessment Study obligations; Promote public health, safety, hygiene and cleanliness, in accordance with national and international regulations applicable in the Republic of Angola; Inform the regulatory entities of all occurrences of work-related accidents and professional diseases; Make reparation for damages caused to third parties.</p> <p><u>Art 153 (Insurance):</u> Industrial-scale mining must take out insurance to cover third-party liability and work-related accidents of personnel.</p> <p><u>See also Art 25 (Investment & Concession of Rights) and Art 143 (Contents of Mining Plan):</u> in Col 1</p> | | <p>imbalances; (j) Clear and enforceable rules for the protection of natural, cultural and social heritage; (k) Recover environmentally degraded areas.</p> <p><u>Art 6 (The Responsibilities of the State):</u> The State is responsible for establishing and implementing the Environmental management Program, containing the responsibilities of the Government and those of all private individuals and organizations regarding the use of natural resources, the balance of the environment and the socio-economic conditions of affected communities.</p> <p><u>Art 8 (Participation of Citizens):</u> Citizens' right and obligation to take part in the Environmental Management.</p> <p><u>Art 12 (Environmental Heritage):</u>[...] that permanent measures are taken to defend and enhance natural, historical and cultural heritage, and an adequate level of community involvement.</p> <p><u>Art 16 (Environmental Impact Assessment):</u> Environmental Impact Assessments one of the main tools at the service of Environmental Management, assessments mandatory for undertakings having an impact on the balance and well-being of the environment and society.</p> <p><u>Art 19 (Pollution of the Environment):</u> State to publish and enforce legislation controlling production, discharge, deposit, transport, importation and management of pollutants.</p> <p><u>Art 24 (Immediate Measures of Relief):</u>Any person who deems that rights have been violated may apply for the immediate</p> |
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| | <p>relation to environmental preservation, safety standards and the protection of workers in light of specific working conditions.</p> <p><u>Art 40 (Publication of Registrations)</u> Outcome of concession, modification, assignment, and extinction of mining rights must be published.</p> <p><u>Art 56 (Rescission & Revocation)</u> Rescission or revocation of the contract or concession e.g. in case of non-compliance with legal or contractual obligations.</p> <p><u>Art 57 (Redemption):</u> Concession area may be redeemed for various reasons of public interest.</p> <p><u>Art 65 (Environmental Impact Assessment):</u> Approval of the Environmental Impact Assessment (EIA) a precondition for obtaining mining rights.</p> <p><u>Art 66 (Mandatory Clauses):</u> EIS must consider: a) effects on</p> | <p>their sustainable economic and social development; 2. Creation of consultation mechanisms allowing affected local communities to actively participate in decisions; [...] 4. Mandatory where project result in the destruction or damage of material, cultural or historical assets belonging to the local community as a whole.</p> <p><u>Art 17 (Relocation Rights):</u> Where relocation is required due to conditions and damages of mining activities, local population is entitled to be relocated by concession titleholder and process must respect the habits, customs, traditions and other cultural aspects.</p> <p><u>Art 72 (Utilization of Land):</u> Should concessionaire not arrive at an agreement with the owners or holders of land operations not to begin without the concessionaire acquiring same or the State obtaining their expropriation for public interest, inaccordance with law.</p> <p><u>Art 76 (Obligations & Rights of Leaseholders &</u></p> | | | <p>suspension of the activity.</p> <p><u>Art 28 (Strict Liability):</u> Those who, regardless of fault, cause damage to the Environment, shall be required to repair the damage and/or indemnify the State.</p> <p>See also <u>Art 10 (Public Consultation): Art 21 (Right to Information): Art 23 (Right of Access to Justice): Art 32 (Participation by the Community):</u> in Col 1</p> <p>Mining Code <u>Art 3 (Environmental Preservation):</u> Mining Code applies to the protection and conservation of the environment, flora and fauna.</p> <p><u>Art 2 (Scope of Application) e)</u> restoration or reclamation of areas affected by mining activity.</p> <p><u>Art 8 (Strategic Goals for Mining Sector):</u> a) sustained economic and social development; b) create jobs and promote the improvement of the living standards of local communities; c) tax revenues for Central and Local Government; d) giving preference to Angolan entrepreneurs when granting mining rights; e) stimulate the emergence of Angolan business groups capable of competing especially in the Southern African Development Community (SADC) region; f) harmonize national mining legislation with regional and international mining legislation; h) protect the environment and make reparation for disastrous effects that maybe triggered; i) combat practices disregarding environmental regulations; j) combat unlicensed mining and illegal practices; k) establish an effective, swift and transparent system for the granting of mining rights; o) motivate reinvestment of income obtained; p) implement ventures that provide new jobs for workers and avoid</p> |
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| <p>the environment; b) social impact; c) environmental management plan; d) environmental monitoring program; e) environmental audits and reports; f) environmental rehabilitation programs; g) site abandonment plan; h) environmental financial costs; i) financial guarantee for environmental costs; j) plans for utilization of water; k) waste management plans; l) control of dangerous substances.</p> <p><u>Art 68 (Participation of Communities in Environmental Preservation):</u> Local communities entitled to be informed about the Environmental Impact Assessment, as well as any measures to be taken, if it may affect the environment of the area in which they live. Such information to be given to them through local traditional authorities and other representative entities - preferably before execution any project.</p> | <p><u>Landowners):</u> Holders or owners of land entitled to rent as well as being compensated for any damage caused.</p> <p><u>Art 104 (Public Notices vis-à-vis Applications)</u> Publication of public notices regarding concession applications.</p> <p><u>Art 105 (Complaints & Challenges vis-à-vis Applications)</u> Complaints and challenges by persons with direct interest.</p> | | | <p>displacement of inhabitants and economic recession in abandoned areas.</p> <p><u>Art 13 (Areas Available for Mining):</u> Zones reserved for mining must take into account the need to guarantee or to disturb as little as possible the integrated economic and social development of regions, the social and cultural stability of local populations and the protection of rights and of public and private assets.</p> <p><u>Art 53 (Suspension of Mining Activities)</u> Order for the suspension of mining operations in the event of serious risk to the life and health of the population, for the safety of mines, hygiene in workplaces, the environment, fauna, flora.</p> <p><u>Art 63 (Applicable Legislation)</u> 1. Holder of mining rights must observe the standards on environmental conservation; 2. Relation between risks to the environment and the advantages of mining to communities must always be taken into consideration, in an effort to balance both interests; 3. National and regional sectorial strategy and programs shall be applicable to mining activity, as well as international instruments.</p> <p><u>Art 64 (Other Regulations on Environmental Protection)</u> 1. Holders of mining rights must promote the conservation and protection of nature and the environment; 2. Exploitation of minerals must be made while observing laws on the environment, biological and aquatic resources, water and standards for assessing environmental impact; 3. Holders of mining rights obligated to: a) comply with obligations from environmental impact assessment and environmental management plan; b) reduce dust, waste and radiation in mining areas and in surrounding zones; c) prevent or eliminate water</p> |
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| | <p><u>Art 143 (Contents of Mining Plan):</u> Must contain n) proposal for anti-pollution measures, environmental protection, restoration and reclamation of land, including vegetation and proposals for minimizing effects of mining on land; o) identification of any risks to health and safety of personnel involved in mining and public in general and proposal for control, mitigation, monitoring and elimination of any of those risks.</p> <p><u>See also shown in Col 2 Art 16 (Community Rights).</u></p> | | | | <p>and soil contamination; d) not reduce or harm the normal supply of water to the population; e) minimize soil damage; f) reduce impact of noise and vibrations when utilizing explosives; g) not discharge contaminated waste that is harmful to human health, fauna and flora into the sea, water courses and lakes; h) inform authorities of any occurrence that has caused or is liable to cause environmental damage.</p> <p><u>Art 116 (Feasibility & Environmental Impact Assessment Studies):</u> Before mining phase, need to submit a Technical, Economic and Financial Feasibility Study (EVTEF) and a study on the environmental impact and restoration of the environment after the mining activities. Mining plan to form part of the study.</p> <p><u>Art 250 (Provisions for Environmental Reclamation):</u> Holders of mining rights to set up a provision to finance environmental restoration/reclamation.</p> <p><u>Art 267 (Contribution Obligation):</u> With the exception of small-scale mining, entities subject to contribution to Environmental Fund.</p> <p><u>See also shown in Col 1 Art 6 (Mining Policy); Art 7 (Planning for Mining); Art 25 (Investment & Concession of Rights); Art 65 (Environmental Impact Assessment); Art 66 (Mandatory Clauses); Art 68 (Participation of Communities in Environmental Preservation); Art 143 (Contents of Mining Plan); shown in Col 2 Art 9 (Sustainable Mining of Mineral Resources); Art 16 (Community Rights); Art 17 (Relocation Rights); Art 72 (Utilization of Land); Art 76 (Obligations & Rights of Leaseholders & Landowners); Art 104 (Public Notices vis-à-vis Applications); Art 105 (Complaints & Challenges vis-à-vis Applications); and in Col 3 Art 93 (Titleholder Obligations); Art 153 (Insurance);</u></p> |
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| Area of law | Health protection in prospecting licenses/ agreements (1) | Health/ social protection in resettlement / relocation of affected communities (2) | OHS for employed workers / contractors (3) | Health benefits for workers and families (4) | Environment, health and social protection for surrounding communities (5) |
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| Bots-wana | <p>Mines and Minerals Act <u>Sec 65 (Rehabilitation, reclamation etc.):</u> 1) Holder of a mineral concession to operate in accordance with the law and good mining practice, preserve the natural environment, minimize and control waste or undue loss of or damage to natural and biological resources, to prevent and where unavoidable, promptly treat pollution and contamination of the environment. 2) Applicant for a Licence to prepare and submit a comprehensive Environmental Impact Assessment as part of the Project Feasibility Study Report. 3) The holder to ensure that area is rehabilitated from time to time and ultimately reclaimed.</p> <p><u>Sec 64 (Compulsory acquisition of land):</u> President empowered, in accordance with the terms of the provisions</p> | <p>Mines and Minerals Act <u>Sec 62 (Acquisition of exclusive rights by holder of mining or retention licence or minerals permit):</u> Holder to obtain lease and pay rent if exclusive use of the whole or any part of the area is required from the owner or lawful occupier.</p> <p><u>Sec 63 (Compensation for disturbance of rights, etc.):</u> Holder to pay fair and reasonable compensation for any disturbance of rights and for damage done.</p> | <p>Mines, Quarries, Works and Machinery Act <u>Sec 5 (Establishment of mines, quarries and works safety committee):</u> Committee to advise the Minister on the supervision to be exercised over mines on anything or practice which affects or is likely to affect the safety, health or welfare of persons employed in or at mines.</p> <p><u>Sec 6 (Official powers of inspectors and officers):</u> Instructions to take action to be given by inspector to mine manager if anything or practice found that is likely to cause bodily injury to, or be injurious to the health of any person, or to cause damage to any property. Such instructions may include an order suspending or closing operations at the mine.</p> <p><u>Sec 8 (Inquiries into accidents and other</u></p> | <p>Public Health Act <u>Sec 14 (Death in premises due to communicable disease):</u> Duty to notify health officer in every case of a death from a communicable disease on premises, and to make best arrangements for preventing the spread of such disease.</p> <p><u>Sec 43 (Nuisances prohibited):</u> No causing or allowing a nuisance to continue on any land or premises owned by a person or of which he is in charge which is likely to be injurious or dangerous to health.</p> <p>Further stipulations for compulsory notification of certain diseases; to for diseases subject to the International Health Regulations and port health; to control advertisements and publications on sexually transmitted diseases; to regulate sanitation and housing; to provide for food safety and water</p> | <p>Mines and Minerals Act <u>Sec 46 (Wasteful mining and treatment practices):</u> Wasteful mining or treatment practices forbidden, conduct of operations only in accordance with good mining practice.</p> <p>See also duties in Col 1 <u>Sec 65 (Rehabilitation, reclamation etc.)</u></p> <p>Public Health Act See Col 4, <u>Sec 43 (Nuisances prohibited): and Atmospheric Pollution (Prevention) Act</u></p> |

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| | <p>of the Acquisition of Property Act, to compulsorily acquire land if required to secure the development or utilization of mineral resources.</p> | | <p><u>matters</u>): Official inquiry to be held into 1) accident causing death or serious bodily injury to any person at a mine; 2) suspected contravention of any provision of this Act;3) occurrence at any mine or into safety, health or welfare conditions at any mine; 4) into any occurrence or condition at any mine likely to affect safety, health and welfare of persons working in such mine.</p> <p><u>Sec 14 (Endangering safety or causing serious bodily injury)</u>: Criminal offence to endanger the safety of or cause serious bodily injury to any other person at a mine.</p> <p>Mines, Quarries, Works and Machinery Regulations: Regulations for Health & Safety, Occupational Health. in mines.</p> <p>Public Health Act See Col 4, <u>Sec 14 (Death in premises due to communicable disease)</u>: <u>Sec 43 (Nuisances prohibited)</u>:</p> | <p>supplies; and provision for public health.</p> | |
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| Area of law | Health protection in prospecting licenses/ agreements (1) | Health/ social protection in resettlement / relocation of affected communities (2) | OHS for employed workers / contractors (3) | Health benefits for workers and families (4) | Environment, health and social protection for surrounding communities (5) |
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| Democratic Republic of Congo | <p>Mining Code <u>Art 15 (Department in charge of the Protection of the Mining Environment)</u>: In coordination with the other State entities responsible for the protection of the environment, the Ministry of Mines exercises powers for protection of the environment, and evaluates EISⁱ and the EMPPⁱⁱ presented by applicants for mining rights.</p> <p><u>Art 5 (Authorization for mining and quarry operations)</u>: Any person is permitted to engage in non-artisanal exploration or exploitation of mineral substances provided the person in question is the holder of a valid mining or quarry right. Any Congolese national is authorized to engage in artisanal exploitation provided that he is the holder of an artisanal miner's card.</p> <p><u>Art 23 (Eligibility to</u></p> | <p>Constitution <u>Arts 16 and 17</u>: Right to life, liberty and security of the person. <u>Arts 29, 31 and 34</u>: Protection of privacy, home and private property. <u>Art 36</u>: Freedom from exploitation and guarantee of equitable remuneration to allow workers and their families a life in dignity. <u>Arts 54, 55 and 56</u>: The law to address industrial activities and related pollution and effects on air, soil and water. Environmental crimes. Reparation/ compensation to be paid for any pollution or harm from economic activities.</p> <p>Mining Code <u>Art 280 (Actual liability for the occupation of the land)</u>: The holder or lessee must compensate for the damages caused by the works he carries out in connection with his mining activities, even if they are authorized. All damages caused to the assets of third parties be settled at actual replacement value,</p> | <p>Constitution <u>Art 16</u>: Prohibition of cruel, inhumane or degrading treatment, slavery, servitude and forced labour.</p> <p><u>Arts 37, 38</u>: Freedom of association</p> <p>See also Col 4 <u>Art 47</u>: Right to health.</p> <p>Labour Code <u>Art3</u>: All the worst forms of child labour are abolished, particularly those that are harmful to their health, safety and development.</p> <p><u>Art 55</u>: Employer obliged to provide safe and healthy working conditions.</p> <p><u>Art 73</u>: Right of workers to rescind employment contract if exposed to serious health and safety risks that were not foreseen at the time of conclusion.</p> <p><u>Art 75</u>: In case of Art 73, employer obligated to</p> | <p>Constitution <u>Art 42</u>: State's obligation to protect the health of minors and ensure their healthy development</p> <p><u>Art 47</u>: Right to health and State to regulate public health.</p> <p>Labour Code <u>Arts 129 to 132</u>: Special protection for expecting, new and lactating mothers.</p> <p><u>Arts 177 to 184</u>: Employers' obligations to provide health services to employees and their families.</p> <p>See also Col 3 <u>Art3</u>: Abolishing child labour; <u>Art 125</u>: Prohibiting night work in vulnerable groups; <u>Arts 159 to 166</u>: Employers' obligations in OHS</p> <p>Mining Code <u>Art 292 (Suspension)</u>: Any serious offence defined in the Mining Regulations punishable by immediate sus-</p> | <p>Constitution <u>Art 53</u>: Right to a healthy environment and State to ensure the protection of the environment and health of citizens.</p> <p>See also Col 2: <u>Arts 54, 55 and 56</u>: on industrial activities and related pollution.</p> <p><u>Art 58</u>: Right of all citizens to enjoy the nation's natural wealth. State obliged to distribute funds equitably and to guarantee the right to development.</p> <p>Mining Code See also Col 1 <u>Art 15 (Department in charge of the Protection of the Mining Environment)</u>: <u>Art 69 (The preparation of the application for the Exploitation Licence)</u>: <u>Art 71 (Conditions for granting Exploitation Licence)</u>: and col 3 <u>Art 207 (Special regulations)</u>: on OHS and Col 4 <u>Art 292 (Suspension)</u>: after hazardous activity</p> <p><u>Art 79 Relinquishment of Exploitation Licence</u>: Holder may at any time, in part or in whole, relinquish the right Does not entitle to any right to reimbursement of the fees and the costs paid to the State for the granting or the maintenance of the licence. It does not relieve the holder from his responsibility relating to the protection of the environment and his obligations towards the local community.</p> |

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| <p><u>obtain mining and quarry rights):</u> Any individual of age who is a Congolese national, as well as any legal entity incorporated pursuant to Congolese law and which has its registered office in the DRC and whose corporate purpose is mining activities.</p> <p><u>Art 33 : Mining and quarry rights subject to tender:</u> Mining and quarry rights where bids have been invited by tender, bids to be examined paying regard to various other socio-economic advantages for the State, the province and the surrounding community, including the signature bonus offered.</p> <p><u>Art 69 (The preparation of the application for the Exploitation Licence):</u> Application submitted together with: e) The EIS and EMPP for the project; f) The report on the consultations with the authorities of the local administrative entities and with the representatives of the surrounding communities; g) The</p> | <p>plus 50%.</p> <p><u>Art 281 (Compensation for the occupants of the land):</u> Occupation depriving the rightful holders of enjoyment of the surface rights, any modification rendering land unfit for cultivation, shall cause the holder to pay fair compensation.</p> <p>Mining Regulations <u>Arts 451 and 452:</u> Active information, consultation and involvement of effected local communities in the discussion and evaluation of the EIS and the EMPP; endeavour to reduce and/or mitigate any negative impact to the maximum extent possible and ensure their well-being and development programmes for local communities.</p> <p><u>Art 477 et seqq.:</u> Continuous obligation of the holder to ensure the informed participation of the affected local communities and to remain in constructive dialogue with them.</p> | <p>pay damages/ compensation.</p> <p><u>Art 104 et seqq:</u> Salary payments in case of illness or accident.</p> <p><u>Art 125:</u> Women, children under the age of 18 and the disabled prohibited from working at night in industrial enterprises.</p> <p><u>Arts 159 to 166:</u> Employers' obligations in regards to OHS as well as hygiene in the workplace and the prevention of the spread of diseases.</p> <p><u>Arts 170 to 176:</u> Employers' obligations in regards to health, safety and hygiene nuisances in the workplace.</p> <p>See also Col 4. <u>Arts 177 to 184</u> and part 2 Col 10 <u>Art 230 et seqq.;</u> <u>Art 255 et seqq.:</u> on rights of association and representation</p> <p><u>Art 262:</u> Workers' representatives to assure themselves that workers' health, safety and hygiene in the</p> | <p>pension of works, the duration of the suspension depending on the extent of the gravity of the offence and its impact on the environment, public health and safety</p> <p>See also Col 3 <u>Art 14 (Directorate of Mines):</u> Responsibilities for health and <u>Art 207 (Special regulations):</u></p> | |
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| | <p>plan on how the project will contribute to the development of the surrounding communities.</p> <p><u>Art 71 (Conditions for granting Exploitation Licence)</u>: Subject to the following b) Demonstration of the financial resources required for the rehabilitation plan for the site when the mine is closed; c) Obtain in advance the approval of the project's EIS and the EMMP; d) Transfer to the Government 5% of the shares in the registered capital of the company applying for the licence. These shares are free of all charges and cannot be diluted.</p> <p>See also in Col 2 Mining Regulations Arts 451 and 452:</p> | | <p>workplace are safeguarded.</p> <p>Mining Code <u>Art 14 (Directorate of Mines)</u>: Responsible for inspecting and supervising mining activities with regard to safety, health and social matters.</p> <p><u>Art 207 (Special regulations)</u>: Mineral Exploitation is subject to the measures for safety, health and protection enacted by special regulations.</p> <p>See also Col 4 <u>Art 292 (Suspension)</u> if violation of health.</p> | | |
| Area of law | Health protection in prospecting licenses/ agreements (1) | Health/ social protection in resettlement (2) | OHS for employed workers / contractors (3) | Health benefits for workers and families (4) | Environment, health and social protection for surrounding communities (5) |
| Kenya | <p>Constitution <u>Art 71 (Agreements relating to natural resource)</u>: Trans-action involving grant of a right or concession, including the national government,</p> | <p>Constitution <u>Art 26 (Right to life)</u> <u>Art 28 (Human dignity)</u> <u>Art 29 (Freedom and security of the person)</u> <u>Art 31 (Privacy)</u></p> | <p>Constitution <u>Art 30 (Slavery, Servitude and forced labour)</u> <u>Art 41 (Labour relations)</u>: Right to</p> | <p>Constitution <u>Art 43 (Economic and social rights)</u>: Right to highest attainable standard of health, including the right to health care services.</p> | <p>Constitution <u>Art 42 (Environment)</u>: Right to a clean and healthy environment.</p> <p><u>Art 60 (Principles of land policy)</u>: Land to be used and managed in an equitable, efficient, productive and sustainable manner, and to</p> |

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| <p>to another person for the exploitation of any natural resource of Kenya, is subject to ratification by Parliament.</p> <p>Environmental Management and Co-ordination Act <u>Sec 57A: All Policies, Plans and Programmes for implementation subject to Strategic Environmental Assessment.</u></p> <p><u>Sec 58 (Application for Environmental Impact Assessment):</u> The proponent of any project specified in the Second Scheduleⁱⁱⁱ shall undertake a full environmental impact assessment study and submit an environmental impact assessment study report prior to being issued with any licence.</p> <p>Mining Act <u>Sec 36:</u> No grant of a mineral right until the applicant has sought approval from all concerned government departments and (h) any other person who in the opinion of the Cabinet Secretary would</p> | <p><u>Art 40 (Protection of right to property):</u> Right to acquire and own property. State not to deprive a person of property, unless the deprivation is for a public purpose or in the public interest and is carried out in accordance with the Constitution and any Act of Parliament that requires prompt payment in full, of just compensation.</p> <p><u>Art 45 (Family):</u> recognition and protection of the family by the State.</p> <p>See also Col 5 <u>Art 70 (Enforcement of environmental rights):</u></p> <p>Environmental Management and Co-ordination Act <u>Sec 3 (Entitlement to a clean and healthy environment)</u> In accordance with the Constitution and relevant laws.^{iv}</p> <p><u>Sec 59 (Publication of Environmental Impact Assessment):</u> In the Government Gazette as well as in at least two newspaper circulating in the proposed project area, and on the</p> | <p>reasonable working conditions and to form, join or participate in a trade union.</p> <p>See also Col 2 <u>Art 29 (Freedom and security of the person)</u>.part 2 Col 10 <u>Art 36 (Freedom of association); Art 37 (Assembly, demonstration, picketing and petition)</u></p> <p>Mining Act <u>Sec 178:</u> Right or entitlement conferred under a mineral right not operate to exempt person from compliance with the provisions of the Occupational Health and Safety Act, for workers and mine operations.</p> <p><u>Sec 217:</u> Holder of mineral right to maintain insurance cover in respect of the attached risks of the operation and especially for health and safety of workers</p> <p>See also Col 1 <u>Sec 42:</u> conditions for granting license</p> <p>Occupational Safety and Health Act <u>Sec 6:</u> Occupier's duty</p> | <p><u>Art 53 (Children):</u> Right to health care and to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour.</p> <p><u>Art 55 (Youth):</u> State to take measures, including affirmative action, to ensure that the youth access relevant education and training, employment; and are protected from harmful cultural practices and exploitation.</p> <p>Occupational Safety and Health Act <u>Sec 97:</u> No person below the apparent age of eighteen years to be employed at any workplace or work process, or perform work, which is likely to harm the person's safety or health.</p> <p>See also in Col 3 Work Injury Benefits Act</p> | <p>ensure sustainable and productive management of resources, and sound conservation and protection of ecologically sensitive areas.</p> <p><u>Art 69 (Obligations in respect of the environment):</u> State to (a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits; (d) encourage public participation in the management, protection and conservation of the environment; (f) establish systems of environmental impact assessment, environmental audit and monitoring of the environment; (g) eliminate processes and activities that are likely to endanger the environment; and (h) utilise the environment and natural resources for the benefit of the people of Kenya.</p> <p><u>Art 70 (Enforcement of environmental rights):</u> Person alleges right to a clean and healthy environment denied, violated, infringed or threatened, may apply to a court for redress in addition to any other legal remedies available. Court may order to prevent, stop or discontinue any act or omission; provide compensation for any victim of a violation of the right to a clean and healthy environment. Applicant does not have to demonstrate that any person has incurred loss or suffered injury.</p> <p>Environmental Management and Co-ordination Act <u>Sec 3 (Entitlement to a clean and healthy environment)</u> In accordance with the Constitution and relevant laws.</p> <p><u>Sec 68 (Environmental Audit)</u> <u>Sec 69 (Environmental Monitoring)</u></p> |
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| <p>otherwise be affected by the grant of a mineral right, who may include the owner of private land or the community in occupation of the land.</p> <p><u>Sec 42:</u> Mineral right may be granted subject to conditions including (b) the protection of the environment; (c) community development; (d) safety of prospecting and mining operations; (e) health and safety of persons undertaking those operations.</p> <p><u>Sec 101:</u> Application for mining licence to be accompanied by (i) approval of environmental and social impact assessment report and environmental management plan; and (j) plan giving particulars of the applicant's proposals with respect to social responsible investments for the local community</p> <p><u>Sec 117:</u> State may enter into a mineral agreement with holder of mining licence where proposed investment exceeds US\$500 million. Agreement to include terms and conditions</p> | <p>radio, stating all details and inviting oral or written comments.</p> <p>Mining Act <u>Sec 20:</u> The Director of Mines responsible for (o) advising on the development of policy to ensure compliance with international conventions and national policies relating to the sustainable development of the mineral resources and ensure that mining operations take into account local and community values.</p> <p><u>Sec 34:</u> Cabinet Secretary give notice in writing of any pending mineral right application to (a) the land owner or lawful occupier of the land; (b) the community; and (c) the relevant county Government. A person or community may object to the granting of a licence.</p> <p><u>Sec 153:</u> Principles of compensation in regard to the exercise of rights conferred by a mineral right.</p> <p>Also see Col 1 <u>Sec 36:</u></p> | <p>to ensure the safety, health and welfare at work of all persons working in his workplace.</p> <p><u>Sec 9:</u> Duty to establish safety and health committees at work.</p> <p><u>Sec 10:</u> Employees not to be charged for any provision under this act.</p> <p><u>Sec 11:</u> Duty to conduct safety and health audits.</p> <p><u>Sec 16:</u> Prohibition against the creation of hazards.</p> <p><u>Sec 96:</u> Employer to issue a permit to work^y to any employee, likely to be exposed to hazardous work processes or hazardous working environment.</p> <p><u>Sec 99:</u> Requirement to train and supervise inexperienced workers at any machine or in any process liable to cause ill health or bodily injury.</p> <p>Work Injury Benefits Act Providing for compensation to employees, or their</p> | | <p><u>Sec 112 (Environmental easements and environmental conservation orders):</u> Court may, grant an environmental easement or an environmental conservation order on land to (h) prevent or restrict the scope of any activity on the land which has as its object the mining and working of mineral aggregates. 5A) Use principle of voluntary environment management to encourage land owners to grant an easement on their land and to encourage environmental conservation as a competitive land use option.</p> <p>See also part 2 col 7 <u>Sec 57 (Fiscal incentives and Col 1 <u>Sec 58 (Application for Environmental Impact Assessment): Col 2 <u>Sec 59 (Publication of Environmental Impact Assessment):</u></u></u></p> <p>Mining Act <u>Sec 43:</u> Holder not to engage in wasteful mining and conduct operations in accordance with this Act, best industry practice and any other guidelines.</p> <p><u>Sec 176:</u> Mineral right or other licence or permit does not exempt person from complying with any law concerning the protection of the environment.</p> <p><u>Sec 181:</u> Licence applicant to provide financial security (environmental protection bond) sufficient to cover costs associated with implementation of environmental and rehabilitation obligations of the holder.</p> <p>See also Col 1 <u>Sec 42: conditions for granting a mineral right</u> including (b) the protection of the environment;; <u>Sec 101:</u> Application for mining licence to be accompanied by (i) approval of</p> |
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| | <p>relating to (d) the environmental obligations and liabilities, subject to legislation; (e) the procedure for settlement of disputes; (h) insurance arrangements; (i) resolution of disputes through an international arbitration or a sole expert; and (j) community development plans; (k) the payments of royalties, taxes, cess and other fiscal impositions; and (l) financial arrangements.</p> <p>Also see Col 3 <u>Sec 20</u> and <u>Sec 43</u>: on duties of mining operators and <u>Sec 178</u>: on exemption from OHS law.</p> | | <p>dependants, for work related injuries and diseases contracted in the course of employment.</p> | | <p>environmental and social impact assessment report and environmental management plan; <u>Sec 117</u>: (d) the environmental obligations and liabilities, and Col 2 <u>Sec 20</u>: compliance with international conventions and national policies; and part 2 Col 9 <u>Sec 179</u>: on restoration of abandoned mines; and <u>Sec 180</u>: on mitigation and rehabilitation or mine-closure plans</p> |
| Area of law | Health protection in prospecting licenses/ agreements (1) | Health/ social protection in resettlement / relocation (2) | OHS for employed workers / contractors (3) | Health benefits for workers and families (4) | Environment, health and social protection for surrounding communities (5) |
| Lesotho | <p>Environment Act <u>Sec 19</u>: An environment impact assessment be undertaken on projects and activities specified in Part A of the First Schedule^{vi}.</p> <p><u>Sec 21</u>: Where an environmental impact study needs to be undertaken, the</p> | <p>Mines and Minerals Act <u>Sec 56</u>: Holder of mineral concession shall promptly, pay the lawful owner or occupier of land compensation for any disturbance of their rights and for any damage done to the surface of the land by such operations and pay the owner of any crops, trees, buildings or works</p> | <p>Labour Code <u>Sec 6 (Freedom of association)</u>: Freedom of association guaranteed for all workers, employers and their respective organisation.</p> <p><u>Sec 7 (Forced labour prohibited)</u></p> <p><u>Sec 168</u>: (Freedom of</p> | <p>Environment Act: See Col 5 Section 4 (<u>Right to a clean and healthy environment</u>):</p> <p>Labour Code <u>Sec 124 (Minimum age for employment)</u>: No child^{viii} shall be employed or work in any industrial undertaking^{ix}.</p> | <p>Environment Act <u>Sec 3 (Principles of environmental management)</u>: (a) to assure the fundamental right to a clean and healthy environment; (b) to ensure that sustainable development is achieved; (c) to use and conserve the environment and natural resources for the benefit of both present and future generations; (g) to encourage participation by the people of Lesotho in the development of policies, plans and processes for the management of the environment; (k) to establish adequate</p> |

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| <p>developer shall make an environmental impact study and submit an environmental impact statement on the completion of the study.</p> <p>The environmental impact statement shall provide (b) a description of the potentially affected environment; (e) environmental impact of the proposed activity or project; (f) an identification and description of measures for eliminating, minimizing or mitigating adverse effects of the project or activity on the environment; (j) the social, economic and cultural effects the project is likely to have on people and society; (l) a comprehensive mitigation plan.</p> <p><u>Sec 25:</u> No person to operate, execute or carry out a project or activity specified in the First Schedule without an environmental impact assessment licence</p> <p>Mines and Minerals Act <u>Sec 33:</u> The Minister</p> | <p>damaged during the course of such operations, compensation for such damage.</p> | <p><u>association</u>):Workers and employers, have the right to establish and to join organisations of their own choosing.</p> <p>Mine Safety Act Specific provision for preventing accidents at mines; for securing the safety, health and welfare of persons employed at mines.</p> <p><u>Sec 11:</u> Inspector of Mines empowered to give written notice if he finds that a mine or any matter, thing or practice in or connected with a mine is or may be dangerous to human life or safety; requiring the danger to be remedied within the time and in the manner specified; and where the danger appears to be imminent, imposing prohibitions, restrictions or requirements as necessary for the purpose of safeguarding the safety or health of persons employed at the mine.</p> <p><u>Secs 13, 14, 15:</u> Inquiry into accidents, incidents, occurrences or health and safety conditions at a mine.</p> | <p><u>Sec 126 (Restriction on employment of children and young persons on night work):</u>No child or young person^x shall be employed at night in any industrial undertaking.</p> <p><u>Sec 127 (Restrictions on employment of children and young persons in mines and quarries):</u> No child or young person shall be employed in any mine except a young male person over the age of 16 who is employed otherwise than underground in terms of an apprenticeship approved by the Labour Commissioner and in respect of whom a medical officer has certified that he is fit for such work.</p> <p><u>Sec 132 (Restriction on the employment of women in mines):</u> No woman shall be employed on underground work in any mine except with the written approval of the Labour Commissioner in accordance with the Underground Work (Women) Convention, 1935 (No. 45), of the ILO.</p> | <p>environmental protection standards and monitor changes; (l) to require prior environmental impact assessment of proposed projects or activities which are likely to have adverse effects on the environment or natural resources; (n) to ensure that the cost of environmental abuse or impairment are borne by the polluter.</p> <p><u>Sec 4 (Right to a clean and healthy environment):</u> Every person in Lesotho has a right to a scenic, clean and healthy environment and a duty to safeguard and enhance the environment.Right to bring action against person whose activity or is causing or is likely to cause harm to human health or the environment.</p> <p><u>Secs 37 and 38, 55 and 56:</u> Prohibition of discharge of hazardous substances, chemicals and materials or oil into the environment and pollution. Polluter to pay the cost of the removal, including any costs which may be occurred in the restoration of the environment; and the cost of third parties in the form of reparation, restoration, restitution or compensation determined by a court of law.</p> <p><u>Sec 84:</u> Environmental restoration notice to be issued to a person whose activities have degrading effect on the environment or natural resources to restore that environment or natural resources as to the state in which it was before activities began; or preventing the person from taking an action causing or likely to cause harm to the environment or natural resources.</p> <p>See Col 1 <u>Sec 19:</u> environment impact assessment; <u>Sec 21:</u> environmental impact statement; <u>Sec 25:</u> Obligation to implement an EIA</p> |
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| | shall approve and issue a mining lease only if (g) the applicant has obtained an environmental impact assessment licence from the Authority ^{vii} . | | <p><u>Sec 23:</u> Regulations under this Act for (b) of all matters relating to sanitation, health and welfare of persons employed at mines; (j) prescribing conditions of employment at mines including minimum rates of remuneration number of days of paid leave and sick leave; (k) requiring the imparting of practical instruction to or training of, persons employed or to be employed in mines.</p> <p><u>Sec 22:</u> No person under the age of eighteen shall be employed at a mine. No woman shall be employed at a mine - below ground; or above ground except between the hours of 7a.m. and 6p.m.</p> | <p><u>Sec 133 (Absence from work in connection with confinement):</u> Pregnant female employee permitted to absent herself from work for six weeks prior to her confinement. The employer shall not permit or require her to return to work until the expiry of six weeks immediately after her confinement.</p> <p><u>Sec 137 (Female employee to be permitted to nurse child):</u> Female employee permitted to suckle her infant or otherwise feed the infant herself for up to one hour in a day during the hours of work for six months immediately after her return to work, retaining her full, basic pay.</p> | <p>Mines and Minerals Act</p> <p><u>Sec 39:</u> The holder of a mining lease shall (b) develop and mine the mineral covered by his mining lease in accordance with the programme of mining operations and good mining and environmental practice.</p> <p><u>Sec 40:</u>Holder shall not engage in wasteful mining or treatment practices or conduct his operations otherwise than in accordance with good mining practices.</p> <p><u>Sec 58:</u>The holder of a mineral right to conduct operations in such manner to (a) preserve the natural environment; (b) minimise and control waste or undue loss of or damage to natural and biological resources; (c) prevent and where unavoidable, promptly treat pollution and contamination of the environment.</p> <p>See Col 1 _ <u>Sec 33:</u> environmental impact assessment</p> |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| Madagascar | Environmental Protection Regulation <u>Art 2:</u> No research or mining operations pursuant to licenses or authorizations, without a prior environmental | Constitution <u>Art 13</u> [Protection of person, residence, and correspondence. <u>Art 17</u> [Personal Integrity, Dignity, Development]; | Mining Code <u>Art 108:</u> Holder to operate insuring safety and environmental protection, security and hygiene of staff. | Constitution <u>Art 19</u> [Health, No Abortion]: The State shall recognize every individual's right protection of his health. | Constitution <u>Art 35</u> [Minority Rights]: Fokonolona to take measures to prevent destruction of their environment, loss of their land, seizure of herds of cattle, or loss of their ceremonial heritage, unless these measures jeopardize the common interest or public order. |

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| <p>authorization and only within the limits of the environmental impact study or environmental commitment plan.</p> <p><u>Art 39:</u> Measures contained in the EIE^{xi} and the PGEP^{xii} aiming at: security of the site during and after the mining operation; reducing damageable effects on atmosphere and on springs or waterways;</p> <p>Mining Code <u>Art 37:</u> Approval concerning environmental protection and environmental impact study required before licence can be issued. The license validity period is forty years.</p> <p><u>Art 94:</u> Before beginning activities, the holder to introduce himself to the relevant authorities. Without this formality, the holder cannot request for the assistance of the relevant local authorities in case of difference of opinion with the population.</p> | <p>Guarantee to individual personal integrity and dignity, complete physical, intellectual, and moral development.</p> <p><u>Art 20 [Family, Inheritance]:</u> The family, the natural basis of society, shall be protected by the State.</p> <p>Environmental Protection Regulation <u>Art 39:</u> Measures contained in the EIE^{xiii} and the PGEP^{xiv} aiming at: improving the wellbeing of local communities by implementing economic and social development programs and by predicting indemnity in case of displacement from the place where they live</p> | <p><u>Art 109:</u> Holder to comply with rules of hygiene, healthiness, public health, job security, protection against radiation, rights of the individual or collective owners.</p> <p><u>Art 111:</u> Duty to report workplace accidents.</p> | <p><u>Art 21 [Protection of Family, Mother, Child]:</u> State to protect the well-being of the family, the mother and child.</p> <p>See also Col 2 <u>Art 17 [Personal Integrity, Dignity, Development]:</u></p> | <p><u>Art 39 [Environment]</u> Everyone's duty to respect the environment; State assure its protection.</p> <p>Environmental Protection Regulation See also Col 1 <u>Art 2:</u> <u>Art 39;</u> and Col 9 <u>Art 38</u> end of mining obligations and Mining Code <u>Art 37:</u> in Col 1</p> <p><u>Art 5:</u> Minister of the Environment grant or refuse environmental Authorization for operations submitted to the EIE.</p> <p><u>Art 8:</u> Minister grants environmental discharge to licence holders who have performed their environmental obligations.</p> <p><u>Art 37:</u> Projects to to carry out an EIE and to develop a PGEP.</p> <p><u>Art 63:</u> All projects subject to an environmental audit before the end of the project.</p> <p><u>Art 66:</u> Environmental discharge only issued after acceptance by the Ministry of the Environment based on favourable results of the environmental audit.</p> <p>Mining Code <u>Art 99:</u> Required to take protection measures to minimize and to repair all damages. Responsible for all environmental deterioration.</p> <p><u>Art 103:</u> License holder to receive the discharge of the authority after in situ report of the completion of the rehabilitation works.</p> |
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| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
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| Malawi | <p>Environment Management Act <u>Sec 24:</u> Requirement for environmental impact assessment.</p> <p><u>Sec 25:</u>Submission of environmental impact assessment report detailing impact on the environment and measures for eliminating, reducing or mitigating any anticipated adverse effects. Report to be open for public inspection.</p> <p><u>Sec 26:</u> Ministry to invite written or oral comments from the public, and may (a) conduct public hearings (b) require the developer to redesign the project or to take other action taking into account all the relevant environmental concerns highlighted and any comments made by the public.</p> <p><u>Sec 37:</u> Application for mining licence to include: proposal for prevention of pollution, treatment of wastes, safeguarding of natural resources, progressive</p> | <p>Constitution <u>Art 16:</u> Right to life <u>Art 18:</u>Right to personal liberty <u>Art 19:</u> Right to freedom and security of person. <u>Art 22:</u> The family is entitled to protection by society and the State.</p> <p><u>Art 44:</u> Expropriation of property only permissible when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law.</p> <p>Mines and Minerals Act <u>Sec 105:</u> Holder liable to pay to lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests of the lawful occupier.</p> | <p>Constitution <u>Art 27:</u>Slavery, servitude and forced labour are prohibited.</p> <p>See also Col 2 <u>Art 19:</u></p> <p>Mines and Minerals Act <u>Sec 117:</u> Authority empowered to issue directions or impose restrictions with respect to the health and safety of employees in mines.</p> <p><u>Sec 128:</u> Regulations concerning matters relating to sanitation and health to be made under this Act</p> <p>Mining (Safety) Regulations <u>Sec 6 (Duty of manager to take measures to prevent danger)</u></p> <p><u>Sec 7 (Duty of all persons in authority to prevent danger)</u></p> <p><u>Sec 33 (Healthy atmosphere to be ensured)</u></p> <p>Occupational Safety, Health and Welfare Act Act to make provision</p> | <p>Constitution <u>Art 13:</u> State to actively promote the welfare and development of the people of Malawi, adopting and implementing policies and legislation aimed at achieving adequate health care, commensurate with the health needs of Malawian society and international standards of health care.</p> <p><u>Art 23:</u>Children^{xv} to be protected from economic exploitation or any treatment, work or punishment that is, or is likely to be hazardous; interfere with their education; or be harmful to their health or to their physical, mental or spiritual or social development.</p> <p><u>Art 30:</u> State to take measures for the realization of the right to development and include access to health services, employment and infrastructure.</p> <p>Occupational Safety, Health and Welfare Act <u>Sec 14 (General duties</u></p> | <p>Environment Management Act <u>Sec 3:</u>Duty of every person to promote clean environment, protect and manage the environment and to conserve natural resources and to promote sustainable utilization of natural resources.Promoting of co-operation with foreign governments and international or regional organizations in the protection of the environment and the conservation and sustainable utilization of natural resources.</p> <p><u>Sec 4:</u>Natural resources of Malawi constitute an integral part of the natural wealth of the people of Malawi. Right to a decent environment to be protected, conserved and managed for the benefit of the people of Malawi; and are not be exploited or utilized without the prior written authority of the Government.</p> <p><u>Sec 5:</u>Every person has a right to a clean and healthy environment, and right to challenge any alleged violation.</p> <p>See Col 1 <u>Sec 24:</u>, <u>Sec 25;</u> <u>Sec 26</u> on environmental impact assessment.</p> <p><u>Sec 30:</u> Prescription of environmental quality standards.</p> <p><u>Sec 31:</u> Government may determine (a) fiscal incentives as are necessary for promoting the protection and management of the environment and the conservation and sustainable utilization of natural resources; and (b) measures as are necessary for preventing the unsustainable use of natural resources and controlling the generation of pollutants.</p> <p><u>Sec 33:</u> Issuance of environmental protection</p> |

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| | <p>reclamation and rehabilitation of land disturbed by mining and for minimization of effects of mining on surface water and ground water and on adjoining or neighbouring lands; report on locally sourced goods and services; proposal in regard to employment and training of Malawians; statement of infrastructure requirements.</p> <p><u>Sec 39</u>: No licence to be granted if these are not satisfactory or adequate.</p> <p>Mines and Minerals Act <u>Sec 13</u>: Mineral right only to be granted to citizens or residents of at least four years, companies or corporations incorporated in Malawi.</p> <p><u>Sec 95</u>: Conditions for environmental protection to be included in licence.</p> <p><u>Sec 96</u>: Conditions for rehabilitation of area damaged by mining to be included in licence.</p> | | <p>for the regulation of the conditions of employment as regards the safety, health and welfare of employees, the prevention and regulation of accidents occurring to persons employed or authorized to go into the workplaces.</p> <p><u>Sec 13: (Duties of employers)</u>: Duty of every employer to ensure the safety, health and welfare at work of all his employees.</p> <p><u>Sec 34 (Medical examination)</u>: Occupational health examination where the nature of any process, activity or occupation in a workplace or on structural work is such as to make it necessary, in the interest of OHS.</p> <p><u>Sec 66 (Notification of accidents)</u></p> <p>Public Health Act <u>Sec 59</u>: Prohibition of nuisances injurious or dangerous to employees.</p> | <p><u>of employers and self-employed persons to persons other than their employees</u>): Duty of every employer to conduct undertaking in such a way as to ensure that persons not in his employment who may be affected by the undertaking are not thereby exposed to risks to their safety or health.</p> <p><u>Sec 67 (Notification of industrial diseases)</u></p> <p>Public Health Act <u>Sec 14</u>: Regulations in respect of notification of infectious diseases in mines.</p> | <p>orders where acts or omission have or are likely to have adverse effects on the environment or environmental management.</p> <p><u>Sec 52</u>: Every person to have access to any information submitted or relating to the implementation of the provisions of this Act or any other law relating to the protection and management of the environment.</p> <p>Mines and Minerals Act See also Col 1 <u>Sec 95</u>: and <u>Sec 96</u>:</p> |
| Mauritius | N/A – non-extractive industry country | | | | |

| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
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| Mozambique | <p>Mining Law <u>Art 8 (Mining contract):</u> Government may enter into a mining contract, prescribing a) State participation in the mining venture; b) Minimum local content; c) local employment and technical-professional training programmes; d) incentives for the increase of value of the minerals; e) social responsibility activities to be developed by the mining holder; f) memorandum of understanding between the Government, the company and the community(ies); g) dispute settlement mechanisms, including provisions related to the settlement of any such disputes through arbitration; h) the way communities of the mining area are engaged and benefitted by the venture.</p> <p><u>Art 26 Instituto Nacional de Minas (National Institute of Mines):</u> Responsible for reviewing and approving projects and technical</p> | <p>Mining Law <u>Art 13 (Competence of the Government):</u> The Government is responsible for: g) protecting the communities where mining activities are authorized and promote socio-economic development.</p> <p><u>Art 30 (Fair compensation):</u> 1. When the available area covers, totally or partially, spaces where families or communities are established, implying their replacement, the company must pay them a fair and transparent compensation. 2. The fair compensation value must be fixed in an understanding memorandum between the Government, the company and the community, and such an act may be witnessed by a community-based organization, if requested by one of the parties. 3. The above mentioned memorandum is one of the requirements for the allocation of mining exploration rights. 4. The Government is responsible for assuring the best terms and conditions in favour of the community, including the payment of fair</p> | <p>Labour Law <u>Art 54 (Rights of employees):</u> g) enjoy suitable measures of protection, safety and hygiene at work, capable of ensuring their physical, moral and mental integrity; h) benefit from medical and medicinal aid, and to receive compensation for accidents at work or occupational illness; i) to go to the Labour Inspectorate or to authorities with labour jurisdiction, whenever their rights are threatened; j) to associate freely in professional organisations or trade unions, in accordance with the Constitution of the Republic of Mozambique.</p> <p><u>Art 59 (Duties of employers):</u> Employers are, in particular, subject to the following duties: b) to guarantee the observance of rules on hygiene and safety at work, as well as to investigate the causes of work accidents and occupational illnesses and to take appropriate</p> | <p>Labour Law <u>Art 10 (Protection of maternity and paternity)</u></p> <p><u>Art 11 (Special rights of female employees):</u> During the period of pregnancy and after childbirth.</p> <p><u>Art 12 (Maternity and paternity leave):</u> In addition to normal holidays, female employees shall be entitled to maternity leave of sixty consecutive days.</p> <p><u>Art 23 (Minor workers):</u> Employers to adopt measures aimed at affording minors working conditions that are appropriate for their age, health, safety, education and vocational training and preventing any damage to their physical, psychological and moral development. Employers shall not give minors under the age of eighteen work that is unhealthy, dangerous or which requires great physical strength.</p> <p><u>Art 24 (Prior medical examination):</u> Minors only</p> | <p>Mining Law <u>Art 3 (Object):</u> To regulate the use and re-use of mineral resources in harmony with the best and safest mining and socio-environmental practices and transparency, allowing a sustainable long term development and the raising of revenues in favour of the State.</p> <p>See also Col 1 <u>Art 8 (Mining contract): Art 36 (General Obligations of the mining holder): Art 68 (Principles): Art 70 (Environmental Management Tools): Col 2 Art 13 (Competence of the Government): Art 30 (Fair compensation): Art 32 (Involvement of communities): Art 41 (Specific obligations of a mining holder):</u></p> <p>Regulations for the Resettlement Process Resulting from Economic Activities <u>Art 4 Principles:</u> a) Principle of Social Cohesion – the resettlement shall guarantee social integration and re-establish the standard of living of the affected people, to a higher level; b) Principle of Social Equality – all those affected by the resettlement process are entitled to the re-establishment or creation of conditions equal or above their previous standard of living; c) Principle of Direct Benefit – the affected people shall be given the possibility to benefit directly from the undertaking and its socio-economic impacts; d) Principle of Social Equity – the resettlement of populations in new areas shall take into account access to the available means of subsistence, social services and resources; e) Principle of Non-Alteration of the Income Level – the resettled people shall have the possibility to re-establish their previous basic income level; f) Principle of Public Participation –</p> |

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| <p>and economic studies for the opening of new mines as well as rehabilitation and/or closure of already existing ones.</p> <p><u>Art 36 (General Obligations of the mining holder):</u> Holder of mining rights has obligation to: b) carry out social, economic and sustainable development actions in the areas of the mining concession; c) secure employment and technical training to national citizens especially the ones who live in the concession area. j) comply with the provisions contained in the Environmental Impact study; k) develop the necessary actions regarding the environmental protection according to the Environmental Impact Study; l) promote public health and security according with national and international applicable legislation; m) provide information about soil and environment characteristics; n) repair the damages caused to third parties by the</p> | <p>compensation.</p> <p><u>Art 31 (Contents of fair compensation):</u> Must cover: a) resettlement in dignified homes, by the holder of the mining concession, in better conditions than the previous ones; b) payment of the value of the improvements under the Land Law and any other applicable legislation; c) support in the development of activities that those covered depend on in life, food and nutritional safety; c) preservation of historical, cultural and symbolic heritage of families and communities in ways to be agreed.</p> <p><u>Art 32 (Involvement of communities):</u> 1. Previous information concerned with the beginning of the prospecting and research activities must be provided to communities as well as the necessity of their temporary resettlement for this purpose. 2. Communities must be previously consulted before the granting of an authorization for the beginning of mining exploration. 3. The Government shall create mechanisms in order to</p> | <p>preventive measures.</p> <p><u>Art 216 (General principles):</u> Employees have the right to perform their work in hygienic and safe conditions, and employers are responsible for creating and developing adequate means for protecting the physical and mental integrity of employees and constantly improving working conditions.</p> <p><u>Art 217 (Work safety commissions):</u> Enterprises that pose exceptional risks of accident or occupational illness have an obligation to establish work safety commissions.</p> <p><u>Art 226 (Prevention of work accidents and occupational illness)</u></p> <p><u>Art 33 (Workforce in mining activities):</u> 1. Mining companies to assure workers' rights and a harmonious environment in labour relationships. 2. Assure the employment and professional training of Mozambican workers. 3. Assure the workers' safety and health accor-</p> | <p>to be employed after been given a medical examination to assess their physical strength, mental health and ability to do the work.</p> <p><u>Art 25 (Medical inspection):</u> The fitness of minors for work shall be subject to an annual medical inspection.</p> <p><u>Art 219 (Medical assistance at the workplace)</u></p> <p><u>Art 221 (Medical examinations):</u> Enterprises equipped with a health unit carry out regular examinations of the employees to check: a) whether the employees meet the conditions of health and physical fitness necessary for the work stipulated in their contract; b) whether any employee is carrying an infectious-contagious disease that may endanger the health of the other employees in the enterprise; c) whether any employee is suffering from a mental disease that makes his/ her employment in the assigned job inadvisable.</p> | <p>in the resettlement process there shall be hearings of local communities and other parties interested in and affected by the activity; g) Principle of Environmental Accountability – whoever pollutes or in any other way degrades the environment has always the obligation to repair or compensate the resulting damages; h) Principle of Social Responsibility – the investor must create social infrastructures, which promote learning, leisure, sports, health, culture and other projects of community interest.</p> <p>See also Col 2 <u>Art 2 (Object)</u> Regulations stipulate the basic rules and principles of the resettlement process, on account of economic activities; <u>Art 13 (Public Participation):</u> <u>Art 14 (Right to Information):</u> <u>Art 16 (Resettlement Model):</u> The resettlement process is accompanied by the establishment of health post. and Col 10 <u>Art 8 Other Stakeholders of the Resettlement Process:</u> <u>Art 10 (Rights of the affected population);</u> <u>Art 23 (Public Consultation)</u></p> |
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| <p>exercise of mining activities.</p> <p><u>Art 68 (Principles):</u> Exercise of mining activities must be made according to: a) laws and regulations on the use and enjoyment of mineral resources as well as environmental protection and preservation rules, including socio-economic and cultural aspects; b) good mining practices in order to ensure the preservation of biodiversity minimize waste and loss of mineral resources and protection against adverse effects to the environment.</p> <p><u>Art 70 (Environmental Management Tools):</u> Environmental impact study required for mining activities. Communities must be heard throughout the process of implementation of the environmental management tool until the closure of the mine.</p> | <p>allow the engagement of communities in the mining projects located where they are settled. 4. The Government is responsible for assuring the organization of the communities in order to promote their engagement as mentioned above.</p> <p><u>Art 41 (Specific obligations of a mining holder)</u>Holder must observe b) respect the local communities and contribute for the preservation of their socio-cultural values.</p> <p>Regulations for the Resettlement Process Resulting from Economic Activities <u>Art 2 (Object)</u> Stipulate the basic rules and principles of the resettlement process, on account of economic activities.</p> <p>See also Col 5 <u>Art 4 (Principles)</u>.</p> <p><u>Art 5 (Purpose of the Resettlement):</u>aims at stimulating the socio-economic development.</p> <p><u>Art 8 (Other Stakeholders of the Resettlement Process):</u> Stakeholders participate in the resettlement to Mozambican and international applicable legislation.</p> | <p><u>Art 36 (General Obligations of the mining holder):</u> Holder of mining rights has obligation to: b) carry out social, economic and sustainable development actions in the areas of the mining concession; c) secure employment and technical training to national citizens especially the ones who live in the concession area.</p> | <p><u>Art 228 (Duty to provide assistance):</u> In the event of a work accident or occupational illness, the employer to provide first aid and suitable transport to a medical centre or hospital. Employee entitled to medical and medicinal aid and other necessary care, as well as the provision and normal renewal of prosthetic and orthopaedic equipment, according to the nature of the injury suffered, all at the expense of the employer or of insurers against accidents and occupational illness.</p> <p><u>Art 229 (Right to reparation):</u>Employees shall have a right to reparation or compensation in the event of a work accident or occupational illness.</p> <p><u>Art 231 (Collective insurance for ordinary occupational risks)</u> <u>Art 232 (Collective insurance for aggravated occupational risks)</u> <u>Art 233 (Pensions and compensation)</u></p> <p>See also Col 3, <u>Art 54</u></p> | |
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| | | <p>ment process: a) Five representatives of the affected population; b) One representative of Civil Society; c) Three community leaders; d) Two representatives of the private sector.</p> <p><u>Art 10 (Rights of the affected population)</u> <u>Art 13 (Public Participation)</u> :Is guaranteed. <u>Art 14 (Right to Information)</u></p> <p><u>Art 15 (Resettlement Plan)</u>: is an integral part of the Environmental Impact Assessment Process</p> <p><u>Art 16 (Resettlement Model)</u>:The resettlement process is accompanied by the establishment of health post.</p> <p><u>Art 23 (Public Consultation)</u></p> | | <p><u>(Rights of employees)</u> <u>:Art 59: (Duties of employers)</u>:</p> <p>Mining Law <u>Art 36 (General Obligations of the mining holder)</u>: Holder of mining rights has obligation to: l) promote public health and security according with national and international applicable legislation</p> | |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| Namibia | <p>Environmental Management Act See Col 5 Sec 2: esp (c) ensuring that the findings of an assessment are taken into account before any decision is made in respect of activities.</p> <p>See Col 5 Sec 3: esp</p> | <p>Constitution <u>Art 6 [Protection of Life]</u></p> <p><u>Art 14 [Family]</u>: The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.</p> <p><u>Art 16 [Property]</u>:.... The</p> | <p>Constitution <u>Art 9 [Slavery and Forced Labour]</u>: No persons shall be held in slavery or servitude. No persons shall be required to perform forced labour.</p> <p>Labour Act <u>Sec 4:Prohibition of</u></p> | <p>Constitution <u>Art 15 [Children's Rights]</u> Children^{vi} entitled to be protected from economic exploitation and not to be employed in or required to perform work that is likely to be hazardous or to interfere with their education, or to be harmful to their</p> | <p>Constitution <u>Art 95 [Promotion of the Welfare of the People]</u>: The State to actively promote and maintain the welfare of the people by adopting policies aimed at: l) maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future.</p> <p>Environmental Management Act</p> |

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| <p>(e) assessments to be undertaken for activities which may have a significant effect on the environment or the use of natural resources.</p> <p><u>Sec 27:</u>Resource removal may not be undertaken without an environmental clearance certificate.</p> <p>Minerals (Prospecting and Mining) Act <u>Sec 48:</u>Environmental Impact Studies required before issuance of mineral licences.</p> <p><u>Sec 49 (Mineral agreements):</u> ... terms and conditions agreed upon on which a mineral licence will be issued and which may include details of (iv)the participation, including the acquisition of equity share capital, by the State; (ix) guarantees to ensure the due and proper performance of the liabilities and obligations;(x) insurance arrangements.</p> <p><u>Sec 50 (General terms and conditions of mineral licences):</u> Holder of mineral licence shall -</p> | <p>State may expropriate property in the public interest subject to the payment of just compensation, in accordance with the law.</p> <p><u>Art 95 [Promotion of the Welfare of the People]:</u> The State to actively promote and maintain the welfare of the people by adopting policies aimed at the following: b) enactment of legislation to ensure that the health and strength of the workers, men and women, and the tender age of children are not abused;... j) consistent planning to raise and maintain an acceptable level of nutrition and standard of living of the Namibian people and to improve public health.</p> <p>Minerals (Prospecting and Mining) Act <u>Sec 50 (General terms and conditions of mineral licences):</u> Holder of mineral licence shall -(a) exercise any right so the rights and interests of the owner of any land are not adversely affected, except to the extent to which such owner is compensated.</p> | <p>forced labour.</p> <p><u>Sec 39</u> Employer's duty to provide a working environment that is safe; without risk to the health of employees; and has adequate facilities and arrangements for the welfare of employees.</p> <p><u>Sec 40:</u>Employer's duty to conduct business operations in a manner that persons who are not employees of that employer are not exposed to the risk of their safety or health.</p> <p><u>Sec 135:</u>Regulations to be made under this Act in relation to (g) medical examinations in relation to occupational health; (s) safety, health, hygiene, sanitation and welfare of persons employed in or about mines.</p> <p>Regulations relating to the health and safety of employees at work</p> | <p>health or physical, mental, spiritual, moral, or social development. No children under the age of fourteen (14) years shall be employed to work in any factory or mine.</p> <p>See also Col 2 <u>Art 95 [Promotion of the Welfare of the People]:</u></p> <p>Labour Act <u>Sec 3:</u>A child under the age of 16 years must not be employed on any premises where work is done underground or in a mine.</p> <p><u>Sec 19:</u>Prohibition night work for pregnant women eight weeks before her expected date of confinement and eight weeks after her confinement.</p> <p><u>Sec 26:</u>Female workers entitled to not less than 12 weeks' maternity leave .Employer to continue paying the remuneration with exception of basic wage, the latter to be covered by The Social Security Commission established by the Social Security Act,1994 (Act No. 34 of</p> | <p><u>Sec 2:</u>To prevent and mitigate significant effects of activities on the environment by (a) ensuring that the significant effects of activities are considered in time and carefully; (b) ensuring that there are opportunities for timeous participation of interested and affected; and (c) ensuring that the findings of an assessment are taken into account before any decision is made in respect of activities.</p> <p><u>Sec 3:</u>Principles of environmental management: (a) renewable resources must be used on a sustainable basis;(b) community involvement in natural resources management and the sharing of benefits arising from the use of the resources; (c) the participation of all interested and affected parties must be promoted and decisions must take into account the interest, needs and values of interested and affected parties; (e) assessments to be undertaken for activities which may have a significant effect on the environment or the use of natural resources; (j) a person who causes damage to the environment must pay the costs associated with rehabilitation of damage to the environment and to human health caused by pollution ; and (l) damage to the environment must be prevented and activities which cause such damage must be reduced, limited or controlled.</p> <p>See Col 1 <u>Sec 27:</u>Resource removal</p> <p>Minerals (Prospecting and Mining) Act See Col 1 <u>Sec 48:</u> Environmental Impact Studies; <u>Sec 50 (General terms and conditions of mineral licences):</u></p> |
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| | (a) exercise any right so the rights and interests of the owner of any land are not adversely affected, except to the extent to which such owner is compensated; (f) prepare an environmental impact assessment. | | | 1994). See Col 3 <u>Sec 135</u> : Regulations on medical examinations Regulations relating to the health and safety of employees at work | |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| South Africa | Mineral and Petroleum Resources Development Act <u>Sec 5 (Legal nature of prospecting right, mining right, exploration right or production right, and rights of holders thereof)</u> : No mining without right granted under this Act. No right to be granted without an approved environmental management programme or approved environmental management plan. <u>Sec 10 (Consultation with interested and affected parties)</u> : Regional Manager must make known that an application for a prospecting right, mining right or mining permit has been received and | Mineral and Petroleum Resources Development Act <u>Sec 54 (Compensation payable under certain circumstances)</u> <u>Sec 55 (Minister's power to expropriate property for purpose of prospecting or mining)</u> . If necessary for the achievement of the objects the Minister may, in accordance with the Constitution, expropriate any land or any right therein and pay compensation in respect thereof. | Mine Health and Safety Act <u>Sec 1 (Objects of Act)</u> : (a) to protect the health and safety of persons at mines; (b) eliminate, control and minimise the risks relating to health and safety at mines; (c) to give effect to public international law obligations that concern health and safety at mines; (d) to provide for employee participation in matters of health and safety; (e) to provide for effective monitoring of health & safety conditions at mines; (f) to provide for enforcement of health and safety measures at mines; (g) to provide for investigations to improve health and safety at mines. | Mine Health and Safety Act <u>Sec 5 (Manager to maintain healthy and safe mine environment)</u> : Ensure that persons who are not employees, but who may be directly affected by the activities at the mine, are not exposed to any hazards to their health and safety. See Col 3 <u>Sec 12 (occupational hygiene measurements)</u> ; <u>Sec 13 (medical surveillance)</u> ; <u>Sec 18 (Costs of examination)</u> : | Mine Health and Safety Act See Col 4 <u>Sec 5 (Manager to maintain healthy and safe mine environment)</u> : Mineral and Petroleum Resources Development Act See Col 1 <u>Sec 5</u> on requirement for an approved environmental management programme or approved environmental management plan. <u>Sec 23 (Granting and duration of mining right)</u> : on no unacceptable pollution, ecological degradation or damage to the environment; <u>Sec 37 (Environmental management principles)</u> : and part 2 Col 9 <u>Sec 38 (Integrated environmental management and responsibility to remedy)</u> to rehabilitate the environment affected by the prospecting or mining operations to its natural or predetermined state |

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| | <p>call upon interested and affected persons to submit their comments regarding the application.</p> <p><u>Sec 23 (Granting and duration of mining right):</u> Mining only to be granted if (d) mining will not result in unacceptable pollution, ecological degradation or damage to the environment; (e) the applicant has provided financially and otherwise for the prescribed social and labour plan.</p> <p><u>Sec 37 (Environmental management principles):</u> Prospecting or mining operation must be conducted in accordance with generally accepted principles of sustainable development by integrating social, economic and environmental factors into the planning and implementation of prospecting and mining projects in order to ensure that exploitation of mineral resources serves present and future generations.</p> <p>Mine Health and Safety</p> | | <p><u>Sec 2 (Owner to ensure safety):</u> Owner to provide conditions for safe operation and a healthy working environment.</p> <p><u>Sec 6 (Manager to ensure adequate supply of health and safety equipment)</u></p> <p><u>Sec 7 (Manager to staff mine with due regard to health and safety):</u> Consider individual employee's training and capabilities; ensure work is performed under the supervision of a suitably trained person.</p> <p><u>Sec 11 (Manager to assess and respond to risk):</u> Every manager must conduct an investigation into every accident that must be reported in terms of this Act; serious illness; and health-threatening occurrence</p> <p><u>Sec 12 (Manager to conduct occupational hygiene measurements)</u></p> <p><u>Sec 13 (Manager to establish system of medical surveillance):</u></p> | | |
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| | <p>Act <u>Sec 23 (Granting and duration of mining right):</u> Mining only to be granted if (f) the applicant has the ability to comply with the relevant provisions of the Mine Health and Safety Act.</p> | | <p>Including the engagement of an occupational medical practitioner.</p> <p><u>Sec 18 (Costs of examination):</u> Owner must pay the costs of all clinical examinations and medical tests performed in terms of the Act unless expressly provided otherwise.</p> | | |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| Swaziland | <p>Environment Management Act <u>Sec 31 (Strategic Environmental Assessments):</u> Required for every Bill, regulation, public policy, programme, or plan^{xvii} that could have an adverse effect on the protection, conservation or enhancement of the environment or on the sustainable management of natural resources.</p> <p><u>Sec 32 (Environmental Assessment):</u> No person shall undertake any project that may have an effect on the environment without the written approval of the Authority, and, where the potential effect on the environment is likely to</p> | <p>Constitution <u>Art 14:</u> The fundamental human rights and freedoms (a) respect for life, liberty, right to fair hearing, equality before the law and equal protection of the law; (b) freedom of conscience, of expression and of peaceful assembly and association and of movement; (c) protection of the privacy of the home and other property rights of the individual; (d) protection from deprivation of property without compensation; (f) respect for rights of the family, women, children, workers and persons with disabilities.</p> <p><u>Art 19 (Protection from deprivation of property):</u> Right to own property and not be compulsorily</p> | <p>Constitution See Col 2 <u>Art 14</u> and</p> <p><u>Art 17 (Protection from slavery and forced labour)</u> <u>Art 18 (Protection from inhuman or degrading treatment)</u></p> <p><u>Art 32 (Rights of workers)</u> Right to form or join trade unions and collective bargaining. Parliament to enact laws to provide for the right of persons to work under satisfactory, safe and healthy conditions.</p> <p>Employment Act <u>Sec 149 (General health measures):</u> Employer to ensure workroom in which persons are employed by him is kept</p> | <p>Constitution <u>Art 29 (Rights of the child)</u> Right to be protected from engaging in work that constitutes a threat to the health, education or development.</p> <p><u>Art 60 (Social objectives):</u> State shall take all practical measures to ensure the provision of basic health care services to the population.</p> <p>See Col 3 <u>Art 32</u></p> <p>Employment Act <u>Sec 97 (Employment of children):</u> No person shall employ any child^{xviii} in any industrial undertaking^{xix}.</p> <p><u>Sec 98 (Employment of</u></p> | <p>Constitution <u>Art 210 (Declaration of land, minerals and water as national resource):</u> Land, minerals and water are national resources. The State shall protect and make rational use of its land, mineral and water resources as well as its fauna and flora, and shall take appropriate measures to conserve and improve the environment.</p> <p><u>Art 216 (Environment):</u> Every person to promote the protection of the environment for the present and future generations. Industrialisation undertaken with due respect for the environment. Government to ensure a holistic and comprehensive approach to environmental preservation and shall put in place an appropriate environmental regulatory framework.</p> <p>Environment Management Act <u>Sec 4 (Purpose):</u> To provide for and promote the enhancement, protection and conservation of the environment and where appropriate, the sustainable management of natural resources.</p> <p><u>Sec 7 (Environmental Management Strategy):</u> For each Government Ministry.</p> |

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| <p>be more than minimal or insignificant, it may require the applicant to conduct an environmental impact assessment in relation to the project, with or without a public hearing.</p> <p>Mines and Minerals Act <u>Sec 77 (Minerals Agreements):</u> May be negotiated with an applicant or holder of a mineral right.</p> <p><u>Sec 78 (Terms of minerals agreement):</u> May contain in particular provisions concerning (a) the payment of royalties, taxes, fees and other fiscal impositions and state participation; (b) arrangements concerning participation in any mining operation, by the iNgwenyama in trust for the Swazi nation; (c) the circumstances. or the manner in which a discretion conferred under this Act may be exercised; (d) any legislative requirements in respect of the environment, environmental obligations and liabilities.</p> | <p>deprived of property or any interest in or right over property except where (a) the taking of possession or acquisition is necessary for public use; (b) the compulsory taking of possession or acquisition of the property is made under a law which makes provision for (i) prompt payment of fair and adequate compensation; and (ii) a right of access to a court of law by any person who has an interest in or right over the property.</p> <p><u>Art 27 (Rights and protection of the family)</u></p> <p><u>Art 211 (Land)</u> Person not to be deprived of land without due process of law and where a person is deprived, that person shall be entitled to prompt and adequate compensation for any improvement on that land or loss consequent upon that deprivation unless otherwise provided by law.</p> <p>Mines and Minerals Act <u>Sec 120:</u> Holder of mineral right shall, pay the lawful owner or occupier of land reasonable compensation for any disturbance of their rights and for any damage</p> | <p>in a clean and sanitary condition.</p> <p>Mines and Minerals Act <u>Sec 25:</u> Mineral right to be granted conditional on the protection of mineral resources, the environment and provisions of safety of the operations and persons undertaking them.</p> <p>Occupational Health and Safety Act <u>Sec 3 (Application):</u> to any workplace.</p> <p><u>Sec 8 (General duties):</u> No person to do anything that endangers or is likely to endanger the safety, health or welfare of that person or any other person.</p> <p><u>Sec 9 (Duties of employer):</u> Employer ensure the safety and health of all employees during employment in the workplace and provide supervision, training and instruction.</p> <p><u>Sec 24 (Improvement notice)</u> <u>Sec 25 (Prohibition notice)</u> <u>Sec 27 (removal of</u></p> | <p><u>young persons):</u> No person shall employ a young person^{xx} in any undertaking between the hours of 6.00 p.m. on one day and 7.00 a.m. on the following day. No person shall employ a child or young person in (b) work which is likely to cause injury to his morals or conduct; (c) work underground; (d) dangerous or unhealthy work.</p> <p><u>Sec 100 (Medical examination of young persons):</u> Employer to ensure that initial and annual medical examination of young person employed by him in an industrial undertaking.</p> <p><u>Sec 101 (Employment of females):</u> Females not to be employed in any industrial undertaking between the hours of 10.00 p.m. of one day of 6.00 a.m. of the following day and not underground in any mine.</p> <p><u>Sec 103 (Duration of maternity leave):</u> Maternity leave shall not be less than 12 weeks, not exceeding 6 weeks,</p> | <p><u>Sec 30 (National Environmental Action Plan)</u></p> <p>See Col 1 <u>Sec 31 (Strategic Environmental Assessments):</u> <u>Sec 32 (Environmental Assessment):</u></p> <p><u>Sec 50 (Register of Environmental Information):</u> Authority to create and maintain an environmental information registry. Registry to include an explanation of the means by which a person may, under this Act, comment on an application for a licence or appeal a decision to issue a licence under this Act.</p> <p><u>Sec 51 (Requests for environmental information):</u> Freedom of any person to request from any organ of Government any information relating to the environment that is not available in the registry but that could reasonably assist that person in contributing to the enhancement, protection and conservation of the environment and the sustainable management of natural resources.</p> <p><u>Sec 58 (Civil Actions):</u> Any person may sue for damages or for an interdict in respect of acts or omissions that constitute a contravention of this Act or that could cause an adverse effect, whether or not that person or any person has suffered or is likely to suffer, any loss or harm from the acts or omissions.</p> <p>Mines and Minerals Act <u>Sec 25:</u> Mineral right to be granted conditional on the protection of mineral resources, the environment and provisions of safety of the operations and persons undertaking them.</p> <p><u>Sec 122 (Application of environmental laws and regulations)</u> <u>Sec 125 (Requirement for environmental</u></p> |
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| | | done to the surface of the land by such operations and pay the owner of any crops, trees, buildings or works damaged during the course of such operations, compensation for such damage. | <u>nuisance near a workplace)</u> <u>Sec 28 (Notification of occupational accidents)</u> <u>Sec 32 (Notification of occupational diseases)</u> | before the date of confinement; and a period of not less than 6 weeks from the date of the confinement. Female employee be entitled to a one hour nursing break with pay per day 3 months after maternity leave. <u>Sec 107 (No obligation to pay for maternity leave):</u> <u>Sec 150 (First aid equipment and medical aid):</u> Employees or any of their dependants living on the employer's property suffering from any serious hurt or ailment, employer shall take all reasonable measures to obtain skilled medical aid for such person and if required to do so transport the said person to the nearest hospital where such skilled medical attention is available. | <u>compliance certificate):</u> To be issued by the Swaziland Environmental Authority in respect of large-scale operations. |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| Tanzania | Mining Act^{xxi} Sec 10: Government may enter into a development agreement with the holder of, or an applicant for, a mineral | Constitution <u>Art 14:</u> Right to life <u>Art 16:</u> Right to privacy and personal security <u>Art 24:</u> Provision for fair and adequate | Constitution <u>Art 25:</u> No forced, cruel or humiliating labour See Col 2 <u>Art 30:</u> | Employment and Labour Relations Act <u>Sec 5:</u> A child under eighteen years of age shall not be employed in a Mine or factory or in | Constitution <u>Art 27:</u> Everyone's duty to protect natural resources Mining Act See Col 1 <u>Sec 41:</u> re environmental certificate |

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| <p>rights relating to the grant of such a mineral right or mineral rights, the conduct of mining operations under a special mining licence^{xxi} the grant of the Government free carried interest and State participation in mining. Model contract prescribed in the regulations to be used, which may contain binding provisions in regard to (c) environmental matters, including in respect of matters which are project specific and not covered by regulations of general application; (e) guaranteed procurement of good, and services available in the United Republic; (f) employment, training and succession plan; and (g) Government free carried interest and State participation.</p> <p><u>Sec 41</u>: Application for special mining licence to include (e) the applicant's environmental certificate issued in terms of the Environment Management Act; (f) details of expected</p> | <p>compensation.</p> <p><u>Art 30</u>: Limitations upon, and enforcement and preservation of basic rights, freedoms and duties for the purposes of... the exploitation and utilization of minerals.</p> <p>Mining Act <u>Sec 41</u>: Application for special mining licence to include (d) proposed plan for relocation, resettlement and compensation of people within the mining areas in accordance with the Land Act.</p> <p><u>Sec 47</u>: Holder of a special licence obligated to (e) implement proposed plan for relocation, settlement and payment of compensation to people within the mining area in accordance with the Land Act.</p> <p><u>Sec 96</u>: Holder liable to pay reasonable compensation where, in the course of prospecting or mining operations, any disturbance of the rights of the lawful occupier of any land or damage to any crops, trees, buildings, stock or works thereon is caused.</p> | <p>Employment and Labour Relations Act <u>Sec 6</u>: Prohibition of forced labour</p> <p>Workers Compensation Act <u>Sec 5</u> Workers Compensation Fund established.</p> <p><u>Sec 19</u>: Employee, or the dependents, entitled to the compensation for accident resulting in disablement or death.</p> <p><u>Sec 22</u>: Employee entitled to compensation for contracting a disease arisen out of, and in, the course of the employee's employment.</p> <p><u>Sec 23</u>: Where an employee who has contracted an occupational disease.... it shall be presumed, unless the contrary is proved that the disease arose out of, and in the course of the employee's employment.</p> <p><u>Sec 61</u>: Employer to be responsible to facilitate transport to medical practitioner if employee</p> | <p>any other worksite where work conditions may be considered hazardous.</p> <p><u>Sec 20</u>: Prohibited to require or permit pregnant employees to work at night two months before the expected date of confinement; and mothers to work at night for a period of 2 months after the date of birth.</p> <p><u>Sec 33</u>: Maternity leave from four weeks before the expected date of confinement and employee shall not work within six weeks of the birth of her child. Nursing employee not required or permitted to perform work that is hazardous to her health or the health of her child.</p> <p>Mining Act <u>Sec 111</u>: Holder of mineral right to obtain and maintain comprehensive insurance cover</p> | <p>issued in terms of the Environment Management Act;</p> <p><u>Sec 44</u>: A special mining licence shall include conditions on (i) the programme of mining operation; (ii) the environmental management plan;</p> <p>See Col 2 <u>Sec 96</u> on compensation for damage and part 2 Col 9 <u>Sec 62</u></p> |
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| | infrastructure requirements. | | involved in an accident at work. No cost to the employee. <u>Sec 62:Workers Compensation Fund</u> to cover reasonable medical aid cost of an employee for a period of not more than two years from the date of an accident /occupational disease. | | |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| Uganda | <p>Constitution <u>Art XXVII. The Environment</u> State to promote sustainable development. Utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations</p> <p><u>Art 244 Minerals</u> Minerals and mineral ores shall be exploited taking into account the interests of the individual land owners, local governments and the Government.</p> <p>Mining Act <u>Sec 18 (Mineral Agreements)</u> May be</p> | <p>Constitution <u>Art X. Role of The People in Development</u> State to take necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them.</p> <p><u>Art XIX. Protection of The Family</u></p> <p><u>Art 26 Protection from deprivation of property</u> Right to own property and not to be compulsorily deprived of property or interest in or right over property except where - (a) the taking of possession or acquisition is necessary for public use, public safety, public health; and (b) the</p> | <p>Constitution <u>Art 24 Respect for human dignity and protection from inhuman treatment</u></p> <p><u>Art 25 Protection from slavery, servitude and forced labour</u></p> <p><u>Art 40 Economic rights</u> To provide for the right of persons to work under satisfactory, safe and healthy conditions.</p> <p>Employment Act <u>Sec 5 (Forced labour):</u> No person shall use or assist any other person, in using forced or compulsory labour.</p> <p>Mining Act <u>Sec 65 Power to order</u></p> | <p>Constitution <u>XIV. General Social and Economic Objectives</u> State to ensure that all Ugandans enjoy access to health services.</p> <p><u>Art XX. Medical Services</u> The State to ensure the provision of basic medical services</p> <p><u>Art 34 Rights of children</u> Children^{xxiii} to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous</p> <p><u>Sec 32 (Employment of children):</u>A child^{xxiv} shall not be employed in any employment or work</p> | <p>Constitution <u>Art XIII. Protection of Natural Resources</u> State to protect important natural resources, including land, water, wetlands, minerals, oil, fauna and flora on behalf of the people of Uganda.</p> <p><u>XIV. General Social and Economic Objectives</u> State to ensure that all Ugandans enjoy access to health services.</p> <p><u>Art XX. Medical Services</u> The State to ensure the provision of basic medical services</p> <p><u>XXVII. The Environment</u> State to promote sustainable development. Utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations</p> <p><u>Art 39 Right to a clean and healthy environment</u></p> <p><u>Art 244 Minerals</u> Minerals and mineral ores shall be exploited taking into account the interests of</p> |

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| <p>entered into with any person with respect to any matter relating to or connected with operations or activities under an exploration licence or a mining lease.</p> <p><u>Sec 43 (Restriction on grant of mining lease):</u> No mining lease to be granted unless (b) the programme of proposed mining operations takes proper account of environmental impact assessment, environmental impact research, environmental statement and safety factors.</p> <p><u>Sec 108 (Environmental impact assessment and environmental audits):</u> Every holder of an exploration licence or a mining lease shall carry out an environmental impact assessment.</p> <p><u>Sec 110 (Environmental restoration plan):</u> Environmental restoration plan to be included in a mining lease for any area that may be damaged or adversely affected by his or her exploration or mining operations.</p> | <p>compulsory taking of possession or acquisition of property is made under a law which makes provision for-(i) prompt and prior payment of fair and adequate compensation; and (ii) a right of access to a court of law by any person who has an interest or right over the property.</p> <p>Mining Act <u>Sec 82 (Compensation for disturbance of rights):</u> Holder of a mineral right shall pay the owner or lawful occupier fair and reasonable compensation for any disturbance of the rights of the owner or occupier; and for any damage done to the surface of the land by the holder's operations; and shall pay compensation for any crops, trees, buildings or works damaged.</p> <p>Mining Regulations <u>Sec 40:</u> At the request of the holder of a mining lease, the Chief Administrative Officer of the district concerned shall, subject to the Constitution and any other applicable written law, take such lawful steps as he or she deems fit to remove</p> | <p><u>the remedy of dangerous or defective operations</u></p> <p><u>Sec 68 (Report of accidents)</u></p> <p>Occupational Safety and Health Act <u>Sec 13 (Duty of employers to protect workers):</u> Responsibility of an employer to provide a safe working environment as well as appropriate information, training, supervision and instructions.</p> <p><u>Sec 21 (Employer to supervise health of workers):</u> Provide for the supervision of the health of the workers exposed to or liable to be exposed to occupational hazards a working environment and include a pre-assignment medical examination and periodic medical examinations of workers.</p> <p><u>Sec 21 (Employer to supervise health of workers)</u> Provide for the supervision of the health of the workers exposed to or liable to be exposed to occupational hazards a working</p> | <p>which is injurious to his or her health, dangerous or hazardous or otherwise unsuitable; and not be employed between the hours of 7p.m. and 7a.m.</p> <p><u>Sec 33 (Medical examinations):</u> Minister may require persons over the age of eighteen years seeking employment involving exposure to hazards to undergo medical examination before being engaged and at regular intervals thereafter.</p> <p><u>Sec 56 (Maternity leave):</u> Female employee, as a consequence of pregnancy, has the right to a period of sixty working days leave from work on full wages, of which at least four weeks shall follow the childbirth or miscarriage.</p> <p>.</p> | <p>the individual land owners, local governments and the Government.</p> <p>Mining Act <u>See Col 1 Sec 43 (Restriction on grant of mining lease): unless environmental impact assessment, Sec 108 (Environmental impact assessment and environmental audits): Sec 110 (Environmental restoration plan):</u></p> <p><u>Sec 82 (Compensation for disturbance of rights):</u> Holder of a mineral right shall pay the owner or lawful occupier fair and reasonable compensation for any disturbance of the rights of the owner or occupier; and for any damage done to the surface of the land by the holder's operations; and shall pay compensation for any crops, trees, buildings or works damaged.</p> <p>Occupational Safety and Health Act <u>Sec 23 (Employers' duty to persons other than employees):</u> Duty of an employer to conduct his or her undertaking in a way that any person who is not in his or her employment but who may be affected by the undertaking, is not exposed to risks to his or her health and safety.</p> |
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| | | any land owner or lawful occupier of land from the areas of the proposed mining lease; except that the holder of the mining lease shall pay on demand such compensation as is required by law. | environment and include a pre-assignment medical examination and periodic medical examinations of workers <u>Sec 47 (Healthy and safe working environment)</u> | | |
| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
| Zambia | <p>Constitution <u>Art 257. [Utilisation of natural resources and management of environment]:</u> State shall, in the utilisation of natural resources and management of the environment (d) encourage public participation.</p> <p>Environmental Management Act <u>Sec 23. [Strategic environmental assessment]:</u> The proponent of a policy, programme or plan that could have an adverse effect on environmental management or on the sustainable management and utilisation of natural resources obligated to conduct a strategic environmental assessment and present a strategic environ-</p> | <p>Constitution <u>Art 11. [Fundamental Rights and Freedoms]:</u> the right to: (d) protection for the privacy of his home and other property and from deprivation of property without Compensation.</p> <p><u>Art 16. [Protection from deprivation of property]</u> Property not to be compulsorily taken possession of, and right over property not to be compulsorily acquired, unless by or under the authority of an Act of Parliament which provides for payment of adequate compensation. Nothing to be held to be inconsistent with or in contravention of this Art if law authorises the taking possession or acquisition of any property or interest therein or right there over where the property is any mineral, mineral oil or</p> | <p>Constitution <u>Art 14. [Protection from slavery and forced labour]</u></p> <p><u>Constitution, Art 15. [Protection from inhuman treatment]</u></p> <p>Mines and Minerals Development Act <u>Sec 4. [General principles for mining and Minerals development]:</u> (c) exploitation to ensure safety, health and environmental protection;</p> | <p>Constitution <u>Art 24. [Protection of young persons from exploitation]</u> No young person^{xxv} shall be employed and shall and shall in no case be caused or permitted to engage in any employment which would prejudice his health or education or interfere with his physical, mental or moral development.</p> <p>Mines and Minerals Development Act <u>See Col 1 Sec 80. [Consideration of environment and human health when granting mining rights or mineral processing licences]:</u></p> <p>Public Health Act <u>Sec 12. [Regulations of the notification of infectious Diseases]:</u> Duties of the owners or managers of mines in</p> | <p>Constitution <u>Art 255. [Principles of environmental and natural resources management and development]:</u> The management and development of the environment and natural resources shall be governed by the following principles: (a) natural resources have an environmental, economic, social and cultural value and this shall be reflected in their use; (b) the person responsible for polluting or degrading the environment is responsible for paying for the damage done to the environment; (e) respect for the integrity of natural processes and ecological communities; (f) benefits accruing from the exploitation and utilisation of the environment and natural resources shall be shared equitably amongst the people of Zambia; (h) reclaiming and rehabilitation of degraded areas and those prone to disasters shall be promoted; (l) effective participation of people in the development of relevant policies, plans and programmes.</p> <p><u>Art 257. [Utilisation of natural resources and management of environment]:</u> State shall, in the utilisation of natural resources and environment (d) encourage public participation.</p> <p>Environmental Management Act <u>Sec 4. [Right to clean, safe and healthy environment]:</u> Every person living in Zambia has</p> |

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| | <p>mental assessment report to the Agency, for approval.</p> <p><u>Sec 29. [Environmental impact assessment]:</u> No project to be conducted without approval by the Agency.</p> <p><u>Sec 91. [Public participation in environmental decision making]:</u> The public have the right to be informed of the intention of public authorities to make decisions affecting the environment and of available opportunities to participate in such decisions.</p> <p>Mines and Minerals Act</p> <p><u>Sec 12. [Prohibition of exploration, mining or mineral processing without licence or environmental impact assessment]</u></p> <p><u>Sec 80. [Consideration of environment and human health when granting mining rights or mineral processing licences]:</u> When deciding whether to grant a mining right or not, to be taken into</p> | <p>natural gases.</p> <p><u>Art 17. [Protection for privacy of home and other property]</u> No search or entry without consent. Nothing to be held to be inconsistent with or in contravention of this Art if law search or entry reasonable required in the development and utilisation of mineral resources.</p> <p><u>Art 255. [Principles of environmental and natural resources management and development]:</u> (a) natural resources have an environmental, economic, social and cultural value and this shall be reflected in their use; (e) respect for the integrity of natural processes and ecological communities; (l) effective participation of people in the development of relevant policies, plans and programmes.</p> | | <p>regard to reporting the occurrence of any infectious disease.</p> <p><u>Sec 64. [Nuisances prohibited]:</u> No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge any nuisance or other condition liable to be injurious or dangerous to health.</p> <p><u>Sec 67. [What constitutes a nuisance]</u></p> | <p>the right to a clean, safe and healthy environment. Where this right is threatened or is likely to be threatened as a result of an act or omission of any other person, an action against this person who is likely to cause harm to human health or the environment can be brought seeking to: (a) prevent, stop or discontinue any activity or omission; (b) compel any public officer to take measures; (c) require that any on-going activity or omission be subjected to an environmental audit or monitoring; (d) require the person to take measures to protect human life or the environment; (e) compel the person responsible for any environmental degradation to restore the degraded environment; and (f) provide compensation to any victim for the harm or omission and the cost of beneficial uses lost as a result of an activity that caused harm to human health or the environment.</p> <p><u>Sec 6. [Principles governing environmental management]:</u> These principles shall be applied in achieving the purpose of this Act:(b) adverse effects shall be prevented and minimized; (d) the polluter pays principle; (f) the people shall be involved in the development of policies, plans and programmes for environmental management; (g) the citizen shall have access to environmental information to enable the citizen make informed personal choices (i) the environment is vital to people's livelihood and shall be used sustainably in order to achieve poverty reduction and socio-economic development; and (l) community participation and involvement in natural resources management and the sharing of benefits arising from the use of the resources shall be promoted and facilitated.</p> <p><u>Sec 21. [National Environmental Action Plan]:</u> Subject to public review before finalisation.</p> |
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| | <p>account the need a) to protect and conserve the environment; and b) to ensure that any mining activity prevents any adverse socio-economic impact or harm to human health. The Director of Mines Safety and the Zambia Environmental Management Agency may cause such required environmental impact studies and other studies to be carried out.</p> <p><u>Sec 81 [Conditions for protection of environment and human health]:</u> Mining licence to be subject to conditions in accordance with Sec 80.</p> | | | | <p>See Col 1 <u>Sec 23. [Strategic environmental assessment]: Sec 29. [Environmental impact assessment]: Sec 91. [Public participation in environmental decision making]:</u></p> <p><u>Sec 110. [Civil action]:</u> A person may sue for damages in respect of an act or omission that constitutes a contravention of this Act or that is likely to have an adverse effect, whether or not that person or any other person has suffered, or is likely to suffer, any loss or harm from the act or omission.</p> <p>Mines and Minerals Development Act <u>Sec 4. [General principles for mining and Minerals development]:</u> (a) mineral resources are a non-renewable resource and be conserved, developed and used prudently;</p> <p><u>Sec 32. [Mining Licence]:</u> Issues together with conditions regarding(e) the applicant's undertaking for management of the environment in the mining area.</p> <p><u>Sec 87 [Liability and redress]:</u> A holder shall be strictly liable for any harm or damage caused by mining operations or mineral processing operations and shall compensate any person to whom the harm or damage is caused. A person, group of persons or a private or State organisation may bring a claim and seek redress in respect of the breach or threatened breach of any provision relating to damage to the environment, biological diversity, human and animal health or to socio-economic conditions.</p> <p>See Col 1 <u>Sec 80. [Consideration of environment and human health when granting mining rights or mineral processing licences]: Sec 81 [Conditions for protection of environment and human health]:</u></p> |
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| Area of law | Health protection in prospecting (1) | Health/ social protection in resettlement (2) | OHS for workers / contractors (3) | Health benefits for workers, families (4) | Environment, health and social protection for surrounding communities (5) |
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| Zimbabwe | <p>Environmental Management Act See col 5 <u>Sec 4. Environmental rights and principles of environmental management:</u></p> <p><u>Sec 97 Projects for which environmental impact assessment required:</u> The projects listed in the First Schedule^{xxvi} are projects which must not be implemented without a certificate having been issued following an environmental impact assessment^{xxvii}.</p> <p>Mines and Minerals Act <u>Sec 159 Application for special mining lease</u> To include (e) a plan for the development and operation of the proposed mine, including -(vii) a report on the anticipated impact of mining operations on the environment and any measures to be taken to assess, prevent or minimize such impact, including proposals for—</p> | <p>Constitution <u>Art 25 Protection of the family</u></p> <p><u>Art 71 Property rights:</u> No person may be compulsorily deprived of their property except where the following conditions are satisfied (a) the deprivation is in terms of a law of general application; (b) the deprivation is necessary for any of the following reasons—(i) in the interests of defence, public safety, public order, public morality, public health or town and country planning; or(ii) in order to develop or use that or any other property for a purpose beneficial to the community.</p> <p>State to pay fair and adequate compensation for the acquisition before acquiring the property or within a reasonable time after the acquisition; and if the acquisition is contested, to apply to a competent court.</p> <p><u>Art 74 Freedom from arbitrary eviction</u></p> | <p>Constitution <u>Art 53 Freedom from torture or cruel, inhuman or degrading treatment or punishment</u></p> <p><u>Art 54 Freedom from slavery or servitude</u></p> <p><u>Art 55 Freedom from forced or compulsory labour</u></p> <p><u>Art 65 Labour rights:</u> Including the right to fair and safe labour practices and standards; right to form and join trade unions, to participate in the lawful activities of those unions; right to engage in collective bargaining.</p> <p>Labour Act <u>Sec 4A Prohibition of forced labour</u></p> <p><u>Sec 6 Protection of employees' right to fair labour standards:</u> No employer shall— (d) require any employee to work under any conditions or situations which are below those prescribed by law or by the</p> | <p>Constitution <u>Art 14 Children:</u> The State to take legislative and other measures—(a) to protect children from exploitative labour practices; and (b) to ensure that children are not required or permitted to perform work or provide services that—(i) are inappropriate for the children's age; or(ii) place at risk the children's well-being, education, physical or mental health or spiritual, moral or social development.</p> <p><u>Art 29 Health services</u> The State must take all practical measures to ensure the provision of basic, accessible and adequate health services throughout Zimbabwe.</p> <p><u>Art 76 Right to health care</u> Every citizen and permanent resident of Zimbabwe has the right to have access to basic health-care services.</p> <p><u>Art 81 Rights of children</u> Every child^{xxx} has the right—(e) to be protected</p> | <p>Constitution <u>Art 73 Environmental rights</u> Every person has the right—(a) to an environment that is not harmful to their health or well-being; and (b) to have the environment protected to (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development.</p> <p>Environmental Management Act <u>Sec 4. Environmental rights and principles of environmental management:</u> Every person has a right to a clean environment that is not harmful to health. Principles of environmental management apply to the actions of all persons and all government agencies, where those actions significantly affect the environment, namely (b) environmental management must place people and their needs at the forefront of its concern; (c) the participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation; (e) development must be socially, environmentally and economically sustainable. (f) anticipated negative impact on the environment and on people's environmental rights shall be prevented, and where they cannot be altogether prevented, be minimised and remedied; (g) any person who causes pollution or environmental degradation shall meet the cost of remedying such pollution or environmental degradation and any resultant adverse health effects, as well as the cost of preventing, contro-</p> |

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| | <p>A. the prevention or treatment of pollution; and D. the reclamation and rehabilitation of land disturbed by mining operations; and E. monitoring the effect of mining operations on the environment; (x) details of any insurance to be taken out against liability arising from mining operations, including liability for damage to the environment and injury to persons and property.</p> | <p>No person may be evicted from their home, or have their home demolished, without an order of court.</p> | <p>conventional practice of the occupation for the protection of such employee's health or safety.</p> <p>Pneumoconiosis^{xxviii} Act To provide for the control and administration of persons employed in dusty occupation^{xxix}.</p> <p><u>Sec 22 Prohibition of employment of workers suffering from pneumoconiosis in dusty occupation</u></p> <p><u>Sec 23 Prohibition of employment of workers who do not hold [medical fitness] certificates</u></p> <p><u>Sec 43 Benefits in respect of worker suffering from pneumoconiosis:</u> Worker certified suffering from pneumoconiosis may be entitled to compensation; on the death of a worker who was suffering from pneumoconiosis and who was entitled to compensation dependants may be entitled to the payment of any benefits.</p> | <p>from economic and sexual exploitation, from child labour.</p> <p>Labour Act <u>Sec 11 Employment of young persons:</u>No employer shall cause any person under the age of 18 years to perform any work which is likely to jeopardise that person's health or safety.</p> <p><u>Sec 18 Maternity leave:</u> Unless more favourable conditions are provided in any employment contract or in any enactment, maternity leave shall be granted for a period of ninety days on full pay to a female employee.</p> <p>Public Health Act <u>Sec 21</u> Regulations as to the duties of owners or occupiers of land owners or managers of mines.</p> <p><u>Sec 82 Nuisances prohibited:</u> No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge any nuisance or other condition liable to be injurious or dangerous to health.</p> | <p>ling or minimising further pollution, environmental damage or adverse health effects.</p> <p><u>Sec 87 National Environmental Plan</u> <u>Sec 89 Invitation of public comment</u> <u>Sec 90 Confirmation of National Plan</u> <u>Sec 91 Operative National Plan to be open to public inspection</u></p> <p><u>Sec 97 Projects for which environmental impact assessment required:</u> <u>The projects listed in the First Schedule are projects which must not be implemented without a certificate having been issued following an environmental impact assessment.</u></p> <p><u>Sec 114 Minister may make order for protection of environment:</u> Minister may serve a written order on the owner, occupier or user of any land in respect of one or more of the following matters—(n) requiring the rehabilitation of a mining site</p> <p>Mines and Minerals Act <u>See col 1 Sec 159 Application for special mining lease</u></p> |
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| Key: | |
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| Area | Provisions covered in International documents |
| (1) | <ul style="list-style-type: none"> • Respect human rights, avoiding infringing on rights, addressing negative impacts • Integrate health impact within environmental + social impact assessments • Integrated assessment of environmental, social impacts, risks, opportunities of projects |
| (2) | <ul style="list-style-type: none"> • Respect the right to life, liberty and security of the person and prevent unlawful interference with their privacy, family or home • Avoid or minimize displacement and forced evictions and any adverse impacts from land acquisition or restrictions on use • Provide compensation • Ensure the informed participation of affected persons and improve, or restore, their livelihoods and standards of living |
| (3) | <ul style="list-style-type: none"> • Prevent cruel, inhuman or degrading treatment, slavery or servitude or forced or compulsory labour • Ensure safe and healthy working conditions • Respect freedom of association and recognise the right to collective bargaining • Endeavour to increase employment opportunities and standards |
| (4) | <ul style="list-style-type: none"> • Protect the health of the people and ensure the healthy development of children • Improve hygiene, prevent, treat and control diseases, and provide access to medical care • Special protection for mothers before and after childbirth |
| (5) | <ul style="list-style-type: none"> • Respect human rights, including those of indigenous people, avoiding infringing on rights, addressing negative impacts • Manage natural exploitation ensuring the protection of the population from any adverse impacts, offering effective avenues for remedies where rights abuses occur • Prevent damage to the environment from mining operations • Provide for effective community engagement on matters affecting them |

Table A1 Part 2: Legal analysis international vs. national regulations by ESA country (See reference list for laws)

| Area | Health benefits for surrounding communities (6) | Fiscal contributions to health and health services specifically in relation to EIs (7) | Forward and backward links with local sectors and services supporting health; eg wealth funds, community ownership (8) | Post mine closure obligations (9) | General governance issues (10) |
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| Angola | <p>No specific clauses on this but see:</p> <p>General Environmental Law Environment (vs health) protections in part 1 Col 5 environment clauses in Art 3 (General Principles): Art 4 (Specific Principles): Art 5 (Aims and Measures): Art 24 (Immediate Measures of Relief): Art 28 (Strict Liability): and prospecting issues in part 1 Col 1 Art 21 (Right to Information): Art 23 (Right of Access to Justice): Art 32 (Participation by the Community):</p> | <p>Mining Code Art 239 (Tax Liabilities): a) income tax; b) tax on the value of mineral resources (royalty); c) surface tax; d) small-scale mining tax.</p> <p>Art 245 (Rate): Municipality where mine operates to benefit directly from share in tax revenue.</p> <p>Art 253 (Tax Incentives): Tax incentives may possibly be granted where: a) recourse to local market for goods and complementary services; b) development of activity in remote areas; c) contribution to training of local human resources; f) major contribution to increase in exports.</p> | <p>General Environmental Law See also part 1 Col 1 community environment clauses in Art 10 (Public Consultation): Art 12 (Environmental Heritage):</p> <p>Mining Code Art 7 (Planning for Mining): Executive Power must provide for effective measures of sustainable economic development and for the protection of the rights and legitimate interests of local communities, as well as the development of national human resources.</p> <p>Art 8 (Strategic Goals for Mining Sector): a) sustained economic and social development; b) create jobs and promote the improvement of the living standards of local communities; c) tax revenues for Central and Local Government; d) giving preference to Angolan entrepreneurs when granting mining rights; k) establish an effective, swift and trans-</p> | <p>Mining Code Art 2 (Scope of Application) e) restoration or reclamation of areas affected by mining activity.</p> <p>Art 71 (Urban & Territorial Planning Regulations): Reclaiming or restoring vegetation, and utilizing infrastructure, roads and land for cultivation for the benefit of communities.</p> <p>Art 75 (Land Restoration & Reclamation): 1. Mining activities insofar as is possible enable the restoration of land to its original purpose or its reclamation for alternative uses, without damaging the environment. 2. Having finished works, proceed with land restoration and reclamation as per EIS. 3. Before abandoning regulator to inspect the respective operations are in accordance with the plan for the closure and</p> | <p>Commercial Companies Law Arts 1, 3 and 4: Companies generally obliged to have a registered office or fixed representation in Angola and bound by Angolan law. Non-compliance may lead to forced cessation of activities and liquidation of assets.</p> <p>General Environmental Law See also part 1 Col 5 environment clauses on citizen rights in Art 3 (General Principles): Art 12 (Environmental Heritage): Art 24 (Immediate Measures of Relief): Art 28 (Strict Liability):</p> <p>Art 8 (Participation of Citizens): Citizens' right and obligation to take part in the Environmental Management.</p> <p>Art 10 (Public Consultation): Public consultation in Environmental and Social Impact Assessments; ensuring [...]</p> <p>Art 21 (Right to Information): Citizens' right to be informed about the management of the country's environment.</p> <p>Art 23 (Right of Access to Justice): Any citizen who deems that rights have been or may be violated has recourse to the courts in order to restore rights or prevent violation.</p> <p>Art 32 (Participation by the Community): Ensure that local communities duly participate.</p> |

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| | <p>Mining Code Part 1 Col 2 clauses provide relocated community rights in <u>Art 16 (Community Rights): and Col 1 on prospecting Art 143 (Contents of Mining Plan):</u></p> | | <p>parent system for the granting of mining rights; p) implement ventures that provide new jobs for workers and avoid displacement of inhabitants and economic recession in abandoned areas.</p> <p><u>Art 11 (Participation of State in Mining Production):</u> The State shall share in the appropriation of the mining product, it being empowered to utilize stakes in the capital stock of commercial companies of not less than 10%; and/or shares in kind in the mineral product.</p> <p><u>Art 18 (Local Workforce):</u> Employment and training of Angolan technicians and Workers must be ensured, preferentially of those who live in mining concession areas.</p> <p><u>Art 19 (Protection of National Market)</u> General preference to the utilization of national materials, services and products.</p> <p><u>Art 71 (Urban & Territorial Planning Regulations):</u> Reclaiming or restoring vegetation, and utilizing infrastructure, roads and land for cultivation for the benefit of communities.</p> | <p>abandonment of mining operations.</p> <p><u>Art 116 (Feasibility & Environmental Impact Assessment Studies):</u> Before mining phase, need to submit a Technical, Economic and Financial Feasibility Study (EVTEF) and a study on the environmental impact and restoration of the environment after the mining activities. Mining plan to form part of the study.</p> <p><u>Art 152 (Abandonment of Mining Area):</u> Abandonment does not release titleholder from having to: a) pay tax, taxes, fines or any compensation due; b) comply with all environmentally-related obligations; c) comply with any obligations required by law or by contract.</p> <p><u>Art 250 (Provisions for Environmental Reclamation):</u> Holders of mining rights to set up a provision to finance environmental restoration/reclamation.</p> | <p>Mining Code <u>Art 68 (Participation of Communities in Environmental Preservation):</u> Local communities entitled to be informed about the Environmental Impact Assessment, as well as any measures to be taken, if it may affect the environment of the area in which they live. Such information to be given to them through local traditional authorities and other representative entities - preferably before execution any project.</p> <p>See also part 1 Col 1 duties in <u>Art 7(Planning for Mining): part 1 Col 2 community rights and mine duties in Art 16 (Community Rights): Art 17 (Relocation Rights): Art 40 (Publication of Registrations) Art 104 (Public Notices vis-à-vis Applications): Art 105 (Complaints & Challenges vis-à-vis Applications):</u> and note tax obligations in part 2 Col 7.</p> |
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| | | | <p><u>Art 93 (Titleholder Obligations)</u>: Ensure employment of Angolan technicians and workers, and providing technical professional training and qualification schemes;</p> <p><u>Art 245 (Rate)</u>: Municipality where mine operates to benefit directly from share in tax revenue.</p> <p><u>Art 253 (Tax Incentives)</u>: Tax incentives may possibly be granted where: a) recourse to local market for goods and complementary services; b) development of activity in remote areas; c) contribution to training of local human resources; f) major contribution to increase in exports.</p> <p>See also part 1 Col 2 on community protections in <u>Art 16 (Community Rights)</u>: Col 1 and Col 5 on EIAs in <u>Art 65 (Environmental Impact Assessment)</u>: Art 66 (<u>Mandatory Clauses</u>): Art 68 (<u>Participation of Communities in Env Preservation</u>):</p> | | |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Botswana | | Mines and Minerals Act None specific for health but: | Mines and Minerals Act <u>Sec 3 (Ownership of minerals vested in Republic)</u> : Generally, all rights of | Mines and Minerals Act <u>See part 1 Col 1 Sec 65 (Rehabilitation, reclamation etc.) on</u> | Companies Act <u>Secs 19 and 21</u> : Essential requirements, types of companies, details required for registration. |

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| | | <p><u>Sec 40 (Government investment):</u> Government option of acquiring up to 15% working interest participation in a proposed mine at a nominal price, have the right to appoint directors and receive dividends.</p> <p><u>Sec 66 (Royalties):</u> Holder of a mineral concession to pay royalties to Government at set percent of gross market value.</p> <p><u>Sec 67 (Remission of royalties):</u> Government may, for any period, in the public interest, remit all or part of any royalty payable.</p> <p><u>Sec 68 (Deferred payment of royalty):</u> Government may defer payment of any royalty due for any period.</p> <p><u>Secs 70 and 71 (Annual Charges):</u> Annual licence charges to be paid to the Government.</p> | <p>ownership in minerals vested in the Republic. Ensure, in the public interest, that mineral resources are investigated and exploited in the most efficient, beneficial and timely manner.</p> <p><u>Sec 12 (Preference for Botswana products, etc.):</u> 1) Concession holder to give preference to materials and products made in Botswana; service agencies located in Botswana and owned by Botswana citizens or bodies corporate established under the Companies Act. 2) Give preference in employment to citizens of Botswana. 3) Conduct training for employees so that they may qualify for advancement.</p> | <p>concession holder obligations and fir this area particularly : 3) The holder to ensure that area is rehabilitated from time to time and ultimately reclaimed.</p> <p><u>Sec 75 (Surrender of area or part thereof covered by mineral concession):</u> Concession holder may surrender area, required to comply with requirement as to the rehabilitation and reclamation of the concession area.</p> | <p><u>Sec 344 et seqq.:</u> Special registration and other requirements for external companies.</p> <p><u>Sec 355 et seqq.:</u> Transfer and registration of foreign companies.</p> <p><u>Sec 303 (1) (a):</u> Additional matters to be stated in prospectus of mining companies.</p> <p>See also Col 8 <u>Sec 3 (Ownership of minerals vested in Republic):</u></p> <p>Mines and Minerals Act <u>Sec 6 (Restriction on acquisition of mineral concession):</u> Mineral concession granted to or held only by a Botswana citizen or a company incorporated under the Companies Act.</p> <p><u>Sec 37 (Who may apply for a mining licence):</u> Application for mining licence only to be made by a company incorporated under the Companies Act.</p> <p><u>Sec 40 (Government investment):</u> Government option of acquiring up to 15% working interest participation in a proposed mine at a nominal price, have the right to appoint directors and receive dividends.</p> <p><u>Sec 53 (Permits for industrial minerals):</u> Permit to exploit industrial minerals^{xxxx} only granted to citizen of Botswana; a partnership or association composed exclusively of citizens of Botswana; or a corporate body controlled by the Government, or whose directors and beneficial shareholders are all citizens of Botswana.</p> |
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| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
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| Democratic Republic of Congo | <p>Mining Code See Part 1 Col 1 <u>Art 33 : Mining and quarry rights subject to tender: Col 5 Art 79 Relinquishment of Exploitation Licence):</u> but no direct protection of health benefits for communities</p> | <p>Mining Code <u>Art 232 (Import duties at preferential rates):</u> Before and upon the effective commencement of exploitation work at the mine.</p> <p><u>Art 234 (Export duty):</u> The holder is completely exempted from all customs duties and other taxes, regardless of their nature, for his exports in relation to the mining project.</p> <p><u>Art 242 (Distribution of mining royalties):</u> Public Treasury distributing mining royalties as follows: 60% Central Government, 25% Provincial Administration and 15% Town or the administrative territory where the exploitation activities take place. The funds in favour of the Decentralised Administrative Entities above, are allocated exclusively to the building of basic infrastructure in the interest of the community.</p> <p>See also part 1 Col 1 <u>Art 71 (Conditions for granting Exploitation Licence):</u> col 2 <u>Art 280 (Actual liability for</u></p> | <p>Mining Code <u>Art 3 (Ownership of mineral substances):</u> All deposits of mineral substances are the exclusive, inalienable and imprescriptible property of the State.</p> <p>See also part 1 Col 1 <u>Art 5 (Authorization for mining and quarry operations):</u> <u>Art 23 (Eligibility to obtain mining and quarry rights):</u> <u>Art 33 : Mining and quarry rights subject to tender:</u> <u>Art 69 (The preparation of the application for the Exploitation Licence):</u> and col 7 <u>Art 242 (Distribution of mining royalties):</u></p> | <p>Mining Code See Part 1 Col 1 <u>Art 71 (Conditions for granting Exploitation Licence):</u> Col 5 <u>Art 79 Relinquishment of Exploitation Licence):</u></p> <p><u>Art 280 (Actual liability for the occupation of the land):</u> The holder or lessee must compensate for the damages caused by the works he carries out in connection with his mining activities, even if they are authorized.</p> | <p>Constitution <u>Arts 22, 23, 24, 25, 26:</u> Freedom of thought, conscience, religion, expression, information and assembly. <u>Arts 37 and 38:</u> Freedom of association</p> <p><u>Art 123:</u> Notwithstanding anything to the contrary in the Constitution, the law shall determine the fundamental principles and regulations for mining activities.</p> <p><u>Art 203:</u> The central and the provincial governments shall have concurrent jurisdiction in mining matters.</p> <p><u>Art 204:</u> Provincial government responsible for the organisation and promotion of primary healthcare; as well as mining programmes within the framework of national planning.</p> <p>Labour Code <u>Art 230:</u> Right to form or join professional associations for both employers and workers. <u>Art 255 et seqq.:</u> Right of workers to be represented in the workplace by elected representatives.</p> <p>Mining Code <u>Art 5 (Authorization for mining and quarry operations):</u> Any person is permitted to engage in non-artisanal exploration or exploitation of mineral substances provided the person in question is the holder of a valid mining or quarry right</p> <p><u>Art 27 (Non-eligible persons):</u> Government employees and civil servants, magistrates, members of the Armed Forces, the Police and</p> |

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| | | <p><u>the occupation of the land):</u> and Col 5_ <u>Art 79</u> <u>Relinquishment of</u> <u>Exploitation Licence):</u></p> | | | <p>the Security Services, the employees of public entities which are authorized to carry out mining activities. However, this incompatibility does not affect their ability to participate in the capital of mining companies.</p> <p>See also part 1 Col 1 <u>Art 23 (Eligibility to obtain mining and quarry rights):</u> <u>Art 33 : Mining and quarry rights subject to tender:</u> and col 3 <u>Art 292 (Suspension):</u> and part 2 Col 8 <u>Art 3 (Ownership of mineral substances):</u></p> <p>Mining Regulations See also part 1 Col 2 <u>Arts 451 and 452:</u> Active information, consultation and involvement of effected local communities in the discussion and evaluation of the EIS</p> <p><u>Art 477 et seqq.:</u>Continuous obligation of the holder to ensure the informed participation of the affected local communities and to remain in constructive dialogue with them.</p> <p><u>Art 481:</u> Obligation of licence holder to present himself to provincial and local authorities and to identify representatives of the local population.</p> |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Kenya | <p>Constitution see part 1 Col 5 <u>Art 42 (Environment):</u></p> <p>Env Management and Co-ordination Act <u>Sec 3 (Entitlement to a</u></p> | <p>Environmental Management and Co-ordination Act <u>Sec 57 (Fiscal incentives):</u>Government able to grant tax and other fiscal incentives, disincentives or fees to induce or promote the proper management of the</p> | <p>Constitution <u>Art 66 (Regulation of land use and property):</u> To ensure that investments in property benefit local communities and their economies.</p> <p>See also part 1 Col 5 <u>Art 69 (Obligations in respect of the environment):</u> (h) utilise the</p> | <p>Mining Act <u>Sec 179:</u> Holder to ensure (a) sustainable use of land through restoration of abandoned mines; (b) seepage of toxic waste into streams, rivers, lakes and wetlands is avoided and disposal of any toxic</p> | <p>Constitution <u>Art 33 (Freedom of expression):</u> And right to seek, receive or impart information. <u>Art 36 (Freedom of association)</u> <u>Art 37 (Assembly, demonstration, picketing and petition)</u></p> <p><u>Art 62 (Public land):</u> All minerals and mineral oils are public land and shall vest in and be held by the national government in trust for the</p> |

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| | <p><u>clean and healthy environment)</u></p> <p>Mining Act see part 1 Col 1 <u>Sec 36: on granting mineral rights after evidence of no harm to community in occupation and Col 2 <u>Sec 20 on compliance with international conventions and national policy;</u></u></p> | <p>environment and natural resources or the prevention or abatement of environmental degradation.</p> <p>Mining Act <u>Sec 48: State to acquire ten percent free carried interest in the share capital of any large scale mining operation in respect of which financial contribution shall not be paid by the State.</u></p> <p><u>Sec 182: Payment of fees and annual charges.</u></p> <p><u>Sec 183: Payment of royalty to the State to be divided between National Governments and the local community (10%).</u></p> <p><u>Sec 188: Right holder may apply for a reduction or temporary suspension of royalty rate, subject to Government regulations.</u></p> <p>See also part 1 Col 1 <u>Sec 117: mineral agreement terms and conditions (k) the payments of royalties, taxes, cess and other fiscal impositions; and (l) financial arrangements.</u></p> | <p>environment and natural resources for the benefit of the people of Kenya.</p> <p>Mining Act <u>Sec 42: Mineral right may be granted subject to conditions including(b) the protection of the environment; (c) community development; (d) safety of prospecting and mining operations; (e) health and safety of persons undertaking those operations.</u></p> <p><u>Sec 46: Holder to ensure skills transfer to and capacity building for the citizens and submit detailed programme for the recruitment and training of citizens of Kenya.</u></p> <p><u>Sec 47: (1)Holder to give preference in employment to members of the community and citizens of Kenya. (2) Large scale operation, holder to(a) conduct training programmes for the benefit of employees;(b) undertake capacity building for the employees;(f) where applicable and necessary facilitate and carry out social responsible investment for the local communities; and (g) implement a community development agreement.</u></p> <p><u>Sec 50:Holder to give</u></p> | <p>waste is done in approved areas; (d) upon completion land shall be restored to its original status,</p> <p><u>Sec 180:</u> No mining licence to be granted without approved mitigation and rehabilitation or mine-closure plans</p> <p>See also part 1 Col 5 <u>Sec 181: on financial security (environmental protection bond) sufficient to cover costs associated with implementation of environmental and rehabilitation obligations of the holder.</u></p> | <p>people of Kenya.</p> <p><u>Art 66 (Regulation of land use and property):</u> To ensure that investments in property benefit local communities and their economies.</p> <p>See part 1 Col 1 <u>Art 71 (Agreements relating to natural resource)</u> subject to ratification by Parliament; Col 3 <u>Art 41 (Labour relations):</u></p> <p>Environmental Management and Co-ordination Act See part 1 Col 5 <u>Sec 112 (Environmental easements and environmental conservation orders): 5A) Use principle of voluntary environment management</u></p> <p>Mining Act <u>Sec 6:Every mineral is the property of the Republic and is vested in the national government in trust for the people.</u></p> <p><u>Sec 8:State has a right of pre-emption of all strategic minerals raised, won or obtained.</u></p> <p><u>Sec 11:Mineral right may be granted to company that is registered and established in accordance with the Companies Act and operating in Kenya.</u></p> <p><u>Sec 22:Establishment of the National Mining Corporation, the investment arm of the national government in respect of minerals.</u></p> <p><u>Sec 220: Prohibition against public officers acquiring mining rights or direct or indirect acquire or retain a share or an interest in a mining company.</u></p> <p>See also part 1 Col 1 <u>Sec 36: approval of mineral right; Sec 42: Conditions for grant of</u></p> |
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| | | | <p>preference to (a) to materials and products made in Kenya; (b) to services offered by members of the community and citizens; and (c) to companies or businesses owned by citizens.</p> <p>See also part 1 Col 1 <u>Sec 20</u>: sustainable development of the mineral resources; <u>Sec 36</u>: No grant of a mineral right until the applicant has sought approval from all concerned; <u>Sec 101</u>: EIA report; <u>Sec 117</u>:(j) community development plans; Col 7 <u>Sec 183</u>: Payment of royalty.</p> | | <p>mineral right and Col 2 <u>Sec 20</u>: compliance with international conventions and national policies; <u>Sec 34</u>: notice in writing of any pending mineral right application; Col 7 <u>Sec 48</u>: State share capital.</p> |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Lesotho | | <p>Mines and Minerals Act <u>Sec 9</u>: Fees, dues, rent, royalties or payments which may become due in respect of any mineral right or under this Act shall be payable to the Government.</p> <p><u>Sec 59</u>: The holder of the mineral concession shall be liable to pay royalties to the Government on any mineral obtained by him.</p> <p><u>Sec 60</u>: The Minister may, in the public interest, remit all or part of any royalty payable on any mineral or</p> | <p>Mines and Minerals Act <u>Sec 5</u>: No mineral right to be granted to or held by an individual who is not a citizen of Lesotho or a company which has not been established and registered in Lesotho.</p> <p><u>Sec 11</u>: Holder of a mineral right to give preference to the employment of citizens of Lesotho; carry out training programmes in order to encourage and promote the development of Lesotho citizens in the holder's employment; make use of products and equipment</p> | <p>Mines and Minerals Act <u>Sec 58</u>: The holder of a mineral right to conduct operations in such manner to (a) preserve the natural environment; (b) minimise and control waste or undue loss of or damage to natural and biological resources; (c) prevent and where unavoidable, promptly treat pollution and contamination of the environment. The holder shall ensure that his mineral right area is rehabilitated and ultimately reclaimed.</p> | <p>Environment Act <u>Sec 94</u>: Where Lesotho is a party to an international or regional convention or agreement, concerning the management of the environment or natural resources, the Director of the Department of Environment to initiate and prepare legislative proposals for consideration for purposes of implementing those international or regional conventions or agreements; and identify appropriate measures necessary for the implementation of conventions or agreements.</p> <p>Labour Code <u>Sec 6 (Freedom of association)</u>: Freedom of association guaranteed for all workers, employers and their respective organisations.</p> <p><u>Sec 168: (Freedom of association)</u>: Workers</p> |

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| | | <p>mineral product for such period as he may determine.</p> <p><u>Sec 61:</u>The Minister may, on application being made by the holder of a mineral concession, defer payment of any royalty due from such holder for such period and subject to such conditions as he may determine.</p> <p><u>Sec 63:</u> The holder of a mineral concession shall pay to the Government a non-refundable annual fee prescribed in Schedule II.</p> | <p>manufactured or produced in Lesotho; and services which are available in Lesotho.</p> <p><u>Sec 34:</u> The Government may, acquire not less than 20% shareholding in a proposed mine.</p> | <p>The holder shall take such measures as are required to maintain and restore the top soil of affected areas and otherwise to restore the land substantially to the condition in which it was prior to the commencement of operations.</p> <p><u>Sec 67:</u> Holder of a mineral right may surrender the mineral right or part of the mineral right complying with any requirements as to the rehabilitation and reclamation of the concession area.</p> <p>Mines Safety Act <u>Sec 23:</u> Regulations for d)upon the cessation or abandonment of mining operations, the removal from the land of buildings, walls, structures, foundations and of all dangers resulting from undermined ground, dumps, shafts, holes trenches or excavations</p> | <p>and employers, have the right to establish and to join organisations of their own choosing.</p> <p>Mines and Minerals Act <u>Sec 3:</u> Subject to Art 107 of the Constitution all rights of ownership in minerals are vested in the Basotho Nation to ensure, in the public interest, that the mineral resources are investigated and exploited in the most efficient, beneficial and timely manner.</p> <p><u>Sec 8:</u> The Commissioner^{xxxii}, a Board^{xxxiii} member or any authorised officer^{xxxiv} shall not acquire any right or interest in any mineral right; acquire or hold any share or interest in a company, which is the holder of a mineral right.</p> <p>See also Col 8 <u>Sec 5:</u> mineral rights held to nationals or locally registered company. And <u>Sec 34:</u> Government shareholding</p> |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Mada-gascar | | Large Scale Investments in the Malagasy Mining Sector Law | Large Scale Investments in the Malagasy Mining Sector Law | Environmental Protection Regulation <u>Art 38:</u> At the end of | Constitution <u>Art 10 [Expression, Association, Assembly, Move, Religion]:</u> Freedom of opinion and |

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| | | <p>Establishes a special regime in exchange, tax, customs and legal matters, applicable to large scale investments^{xxxv} in the mining sector and to provide a secured legal and tax environment to foreign investors ensuring that large scale mining projects cannot be submitted to excessive and specific taxes.</p> <p><u>Art 47 (Temporary exemption of the Minimum of Perception):</u> For the five (5) first tax financial years for the mining licence holder and subcontractors in matter of Income Tax on Companies.</p> <p><u>Art 54 (Upper limit of Applicable Rate to Expatriate Personnel):</u> Income tax capped at 35%.</p> <p><u>Art 54:</u> Mining administration charges payable annually.</p> <p><u>Art 117:</u> Mining tax @ 2% of selling value. No discount, not mentioned in this law, is applicable.</p> | <p><u>Art 103 (Priority in Favour of Malagasy Workers)</u></p> <p><u>Art 104 (Professional Training and Promotion):</u> Duty to implement and carry out theoretical and practical training plan for national Malagasy employed.</p> <p>Mining Code <u>Art 9:</u> Mining rights can only be held by Malagasy citizens or legal entities.</p> <p>See also part 1 Col 1 <u>Art 94:</u> .</p> | <p>mining operation, objective is to make the place healthy and stable and to restore its capacity to allow other activity compatible with all kind of life and activity in the involved area.</p> <p><u>Art 103:</u> License holder to receive the discharge of the authority after in situ report of the completion of the rehabilitation works.</p> | <p>expression, communication, press, association, assembly, travel, conscience, and religion are guaranteed.</p> <p><u>Art 11 [Information]:</u> No prior restraint on information.</p> <p><u>Art 31 [Union]:</u> State to recognize the right of every worker to defend his interests through union activity and freedom to form a union.</p> <p><u>Art 32 [Workers' Participation]</u> Every worker have the right to participate, through his representatives, in determining the rules and conditions of employment.</p> <p>Mining Code Law aiming at contributing to the development of national mining potential within a healthy climate, bringing the national mining law into line with other laws and regulations in Latin-America, Africa and Asia, as well as international ones, and stressing the objective to protect the environment.</p> <p><u>Art 3:</u> All mineral substances in the National Territory are state ownerships.</p> <p><u>Art 5:</u> Mining permitted only under the terms and conditions of a mining licence.</p> <p><u>Art 26:</u> "E"-licence required for mining, prospecting and research.</p> <p>See also part 1 Col 1 <u>Art 37:</u> on environmental protection; <u>Art 94:</u> Introduction to the relevant authorities. and Col 8 <u>Art 9:</u>;</p> |
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| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
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| Malawi | | <p>Environment Management Act <u>Sec 31:</u> Government may determine (a) fiscal incentives as are necessary for promoting the protection and management of the environment and the conservation and sustainable utilization of natural resources;</p> <p>Mines and Minerals Act <u>Sec 86:</u> Holder of a mining licence to pay royalty in respect of minerals obtained.</p> <p><u>Sec 90:</u> Annual charges payable</p> <p><u>Sec 128:</u> Regulations concerning matters relating to charges and royalties be made under this Act</p> <p>(See Mines and Minerals (Mineral Rights) Regulations And Mines and Minerals (Royalty) Regulations, Lilongwe, Malawi)</p> | <p>Constitution <u>Art 13:</u> Achieving a sensible balance between the creation and distribution of wealth through the nurturing of a market economy and long-term investment in health, education, economic and social development programmes.</p> <p>Mines and Minerals Act <u>Sec 37:</u> Application for mining licence to include: report on locally sourced goods and services; proposal in regard to employment and training of Malawians; statement of infrastructure requirements.</p> <p><u>Sec 39:</u> No licence to be granted if these are not satisfactory or adequate.</p> <p>Environment Management Act <u>Sec 37:</u> Application for mining licence to include...: report on locally sourced goods and services; proposal in regard to employment and training of Malawians;</p> | <p>Mines and Minerals Act <u>Sec 96:</u> Conditions for rehabilitation of area damaged by mining to be included in licence.</p> | <p>Constitution <u>Art 13:</u> State to ...introduce measures which will guarantee accountability, transparency, personal integrity and financial probity and which will strengthen confidence in public institutions.</p> <p><u>Art 31:</u> Right to form and join trade unions. <u>Art 32:</u> Freedom of association <u>Art 37:</u> Right of access to information <u>Art 38:</u> Freedom of assembly.</p> <p>Environment Management Act See part 1 Col 5 <u>Sec 3:</u> Promoting of co-operation with foreign governments on environment; <u>Sec 4:</u> Natural resources of Malawi; <u>Sec 52:</u> access to any information</p> <p>Mines and Minerals Act <u>Sec 2:</u> Property in, and control over, minerals in land in Malawi are vested in the President on behalf of the people of Malawi.No person to carry out mining operations unless authorised.</p> <p><u>Sec 10:</u> Agreements with respect to the grant of mineral rights to be consistent with law.</p> <p><u>Sec 13:</u> Mineral right only to be granted to citizens or residents of at least four years, companies or corporations incorporated in Malawi. Mining licence on to be granted to companies or corporations incorporated in Malawi.</p> |
| Mauritius | N/A – non-extractive industry country | | | | |

| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
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| Mozambique | | <p>Fiscal Benefits Code <u>Art 1 (Scope of application):</u> The provisions of this Code apply to investments realised under Investment Law, Mining Law and Petroleum Law.</p> <p><u>Art 3 (Right to Tax and Customs Benefits):</u> Undertakings carried out under legislation referred to in Art 1 shall enjoy the fiscal benefits defined in this Code.</p> <p><u>Art 18 (Professional Training):</u> Investment expenditure for professional training of Mozambican workers deductible from taxable income for the purposes of calculating Corporate Income Tax up to a maximum amount of five (5%) percent of taxable income.</p> <p><u>Art 29 (Exceptional Incentives):</u> Undertakings having investment that exceed the equivalent of US\$500 million may benefit from exceptional incentives in import duties, income tax, real property transfer tax and stamp duty. These exceptional incentives</p> | <p>Fiscal Benefits Code See Col 7 <u>Art 18 (Professional Training):</u></p> <p>Mining Law See part 1 Col 1 <u>Art 8 (Mining contract): particularly</u> a) State participation in the mining venture; b) Minimum local content; c) local employment and technical-professional training programmes; h) the way communities of the mining area are engaged and benefitted by the venture. Col 2 <u>Art 13 (Competence of the Government): Art 41 (Specific obligations of a mining holder): Col 3 Art 36 (General Obligations of the mining holder):</u> and Col 5 <u>Art 3 (Object):</u></p> <p><u>Art 20 (Local development):</u> A percentage of State revenues generated by mining activities is allocated to the development of the communities established in the areas where mining activities take place.</p> <p><u>Art 22 (Acquisition of goods and services):</u> Mining holder must give preference to local products and services.</p> | <p>Mining Law <u>Art 26 Instituto Nacional de Minas (National Institute of Mines):</u> Responsible for reviewing and approving projects and technical and economic studies for the opening of new mines as well as rehabilitation and/or closure of already existing ones.</p> <p><u>Art 43 (Specific rights of a mining concession holder):</u> g) abandon, totally or partially, the area covered by the mining concession, according to the rehabilitation and mine closure plan.</p> | <p>Labour Law <u>Art 54 (Rights of employees):</u> ...; i) to go to the Labour Inspectorate or to authorities with labour jurisdiction, whenever their rights are threatened; j) to associate freely in professional organisations or trade unions, in accordance with the Constitution of the Republic of Mozambique.</p> <p><u>Art 137 (Right of association)</u> <u>Art 143 (Freedom of membership)</u></p> <p>Mining Law <u>Art 8 (Mining contract): particularly</u> f) memorandum of understanding between the Government, the company and the community(ies); g) dispute settlement mechanisms, including provisions related to the settlement of any such disputes through arbitration;</p> <p><u>Art 30 (Fair compensation): particularly 2.</u> The fair compensation value must be fixed in an understanding memorandum between the Government, the company and the community, and such an act may be witnessed by a community-based organization, if requested by one of the parties. 3. The above mentioned understanding memorandum is one of the requirements for the allocation of mining exploration rights. 4. The Government is responsible for assuring the best terms and conditions in favour of the community, including the payment of fair compensation.</p> <p><u>Art 32 (Involvement of communities):</u> 1. Previous information concerned with the beginning of the prospecting and research</p> |

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| | | <p>shall be subject to proposal by the Minister of Planning and Finance.</p> <p><u>Art 41 (Import [and Export] Benefits):</u> Undertakings carried out under Mining Law, shall benefit from an exemption from customs duties owing on the importation of equipment, apparatus, materials and spare parts for prospecting and exploration, mineral production and the exportation of mineral resources. The imports shall also benefit from an exemption from VAT) and Specific Consumption Tax (SCT).</p> <p>Mining Law <u>Art 16 (Taxes):</u> Mining holders are subject to pay the following taxes: a) income tax; b) VAT; c) production tax; d) surface tax; e) municipal taxes, when applicable; f) other taxes established by law.</p> <p><u>Art 20 (Local development):</u> A percentage of State revenues generated by mining activities is allocated to the development of the communities established in the areas where mining activities take place.</p> | <p><u>Art 33 (Workforce in mining activities):</u> 2. Assure the employment and professional training of Mozambican workers.</p> <p>Regulations for the Resettlement Process Resulting from Economic Activities See part 1 Col 2 <u>Art 5 Purpose of the Resettlement:</u> To stimulate the socio-economic development.</p> <p>)</p> | | <p>activities must be provided to communities as well as the necessity of their temporary resettlement for this purpose. 2. Communities must be previously consulted before the granting of an authorization for the beginning of mining exploration. 3. The Government shall create mechanisms in order to allow the engagement of communities in the mining projects located where they are settled. 4. The Government is responsible for assuring the organization of the communities in order to promote their engagement as mentioned above.</p> <p>Regulations for the Resettlement Process Resulting from Economic Activities See Part 1 Col 5 <u>Art 4 Principles:</u>especially f) Principle of Public Participation – in the resettlement process there shall be hearings of local communities and other parties interested in and affected by the activity;</p> <p><u>Art 8 Other Stakeholders of the Resettlement Process:</u>Stakeholders participate in the resettlement process:a) Five representatives of the affected population;b) One representative of Civil Society;c) Three community leaders; d) Two representatives of the private sector.</p> <p><u>Art 10 (Rights of the affected population)</u> <u>Art 13 (Public Participation):</u> Is guaranteed. <u>Art 14 (Right to Information)</u> <u>Art 23 (Public Consultation)</u></p> |
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| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
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| Namibia | | <p>Minerals (Prospecting and Mining) Act <u>Sec 114^{xxxvi} (Royalties payable on minerals):</u> The holder of a mining licence be liable to pay, for the benefit of the State Revenue Fund, a royalty. Minister may determine different rates than those contemplated in the Act on one or more of the following grounds (which grounds need not be specified in the notice concerned):(a) the value of the mineral concerned; (c) the duration of the operations concerned and the extent to which the holder concerned has recovered any capital investments made in the course of the operations concerned; (d) the number of Namibian citizens employed in the operations concerned, and the extent to which such holder provides training to Namibian citizens; (e) the impact of the operations on the environment; (f) the extent to which the holder uses Namibian providers of goods or services, or the extent to which the operations otherwise</p> | <p>Environmental Management Act See part 1 Col 5 <u>Sec 3:</u> Principles of environmental management: esp (b) community involvement in natural resources management and the sharing of benefits arising from the use of the resources;</p> <p>Minerals (Prospecting and Mining) Act: <u>Sec 50 (General terms and conditions of mineral licences):</u> to (b) in employment give preference to Namibian citizens; (c) carry out training programmes in order to encourage and promote the development of Namibian citizens;(d) make use of products or equipment manufactured or produced, and services available, within Namibia.</p> <p>See Col 7 <u>Sec 114 (Royalties payable on minerals):</u></p> | <p>Minerals (Prospecting and Mining) Act <u>Sec 54 (Abandonment of reconnaissance areas, prospecting areas, retention areas and mining areas):</u> The holder of a mineral licence may abandon the mining area having taken all steps as may be necessary to remedy any damage caused by operations carried by such holder to the surface of, and the environment on, the land in the area in question.</p> | <p>Constitution <u>Art 21 [Fundamental Freedoms]</u> Right to: a) freedom of speech and expression b) freedom of thought, conscience and belief, d) assemble peaceably and without arms; e) freedom of association, which shall include freedom to form and join associations or unions.</p> <p>See part 1 Col 5 <u>Art 95 [Promotion of the Welfare of the People]:</u></p> <p><u>Art 144 [International Law]:</u> Unless otherwise provided by the Constitution or Act, the general rules of public international law and international agreements binding upon Namibia shall form part of the law of Namibia.</p> <p>Environmental Management Act See part 1 Col 5 <u>Sec 2: esp</u> (c) ensuring that the findings of an assessment are taken into account before any decision is made in respect of activities. <u>Sec 3: esp</u> (b) community involvement in natural resources management and the sharing of benefits arising from the use of the resources; (c) the participation of all interested and affected parties must be promoted and decisions must take into account the interest, needs and values of interested and affected parties;</p> <p><u>Sec 48:</u> Minister may introduce legislation or make regulations for giving effect to an international environmental agreement to which Namibia is a party, and such legislation and regulations may deal with (f) ensuring public participation.</p> <p>Labour Act</p> |

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| | | <p>benefit the Namibian economy or society; (g) any other ground that, in the opinion of the Minister, is relevant.</p> <p>Environmental Investment Fund of Namibia Act Establishment of an Environmental Investment Fund of Namibia in support of sustainable environmental and natural resources management in Namibia.</p> <p><u>Sec 4 (Objects of Fund):</u> To procure moneys for the maintenance of an endowment fund that will generate income in perpetuity and to allocate such income to activities and projects aimed at promoting(a) the sustainable use and management of environmental and natural resources;(b) the maintenance of the natural resource base and ecological processes; (c) the maintenance of biological diversity and ecosystems for the benefit of all Namibians; and(d) economic improvements in the use of natural resources for sustainable rural and urban development</p> | | | <p><u>Sec 6:</u>Freedom of association</p> <p>Minerals (Prospecting and Mining) Act <u>Sec 46:</u> Mineral licences only to be granted to Namibian citizens or a company^{xxxvii}.</p> <p>See also Col 8 <u>Sec 50 (General terms and conditions of mineral licences):</u></p> |
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| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
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| South Africa | | <p>Mineral and Petroleum Resources Development Act <u>Sec 25 (Rights and obligations of holder of mining right):</u> (g) pay the State royalties.</p> <p>Mineral and Petroleum Resources Royalty Act <u>Sec 2 (Imposition of royalty):</u> A person that wins or recovers a mineral resource from within the Republic must pay a royalty for the benefit of the National Revenue Fund.</p> <p><u>Sec 7 (Small business exemption)</u></p> <p><u>Sec 12 (General anti-avoidance rule):</u> If the Commissioner is satisfied that a disposal, transfer, operation, scheme or understanding has been entered into or carried out, which has the effect of avoiding or postponing liability for the royalty, or of reducing the amount thereof, the Commissioner must determine the liability for the royalty, and the amount thereof, as if the disposal, transfer, operation, scheme, or understanding</p> | <p>Mineral and Petroleum Resources Development Act <u>Sec 2 (Objects of Act):</u> Are to (c) promote equitable access to the nation's mineral and petroleum resources to all the people of South Africa; (d) substantially and meaningfully expand opportunities for historically disadvantaged persons, including women, to enter the mineral and petroleum industries and to benefit from the exploitation of the nation's mineral and petroleum resources; (e) promote economic growth and mineral and petroleum resources development; (f) promote employment and advance the social and economic welfare; (h) ensure that the nation's mineral and petroleum resources are developed in an orderly and ecologically sustainable manner while promoting justifiable social and economic development; and (i) ensure that holders of mining and production rights contribute towards the socio-economic development of the areas in which they are operating.</p> <p><u>Sec 104 (Preferent prospecting or mining right in</u></p> | <p>Mineral and Petroleum Resources Development Act <u>Sec 38 (Integrated environmental management and responsibility to remedy):</u> Holder (d) must rehabilitate the environment affected by the prospecting or mining operations to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and (e) is responsible for any environmental damage, pollution or ecological degradation as a result of mining operations and which may occur inside and outside the boundaries of the area.</p> <p><u>Sec 43 (Issuing of a closure certificate):</u> Holder remains responsible for any environmental liability, pollution or ecological degradation, and the management, until a closure certificate has been issued.</p> | <p>Mine Health and Safety Act <u>Sec 1 (Objects of Act):</u> (d) to provide for employee participation in matters of health and safety.</p> <p><u>Sec 41 (Establishment of tripartite institutions):</u> Mine Health and Safety Council established to advise on health and safety in mines.</p> <p>Mineral and Petroleum Resources Development Act <u>Sec 3 (Custodianship of nation's mineral and petroleum resources):</u> Mineral and petroleum resources are the common heritage of all the people of South Africa and the State is the custodian thereof for the benefit of all South Africans.</p> <p><u>Sec 10 (Consultation with interested and affected parties):</u> Regional Manager must make known that an application for a prospecting right, mining right or mining permit has been received and call upon interested and affected persons to submit their comments regarding the application.</p> <p>See also part 1 Col 1 <u>Sec 5 (Legal nature of prospecting right, mining right, exploration right or production right, and rights of holders thereof):</u> and Col 8 <u>Sec 104 (Preferent prospecting or mining right in respect of communities).</u></p> |

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| | | had not been entered into or carried out. | <u>respect of communities):</u> Any community who wishes to obtain the preferent right to prospect or mine...the Minister must grant such preferent right if the community can prove that (a) the right shall be used to contribute towards the development and the social upliftment of the community concerned; (b) the community submits a development plan, indicating the manner in which such right is to be exercised; (c) the envisaged benefits of the prospecting or mining project will accrue to the community in question; and (d) the community has access to technical and financial resources to exercise such right. | | |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Swaziland | Constitution <u>Art 60 (Social objectives):</u> State shall take all practical measures to ensure the provision of basic health care services to the population. | Mines and Minerals Act <u>Sec 78 (Terms of minerals agreement):</u> May contain in particular provisions concerning(a) the payment of royalties, taxes, fees and other fiscal impositions and state participation;(b) arrangements concerning participation in any mining operation, by the iNgwenyama in trust for the Swazi nation; (c) the circum- | Constitution <u>Art 59 (Economic objectives):</u> The State to take necessary action to ensure that the national economy is managed in such a manner as to maximise the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Swaziland and balance development of all regions and in particular | Mines and Minerals Act <u>Sec 66 (Cessation, suspension or curtailment of production):</u> Holder of a mining licence to give notice of at least twelve months if cessation of production is intended. <u>Sec 126 (Site rehabilitation and mine closure):</u> Plans to be included in approved | Constitution <u>Art 11 (Protection of King and iNgwenyama in respect of legal proceedings):</u> The King and iNgwenyama shall be immune from any suit or legal process in any cause in respect of all things done or omitted to be done by him. <u>Art 14:</u> The fundamental human rights and freedoms (a)respect for life, liberty, right to fair hearing, equality before the law and equal protection of the law; (b)freedom of conscience, of expression and of peaceful assembly and association and of movement; (c) protection of |

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| | | <p>stances</p> <p><u>Sec 131 (Fees):</u> Prescribed fees to be paid</p> <p><u>Sec 132 (Royalties):</u> Royalty to be paid to the iNgwenyama in trust for the Swazi Nation. The iNgwenyama may reduce or temporarily suspend the royalty payable.</p> <p><u>Sec 133 (State participation):</u> The iNgwenyama in trust for the Swazi Nation and the Government shall each acquire 25% shareholding without any monetary consideration in a large scale mining project for which a mining licence is granted.</p> | <p>improving the conditions of life in the rural areas.</p> <p><u>See part 1 Col 2 Art 211 (Land):</u> All land in Swaziland, save privately held title-deed land, shall continue to vest in iNgwen-yama in trust for the Swazi Nation.</p> <p>Mines and Minerals Act <u>Sec 28 (Employment and training):</u> Holder of mineral right give preference in employment to citizens of Swaziland. In large-scale operations, holder shall conduct training programmes for employees and locals.</p> <p><u>Sec 29 (Local procurement):</u> Preference to be given to materials and products made in Swaziland and local service agencies.</p> <p><u>Sec 54 (Application for mining licence):</u> To made to the iNgwenyama and include (f) a statement that specifies the proposal oft applicant with respect to employment and training of citizens; (g) a statement that specifies the proposal of with respect to community development; (h) a statement that specifies the proposal with respect to the procurement of local goods and services.</p> | <p>programme.</p> | <p>the privacy of the home and other property rights of the individual; (d)protection from deprivation of property without compensation; (e)protection from inhuman or degrading treatment, slavery and forced labour, arbitrary search and entry; and (f) respect for rights of the family, women, children, workers and persons with disabilities.</p> <p><u>Art 25 (Protection of freedom of assembly and association)</u> <u>Art 32 (Rights of workers)</u> Right to form or join trade unions and collective bargaining.</p> <p><u>Art 214 (Minerals Management Board):</u> Minerals Management Board to advise iNgwenyama on the overall management of minerals and making of grants, leases or other dispositions conferring rights or interests in respect of minerals or mineral oils.</p> <p><u>Art 236 (International relations):</u>Swaziland shall endeavour to uphold the principles, aims and ideals of the United Nations, the Southern African Development Community, other international organizations of which Swaziland is a member.</p> <p>Environment Management Act <u>Sec 49 (International Agreements):</u> After signing an international agreement designed to protect the environment the Minister shall cause the agreement to be ratified; present any necessary bills to Parliament for passage and assent to be made into law.</p> <p><u>See part 1 Col 5 Sec 50 (Register of Environmental Information): Sec 51 (Requests for environmental information):. Sec 58 (Civil Actions):</u> Any person may sue for damages ,</p> |
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| | | | | | <p><u>Sec 52 (Public Review):</u>Where required by this Act to be subjected to public review.</p> <p><u>Sec 53 (Public Hearings):</u> Minister to convene a public hearing if at least ten written and substantiated objections have been submitted during the public review process, and high degree of public concern over the document, or the sensitive or significant nature of the matters referred to in the document, require that the public should have the opportunity to make submissions or comments at a public hearing.</p> <p><u>Sec 75 (Protection, repair and costs orders):</u> Any court that convicts a person of an offence under this Act may, in addition to any other penalty imposed: order the person to take and pay for measures to avoid, remedy or mitigate any adverse effects arising from or likely to arise from the offence.</p> <p>Mines and Minerals Act <u>See Col 1 Sec 3:</u>No mining operations to be carried out without a licence or permit., Col 5 <u>Sec 25:</u> and part 2 Col 7 and Col 8 <u>Sec 54 (Application for mining licence):</u></p> <p><u>Sec 4:</u> Mineral right not to be granted to a corporate or legal entity that is not registered to operate in Swaziland.</p> |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Tanzania | | Tanzania Extractive Industries (Transparency and Accountability) Act <u>Sec 10:</u> Tanzania Extractive Industries Committee to be responsible for ensuring | Mining Act See part 1 Col 1 <u>Sec 10:</u> Model contract prescribed in the regulations to be used, which may contain binding provisions in regard to (e) guaranteed procurement | Mining Act <u>Sec 47:</u> Holder of a special licence obligated to (d) prepare and update mine closure plans for making safe the mining area on termination of | Constitution <u>Art 18:</u> Freedom of opinion expression <u>Art 20:</u> Freedom of assembly and association <u>Art 21:</u> Citizen's freedom to participate fully in public affairs and the process leading to any decision on matters affecting him, his well-being or the nation. |

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| | | <p>that benefits of extractive industry are verified, duly accounted for and prudently utilized for the benefit of the citizens of Tanzania.</p> <p><u>Sec 14:</u> Committee, annually, to set out a threshold for the purpose of identifying extractive industry companies that qualify for reconciliation on payments made and revenues received by the Government.</p> <p><u>Sec 15:</u> Extractive industry companies obligated to submit annual reports and information on local content, corporate social responsibility and capital expenditures.</p> <p>Mining Act <u>Sec 87:</u> Royalties payable to the Government on the gross value of minerals produced.</p> <p><u>Sec 92:</u> Annual charges in respect of mineral right and licence payable</p> | <p>of good, and services available in the United Republic;(f) employment, training and succession plan; and (g) Government free carried interest and State participation.</p> <p><u>Sec 44:</u> A special mining licence shall include conditions on (iii) the employment and training of citizens of Tanzania and succession plan, as required by the Employment and Labour Relations Act; and (v) the procurement plan of goods and services available in the United Republic.</p> | <p>mining operations in a manner as prescribed in the relevant regulations</p> <p><u>Sec 62:</u> Holder of a mineral right to give at least three months' notice of the intention to surrender the whole or part of the land under his licence and only to be issued with a certificate of surrender if the condition of the land is safe, accords with good mining practice, and, as applicable, conforms to the requirements of the environmental management plan or the Regulations relating to safety and environmental management.</p> | <p>See part 1 Col 2 <u>Art 30:</u> Limitations upon, and enforcement and preservation of basic rights, in the exploitation and utilization of minerals.</p> <p>Employment and Labour Relations Act <u>Sec 9:</u> Employee's right to join, form and participate in trade unions.</p> <p>Tanzania Extractive Industries (Transparency and Accountability) Act <u>Sec 4:</u> Establishment of the Tanzania Extractive Industries (Transparency and Accountability) Committee as an independent Government entity and an oversight body for promoting and enhancing transparency and accountability in the extractive industry.</p> <p><u>Sec 5:</u> Committee to include members from civil society organisations.</p> <p><u>Sec 10:</u> Committee to be responsible for ensuring that benefits of extractive industry are verified, duly accounted for and prudently utilized for the benefit of the citizens of Tanzania. Committee to-</p> <p>(a) develop a framework for transparency and accountability in the reporting and disclosure by all extractive industry company on revenues due to or paid to the Government; (b) require from any extractive industry company or from the statutory recipients an accurate account of money paid by and received from the company at any period; (c) require extractive industry companies to disclose to the Committee accurate records of the cost of production, capital expenditures at every stage of investment, volumes of production and export data from extractive industry company in respect of each licence; (d) promote the effective citizen participation and awareness of extractive industry companies and its</p> |
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| | | | | <p>contribution to socio-economic development; (e) conduct investigations on material discrepancy from revenue payments and receipts in the extractive industry companies in accordance with the provisions of this Act; (f) make reconciliations on payments from extractive industry companies and Government receipts; (g) identify discrepancies and undertake measures to enhance capacity of any relevant organ of the Government or local government authority having statutory responsibility to monitor revenues and payments by all extractive industry companies to the Government; (h) disseminate by way of publication of reconciliation and investigation reports or otherwise any information concerning revenues received by the Government from extractive industry companies as it may consider necessary; (i) promote the effective citizen participation and awareness of resources governance in extractive industry and its contribution to socio-economic development; j) make consultation amongst Government, civil society and companies for effective management of natural resources.</p> <p><u>Sec 16:</u>To ensure transparency and accountability in extractive industries, the Committee shall cause the Minister to publish- (a) in the website or through a media which is widely accessible all concessions, contracts and licenses relating to extractive industry companies;(b) names of individual shareholders who own interests in the extractive industry companies;(c) implementation of Environmental Management Plans of the extractive industry companies.</p> <p><u>Sec 27:</u>All Mineral Development Agreements and Production Sharing Agreements or any other agreements signed prior to coming into</p> |
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| | | | | | <p>operations of this Act, shall, upon coming into force of this Act, be subjected to disclosure requirements under this Act.</p> <p>See Col 7 <u>Sec 14</u>:: <u>Sec 15</u>:</p> <p>Mining Act <u>Sec 5</u>: Property and control over minerals on, in or under the land is vested in the United Republic</p> <p><u>Sec 6</u>: No prospecting for minerals or carry on mining or processing operations except under the authority of a mineral right granted.</p> <p>See part 1 Col 1 <u>Sec 10</u>, <u>Sec 41</u> and col 8 <u>Sec 44</u></p> |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Uganda | <p>Constitution <u>XIV. General Social and Economic Objectives</u> State to ensure that all Ugandans enjoy access to health services.</p> <p><u>Art XX. Medical Services</u> The State to ensure the provision of basic medical services</p> | <p>Constitution <u>Art 152 General Taxation</u> Where a law enacted confers powers on any person or authority to waive or vary a tax imposed by that law, that person or authority shall report to Parliament periodically on the exercise of those powers.</p> <p>Mining Act <u>See part 1 Col 1 Sec 18 (Mineral Agreements)</u> May be entered into with any person with respect to any matter relating to or connected with operations or activities under an exploration licence or a</p> | <p>Constitution <u>Art IX. The Right to Development</u></p> <p><u>Art X. Role of The People in Development</u> State to take necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them.</p> <p><u>Art XII. Balanced and Equitable Development</u> State to take measures to bring about balanced development of the different areas of Uganda and between the rural and urban</p> | <p>Mining Act <u>Sec 110 (Environmental restoration plan)</u>: Environmental restoration plan to be included in a mining lease for any area that may be damaged or adversely affected by his or her exploration or mining operations.</p> | <p>Constitution <u>Art X. Role of The People in Development</u> State to take necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them.</p> <p><u>Art 29 Protection of freedom of co-science, expression, movement, religion, assembly and association</u></p> <p><u>Art 40 Economic rights</u> Right of workers to join trade unions and collective bargaining.</p> <p><u>Art 41 Right of access to information</u></p> <p>See also part 1 Col 5 <u>Art XIII. Protection of Natural Resources</u>; <u>XIV. General Social and Economic Objectives</u></p> |

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| | | <p>mining lease.</p> <p><u>Sec 98 (Royalties):</u> Payment of royalties on the gross value of the minerals mined at such rates as shall be prescribed. Royalty shall be shared by the Government, Local Governments and owners or lawful occupiers of land subject to mineral rights</p> <p><u>Sec 99 (Waiver of royalty, etc.):</u> The Minister may, with the approval of the Cabinet, waive in whole or in part, any royalty payable on any mineral obtained or mined from a particular deposit, for such period as the Minister may determine, if he considers it expedient to do so in the interests of the production of any such mineral.</p> <p><u>Sec 106 (Annual mineral rent)</u></p> | <p>areas, and special measures in favour of the development of the least developed areas.</p> <p><u>Art 244 Minerals</u> Minerals and mineral ores shall be exploited taking into account the interests of the individual land owners, local governments and the Government.</p> <p>Mining Act <u>Sec 5 (Restrictions on acquisition of mineral right):</u> No mineral right to be granted to or held by a company which has not been registered in Uganda or incorporated under the Companies Act.</p> <p><u>Sec 41 (Application for mining lease):</u> Application to be accompanied by (h) a report on the goods and services required for the mining operations, which can be obtained within Uganda and the applicant's proposals with respect to the procurement of those goods and services; (i) be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Uganda.</p> <p>See part 1 Col 1 <u>Sec 43 (Restriction on grant of mining lease)</u></p> | | <p>Mining Act <u>Sec 3 (Ownership of minerals):</u> Entire property in and control of all minerals in, on or under, any land or waters in Uganda are and shall be vested in the Government.</p> <p><u>Sec 5 (Restrictions on acquisition of mineral right):</u> No mineral right to be granted to or held by a company which has not been registered in Uganda or incorporated under the Companies Act.</p> |
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| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
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| Zambia | <p>Mines and Minerals Development Act <u>Sec 4. [General principles for mining and Minerals development]:</u> (b) mineral resources shall be explored and developed in a manner that promotes and contributes to socioeconomic development (f) development of local communities in areas surrounding the mining area based on prioritisation of community needs, health and safety.</p> | <p>Constitution <u>Art 198. [Principles relating to public finance]:</u>(a) transparency and accountability; (b) promotion of a public finance system that ensures(i) the burden of taxation is shared fairly; (ii) revenue raised nationally is shared equitably among the different levels of government; and (iii) expenditure promotes the equitable development of the country.</p> <p><u>Sec 56. [Qualification for incentives]:</u> An investor investing not less than USD500 000 in a priority sector or product^{xxxviii}, is entitled to incentives as specified by or under the Income Tax Act or Customs and Excise Act.</p> <p><u>Sec 58. [Major investment]:</u> Minister of Finance may for the purposes of promoting major investment in an identified sector or product, specify additional incentives for investment of not less than US\$10 million</p> <p>Mines and Minerals Development Act <u>Sec 88. [Collection and</u></p> | <p>Constitution <u>Art 253. [Principles of land policy]:</u> Land to be held, used and managed to ensure: (b) security of tenure for lawful land holders; (d) sustainable use of land; (e) transparent, effective and efficient administration of land; (f) effective and efficient settlement of land disputes; preservation activities; (h) investments in land to also benefit local communities and their economy; and (i) plans for land use to be done in a consultative and participatory manner</p> <p>Zambia Development Agency Act <u>Sec 5. [Functions of the Agency]:</u> Agency to further economic development of Zambia, having regard to the need to: (a) improve the overall economic performance of the economy in order to achieve higher living standards for all members of the community; (c) encourage the development and growth of Zambian industries that are efficient in their use of resources, enterprising, innovative and internationally competitive; (e) protect the interests of industries,</p> | <p>Constitution <u>See part 1 Col 2 Art 255. [Principles of environmental and natural resources management and development]:</u> (h) reclaiming and rehabilitation of degraded areas and those prone to disasters shall be promoted.</p> <p>Mines and Minerals Development Act <u>Sec 70. [Abandonment of land subject to mining or non-mining right]</u> Upon prior notice of not less than 90 days and including a certificate of closure issued by the Director or Mines Safety.</p> <p><u>Sec 81 [Conditions for protection of environment and human health]:</u> Mining licence to be issued subject to conditions regarding (c) the rehabilitation, levelling, re grassing, reforestation or contouring of such part of the land over which the right or licence has effect as may have been damaged or adversely affected by</p> | <p>Constitution <u>Art 11. [Fundamental Rights and Freedoms]:</u> the right to: (a) life, liberty, security of the person and the protection of the law; (b) freedom of conscience, expression, assembly, movement and association;</p> <p><u>Art 21. [Protection of freedom of assembly and association]:</u> Right to assemble freely and associate with others, and in particular to form or belong to any trade union or other association for the protection of his interests.</p> <p><u>See part 1 Col 2 Art 255. [Principles of environmental and natural resources management and development]:</u> The management and development of the environment and natural resources shall be governed by the following principles: (l) effective participation of people in the development of relevant policies, plans and programmes; and (m) access to environmental information to enable people preserve, protect and conserve the environment; <u>Art 257. [Utilisation of natural resources and management of environment]:</u></p> <p>Zambia Development Agency Act <u>See Col 8 Sec 5. [Functions of the Agency]:</u> Agency to further economic development of Zambia,</p> <p>Environmental Management Act <u>See part 1 Col 5 Sec 4. [Right to clean, safe and healthy environment]:</u> Sec 6. <u>[Principles governing environmental management]:</u> Sec 91. <u>[Public participation in environmental decision making]:</u> Sec 110. <u>[Civil action]:</u></p> |

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| | | <p><u>assessment of mineral royalty</u>]: Commissioner-General^{xxxix} responsible and the Income Tax Act shall apply to the collection, assessment, enforcement of, and right of appeal with respect to, any mineral royalty imposed.</p> <p><u>Sec 89. [Royalties on production of minerals]</u>: Applicable rates.</p> <p><u>Sec 91. [Mineral royalty returns]</u></p> <p><u>Sec 93. [Remission of mineral royalties]</u>: The Minister of Finance may remit in whole or part any mineral royalty payable for such period as he may determine, if the Minister considers it expedient in the interests of the production of the mineral to do so.</p> <p><u>Sec 94. [Deferment of mineral royalties]</u></p> | <p>employees, consumers and the community that are likely to be affected by measures proposed by the Agency; (f) increase employment in Zambia; (i) ensure that industry develops in a way that is ecologically sustainable; (j) ensure that Zambia meets its international obligations and commitments, including those under the WTO, COMESA and SADC; and (k) maintain regular, productive and effective dialogue and cooperation with the public and private sector and encourage public-public dialogue, private-private dialogue and private-public dialogue.</p> <p><u>Sec 12. [Trade and industry development Strategies]</u>: Recommend coherent trade and industry development strategies having regard to the need to (c) scale-up investment in rural infrastructure; (j) take cognisance of common or cross-border issues that arise in areas such as infrastructure development, the environment, education and research.</p> <p>Mines and Minerals Development Act <u>Sec 4. [General principles for mining and Minerals development]</u>: (b) mineral</p> | <p>mining operations; and (d) the filling in, sealing or fencing of excavations, shafts and tunnels.</p> | <p><u>Sec 84. [International Agreements]</u>: Minister shall, after signing an international agreement designed to protect the environment, as soon as is cause the agreement to be ratified; and take appropriate measures to give effect to the agreement.</p> <p>Mines and Minerals Development Act <u>Sec 3. [Ownership of minerals]</u>: All rights of ownership in, searching for, mining and disposing of, minerals located in the Republic vest in the President on behalf of the Republic.</p> <p><u>Sec 12. [Prohibition of exploration, mining or mineral processing without licence or environmental impact assessment]</u></p> <p><u>Sec 14. [Disqualification from holding mining rights]</u>: Mining right not to be granted to a company that is not incorporated under the Companies Act; or has not established a registered office in Zambia</p> <p><u>Sec 63. [Insurance and indemnities]</u> As internationally recognised and in the public interest.</p> <p><u>Sec 87 [Liability and redress]</u>: A holder shall be strictly liable for any harm or damage caused by mining operations or mineral processing operations and shall compensate any person to whom the harm or damage is caused. A person, group of persons or a private or State organisation may bring a claim and seek redress in respect of the breach or threatened breach of any provision relating to damage to the environment, biological diversity, human and animal health or to socio-economic conditions.</p> |
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| | | | <p>resources shall be explored and developed in a manner that promotes and contributes to socioeconomic development; (e) citizens shall have equitable access to mineral resources and benefit from mineral resources development; and (f) development of local communities in areas surrounding the mining area based on prioritisation of community needs, health and safety.</p> <p><u>Sec 20. [Preference for Zambian products, contractors and services and employment of citizens]</u></p> <p><u>Sec 32. [Mining Licence]:</u> conditions regarding (b) undertaking for the employment and training of citizens; (c) undertaking for the promotion of local business development; (e) the applicant's undertaking for management of the environment in the mining area.</p> | | |
| Area | Health benefits for surrounding communities (6) | EI Fiscal contributions to health and health services (7) | Forward /backward links with sectors/ services supporting health (8) | Post mine closure obligations (9) | General governance issues (10) |
| Zimbabwe | | <p>Constitution <u>Art 298 Principles of public financial management</u> There must be transparency and accountability in financial matters. Expen-</p> | <p>Constitution <u>Art 13 National development:</u> The State and all institutions and agencies of government endeavour to facilitate rapid and equitable development,</p> | <p>Environmental Management Act <u>Sec 114 Minister may make order for protection of environment:</u> Minister may serve a</p> | <p>Constitution <u>Art 34 Domestication of international instruments</u> The State must ensure that all international conventions, treaties and agreements to which Zimbabwe is a party are incorporated into domestic law.</p> |

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| | | <p>diture must be directed towards the development of Zimbabwe, and special provision made for marginalised groups and areas;</p> <p><u>Art 301 Allocation of revenues between provincial and local tiers of government</u> To take into account (d) the need to provide basic services, including educational and health facilities, water, roads, social amenities and electricity to marginalised areas.</p> <p>Environmental Management Act <u>Sec 50 Environment levy:</u> The Minister may impose an environment levy on any person or class of persons whose activities impact on the environment.</p> <p><u>Sec 135 Incentives for environmental management:</u> Fiscal, economic or social incentives necessary for promoting the protection and management of the environment and the conservation and sustainable utilisation of natural resources; and such measures as are necessary for preventing the unsustainable use of natural resources and</p> | <p>and in particular must take measures to (c) foster the development of industrial and commercial enterprises in order to empower Zimbabwean citizens; and (d) bring about balanced development of the different areas of Zimbabwe, in particular a proper balance in the development of rural and urban areas.</p> <p>Indigenisation and Economic Empowerment Act <u>Sec 3 Objectives and measures in pursuance of indigenisation and economic empowerment:</u> Government endeavour to secure that at least 51% of the shares of every public company and any other business shall be owned by indigenous Zimbabweans.</p> <p>Indigenisation and Economic Empowerment (General) Regulations <u>Sec 5 (Approval and amendment of indigenisation implementation plans and prescription of Thresholds and timeframes):</u> Minister to publish by notice in the Gazette prescribing, with respect to each sector and subsector of the economy for what maximum period a business may continue to operate with such lesser</p> | <p>written order on the owner, occupier or user of any land in respect of one or more of the following matters— (n) requiring the rehabilitation of a mining site.</p> <p>Mines and Minerals Act <u>See part 1 Col 1 Sec 159 Application for special mining lease</u> To include (e) a plan for the development and operation of the proposed mine, including proposals for—D. the reclamation and rehabilitation of land disturbed by mining operations.</p> <p><u>Sec 269 Open workings to be protected on abandonment, forfeiture or cancellation of location</u> On or before the abandonment, forfeiture or cancellation of a registered mining location the holder shall fill in all shafts, open surface workings and excavations or otherwise deal with them as permanently to ensure the safety of persons and stock.</p> | <p><u>Art 58 Freedom of assembly and association</u> <u>Art 61 Freedom of expression and freedom of the media</u> Including freedom to seek, receive and communicate ideas and other information.</p> <p><u>Art 62 Access to information</u> Every Zimbabwean citizen or permanent resident has the right of access to any information held by the State.</p> <p><u>Art 65 Labour rights:</u> Including the right to fair and safe labour practices and standards; right to form and join trade unions, to participate in the lawful activities of those unions; right to engage in collective bargaining.</p> <p>Environmental Management Act <u>See part 1 Col 1 Sec 4. Environmental rights and principles of environmental management:</u> (c) the participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation;</p> <p>Labour Act <u>Sec 2A Purpose of Act:</u> To advance social justice and democracy in the workplace by—(a) giving effect to the fundamental rights of employees (d) the promotion of fair labour standards; (e) the promotion of the participation by employees in decisions affecting their interests in the work place.</p> <p><u>Sec 4 Employees' entitlement to membership of trade unions and workers Committees</u> <u>Sec 27 Right to form trade unions or employers organizations</u></p> |
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| | | <p>controlling the generation of pollutants.</p> <p>Indigenisation and Economic Empowerment Act <u>Sec 17 Imposition of levies:</u> Levies on any private or public company and any other business in Zimbabwe may be imposed as specified in a statutory instrument.</p> <p>Mines and Minerals Act <u>Sec 244 Royalty</u> Miner of a registered mining location shall pay royalty. <u>Sec 245 Fixing of royalty</u> <u>Sec 251 Monthly returns and payment of royalty</u> <u>Sec 254 Remission of royalty</u> The President may remit, in whole or in part, the royalty payable for such period as he may determine whenever he deems it expedient to do so as an inducement to—(i) the commencement or continuation of mining operations; or (ii) the processing or refining within Zimbabwe of minerals; or (iii) the development of any export market; <u>Sec 255 Miners to make certain payments to local authorities</u></p> | <p>share until the minimum indigenisation and empowerment quota is achieved; and (c) what weighting (expressed as a fixed percentage that may be added towards the fulfilment of the minimum indigenisation and empowerment quota) to assign to any one or more the following socially and economically desirable objectives i) the undertaking of specified development work in the community in which the business in question carries on its business; and (ii) the beneficiation to a specified extent of raw materials that are extracted in Zimbabwe by the business in question before it exports them; and (iii) the transfer to a specified extent of new technology to Zimbabwe by the business in question; and (iv) the employment to a specified extent of local skills or the imparting of new skills to Zimbabweans to a specified extent; and (v) any other socially and economically desirable objective not mentioned above.</p> <p>Minerals Marketing Corporation of Zimbabwe Act <u>Sec 20 Functions of Corporation</u> Corporation shall</p> | | <p>Minerals Marketing Corporation of Zimbabwe Act <u>Sec 20 Functions of Corporation:</u> Corporation shall —(a) act as the sole marketing and selling agent for all minerals;</p> <p>.</p> <p>Mines and Minerals Act <u>Sec 2 Rights to minerals vested in President</u></p> <p>See part 1 Col 1 <u>Sec 159 Application for special mining lease</u></p> |
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| | | <p><u>Sec 257 Remission or exemption from liability to make payments</u> Payments to local authorities may be remitted in whole or in part and for such period as may be determined, whenever considered expedient to do so as an inducement to—</p> <p>(i) the commencement or continuation of mining operations; or (ii) the development of any export market.</p> <p><u>Sec 303 Rate of royalty and annual fee</u> Provision may be made in a special grant stipulating for the payment of royalty on all coal, mineral oils or natural gases or nuclear energy source material.</p> | <p>—(a) act as the sole marketing and selling agent for all minerals; (c) to purchase and acquire any minerals for its own account and to sell or dispose of such minerals; (d) to encourage the local beneficiation and utilization of any minerals.</p> <p>Mines and Minerals Act <u>Sec 159 Application for special mining lease</u> To include (e) a plan for the development and operation of the proposed mine, including - (xii) information on the extent to which local goods and services will be utilized in the development and operation of the proposed time; and (xiii) details of any proposals for training citizens of Zimbabwe.</p> | | |
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| Key: | |
| Area | Provisions covered in International documents |
| (6) | <ul style="list-style-type: none"> • Manage natural exploitation ensuring the protection of the population from any adverse impacts • Avoid or minimize the risks and impacts to community health, safety, and security that may arise, with particular attention to vulnerable groups |
| (7) | <ul style="list-style-type: none"> • Refrain from seeking or accepting exemptions related to environmental, health, safety, labour, taxation, financial incentives, or other issues • Revenue transparency and accountability, robust monitoring and reconciling of company payments and government revenues |
| (8) | <ul style="list-style-type: none"> • Contribute to economic, social and environmental progress • View to achieving sustainable development and encouraging local participation and capacity building |
| (9) | <ul style="list-style-type: none"> • Ensuring mine closure in a sustainable manner |
| (10) | <ul style="list-style-type: none"> • Freedom of information; right of peaceful assembly; freedom of association, including forming and joining trade unions • Self-regulatory practices and management systems that foster confidence and social trust • Discuss social responsibility matters with all relevant stake holders • Effective judicial and non-judicial remedies for victims of business-related rights abuses |

PART 1

ⁱ Environmental Impact Study (EIS): A priori scientific analysis of the foreseeable potential effects a given activity will have on the environment, as well as the analysis of the acceptable levels thereof and the mitigating measures to be taken to ensure the conservation of the environment, subject to the best technology available, at a viable economic cost.

ⁱⁱ Environmental Management Plan of the Project (EMPP): Environmental specifications of the project consisting of a programme for the implementation and monitoring of measures contained in the EIS in order to eliminate, reduce and possibly offset the damaging consequences of the project on the environment.

ⁱⁱⁱ Such projects under Schedule 2 include "Mining including quarrying and open cast extraction".

^{iv} Environmental Management and Co-ordination (Amendment) Act 2015 now also allows for such action under Sec 3 to be taken "on his behalf or on behalf of a group or class of persons, members of an association or in the public interest".
after the words "that person".

^v "permit to work" means a written notice, which sets out the work to be done, the hazards involved and the precautions to be taken before the work commences in order to secure the safety and health of the employee.

^{vi} Such projects and activities under Part A of the First Schedule include "Mining, mineral extraction including quarrying and open-cast extraction".

^{vii} "Authority" has the same meaning as in the Environment Act 2008.

^{viii} "child" means a person under the age of 15 years.

^{ix} "industrial undertaking" includes mines and other works for the winning, treatment or extraction of minerals from the earth, rivers or inland waters.

^x "young person" means a person of or over the age of 15 years but under the age of 18 years.

^{xi} "EIE": stands for Environmental Impact Study consists of feasibility and scientific analysis of estimated potentials impacts of a given activity on the environment and the acceptability examination of their level and lightening measures that may ensure the environment integrity with the best available technology to a cost economically viable.

^{xii} "PGEP" stands for Environmental Management Plan of the Project that consists of the environmental specifications of the project and a program of implementation and follow-up measures considered by the EIE to cancel, reduce and eventually compensate damaging consequences of the project on the environment.

^{xiii} "EIE": stands for Environmental Impact Study consists of feasibility and scientific analysis of estimated potentials impacts of a given activity on the environment and the acceptability examination of their level and lightening measures that may ensure the environment integrity with the best available technology to a cost economically viable.

^{xiv} "PGEP" stands for Environmental Management Plan of the Project that consists of the environmental specifications of the project and a program of implementation and follow-up measures considered by the EIE to cancel, reduce and eventually compensate damaging consequences of the project on the environment.

^{xv} "children" are persons under the age of 16 years.

^{xvi} "children" are persons under the age of 16 years.

^{xvii} "public policy, plan or programme" includes a policy, programme or plan which relates to the whole country or a specific region of the country, and which has been formulated by, or will be implemented by, an organ of Government or a public body and includes policies, programmes and plans relating to national development, the development of urban and rural areas, land use, and the exploitation of minerals.

^{xviii} "child" means a person under the age of 15 years.

^{xix} "industrial undertaking" includes mines, quarries and other works for the extraction of minerals from the earth.

^{xx} “young person” means a person who has attained the age of fifteen years but is under the age of eighteen years.

^{xxi} As amended by the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015.

^{xxii} “special mining licence” means a licence for large scale mining operation, whose capital investment is not less than US\$100,000,000.

^{xxiii} “children” are persons under the age of 16 years.

^{xxiv} “child” means a person under the age of 18 years.

^{xxv} “young person” means any person under the age of 15 years.

^{xxvi} Such project listed in the First Schedule include “Mining and quarrying— (a) mineral prospecting; (b) mineral mining; (c) ore processing and concentrating; (d) quarrying”.

^{xxvii} “environmental impact assessment” means an evaluation of a project to determine its impact on the environment and human health and to set out the required environmental monitoring and management procedures and plans.

^{xxviii} “pneumoconiosis” means any disease of the respiratory organs due to the inhalation of mineral dust.

^{xxix} “dusty occupation” means work in or on a mining location or any other area which is below the natural surface.

^{xxx} “child” means a person under the age of 18 years.

PART 2

^{xxxii} “industrial mineral” means barite, basalt, clay, dolomite, feldspar, granite, gravel, gypsum, laterite, limestone, mica, magnesite, marble, phosphate, rock, sand, sandstone, slate and talc, when used for agricultural, building, road making or industrial purposes and such other minerals as may be prescribed in the regulations to be industrial minerals.

^{xxxiii} “Commissioner” means the Commissioner of Mines and Geology in the Ministry responsible for mining.

^{xxxiiii} “Board” means the Mining Board established under this Act.

^{xxxv} “Authorized officer” means a public officer authorised by the Commissioner to exercise the functions under Sec 7 of the Act.

^{xxxvi} Investments amounting to more than " fifty billion Ariary (Ar 50,000,000,000)", in value on 30 April 2005 [equivalent to ca. USD25,000,000].

^{xxxvii} As amended by the Minerals (Prospecting and Mining) Amendment Act - intended to ensure that the levying of certain royalties is authorised; to remove restrictions on maximum rates of royalties that may be charged; and to authorise the imposition of a windfall royalty.

^{xxxviii} “Company” means a company as defined in Sec 1 of the Companies Act 1973 or a juristic person established by or under any law in force in Namibia.

^{xxxix} “priority sector or product” includes manufacturing of copper products, iron ore and steel, cobalt.

^{xxxix} “Commissioner-General ” means the Commissioner-General appointed under the Zambia Revenue Authority Act.

Equity in health implies addressing differences in health status that are unnecessary, avoidable and unfair. In southern Africa, these typically relate to disparities across racial groups, rural/urban status, socio-economic status, gender, age and geographical region. EQUINET is primarily concerned with equity motivated interventions that seek to allocate resources preferentially to those with the worst health status (vertical equity). EQUINET seeks to understand and influence the redistribution of social and economic resources for equity oriented interventions, EQUINET also seeks to understand and inform the power and ability people (and social groups) have to make choices over health inputs and their capacity to use these choices towards health.

EQUINET implements work in a number of areas identified as central to health equity in east and southern Africa

- Protecting health in economic and trade policy
- Building universal, primary health care oriented health systems
- Equitable, health systems strengthening responses to HIV and AIDS
- Fair Financing of health systems
- Valuing and retaining health workers
- Organising participatory, people centred health systems
- Promoting public health law and health rights
- Social empowerment and action for health
- Monitoring progress through country and regional equity watches

EQUINET is governed by a steering committee involving institutions and individuals co-ordinating theme, country or process work in EQUINET from the following institutions: TARSC, Zimbabwe; CWGH, Zimbabwe; University of Cape Town (UCT), South Africa; Health Economics Unit, Cape Town, South Africa; HEPS and CEHURD Uganda, University of Limpopo, South Africa, University of Namibia; University of Western Cape, SEATINI, Zimbabwe; REACH Trust Malawi; Min of Health Mozambique; Ifakara Health Institute, Tanzania, Kenya Health Equity Network; SATUCC and NEAPACOH

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