

Appendix 1.

TCME COMMENTS

(A) THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) ACT 2017

SECTION	PROPOSAL UNDER THE BILL	IMPACT TO THE SECTOR	RECOMMENDATION
<i>Section 9</i>	Proposes Government Free Carried Interest of 16% non-dilutable shares with mandate to acquire up to 50% shares commensurate to total tax expenditure.	If the Government opts for the maximum shareholding it implies that the investors with Special Mining License will only remain with 20% shareholding considering the fact that GN286 of 7 October 2016 requires the investor to list 30% of their issued shares to DSE.	The shareholding structure as proposed by the Bill will make Tanzania unattractive destination for mining investment.
<i>Section 5(2)</i>	Proposes the Government to have lien over all minerals extracted	The wording will make project financing impossible both domestically and internationally.	This clause should be removed alternatively there should an additional clause which commits the government to provide guarantee for financing international and domestically.
<i>Sections 100 (A) & 100 (C) (3)</i>	Section 100 (A) proposes construction of storage facility for storing won raw minerals Section 100 © (3) makes reference to raw minerals for export.	The proposal will significantly impair any control that a mining operator has over minerals produced from its operation. The creation of the gem and minerals houses and the establishment of the National Gold and Gemstone Reserve and mineral warehouses will unduly and onerously interfere and frustrate sales/export processes and the ability for mining operations to generate returns and revenue for all stakeholders.	A clear definition of “raw minerals” is required to clear ambiguity for exportation of the various minerals. Introduction of Government storage facility will increase risk. This will also increase the insurance risk for the companies. The Bill is unclear on who bears the risk when the minerals are in the government mineral storage facility. Government should consider removal of these sections. There are already good controls to monitor the whole process.
<i>Section 23</i>	Proposes increase of royalty rates for Gemstones and Diamonds to 6% and for Gold and other metals to 6% from 5% and 4% respectively.	This will significantly increase production cost considering that the recent finance act 2017 has already introduced additional fees and charges to the mining sector. (introduction of 1% inspection fee on gross value of all minerals exports)	The Government should maintain the current royalty rates considering the sector is still suffering from low commodity prices.
<i>Section 24</i>	Proposes One Third of the royalty payable to be paid to the Government by depositing refined minerals equivalent to the ascertained royalty into the National Gold and Gemstones Reserve.	The requirement to deposit 1/3 of refined minerals is impractical as there is NO accredited refinery for minerals in-country.	This requirement will require companies to re-import part of their refined minerals commensurate the 1/3 royalty payment. It's unclear who will bear the extra costs to re-import refined minerals. The Government should consider taking 1/3 of the royalty in form of raw minerals
<i>Section 49</i>	Proposes amendment of section 68 of the VAT Act, 2014. No input tax credit can be claimed for export of raw minerals with effect from 20 July 2017.	This contravenes international best practices in operationalisation of VAT in which all exports are zero rated and therefore qualify for input VAT credit.	A clear definition of “raw minerals” is required to clear ambiguity for exportation of the various minerals. Such regulation is currently impractical considering lack of smelters, refineries which are meant to harness local

			beneficiation of minerals.
<i>Section 100 (B)(3)</i>	Proposes sorting, valuation and verification of minerals in a mine storage facility by the resident mines officer and the mineral rights holder representative. The Bill proposes the Government shall be entitled to reject the valuation if such value is low on account of deep negative volatility unless the raw minerals are disposed off for beneficiation within the URT.	The agreed value will be the basis for royalty computation. In case of valuation dispute the Bill lacks a dispute resolution mechanism. Price is exogenously determined by the market. This will have a negative financial impact in the event market prices become volatile.	We recommend the Bill to adopt the international spot prices -London Bullion Market Association (LBMA) spot price ruling at the day and time of export for minerals valuation.
<i>Section 27(E)(5)</i>	Proposes the Geological Survey of Tanzania may permit the Mineral Right Holder to market the right of use of data on terms to be agreed	This creates uncertainty in the exploration sector which is key to growth of mining sector.	This clause should be removed.

(B) THE NATURAL WEALTH AND RESOURCES (PERMANENT SOVEREIGNTY) ACT, 2017

SECTION	PROPOSAL UNDER THE BILL	IMPACT TO THE SECTOR	RECOMMENDATION
<i>Section 5(3)</i>	The Bill proposes all activities and undertakings relating to exploration of Natural wealth and Resources to be conducted by the Government on behalf of the people.	Exploration is a high risk venture which any Government is not advised to use tax payers' money to invest in. If the Government exclusively takes the exploration accountability this will limit growth of the sector due to limited resources and technology within government.	Status quo should be maintained.
<i>Section 11</i>	Proposes disputes arising from extraction, exploitation or acquisition and use of natural wealth and resources shall be adjudicated by Judicial Bodies or other organs in the United Republic in accordance to the laws of Tanzania.	The Bill as proposed will render International Arbitration which is regarded as a neutral dispute resolution body as null and void and thereby remove trust of international investors. The proposed changes if adopted will contravene some of the international conventions and treaties which Tanzania is a signatory.	Tanzania is a signatory to international conventions and treaties. Abolishment of the right of Arbitration will make Tanzania un-attractive investment destination. This clause should be removed.

(C) THE NATURAL WEALTH AND RESOURCES CONTRACTS (REVIEW AND RE-NEGOTIATION OF UNCONSCIONABLE TERMS) ACT, 2017

SECTION	PROPOSAL UNDER THE BILL	IMPACT TO THE SECTOR	RECOMMENDATION
<i>Section 2</i>	The Bill is proposed to have effect on agreements made over natural resources by the Government before or after coming into	If adopted this will erode the fiscal incentives, shorten the life of the current mines and render the business	The proposed change should be prospective. Retrospective application of any law should only be applicable if it's in favour

	operation of this Act.	unprofitable.	of the affected party.
<i>Section 5</i>	The Bill proposes a review of signed arrangements or agreements by the parliament. In the event the parliament has additional recommendations the signed agreement is returned for renegotiation.	The process creates uncertainty.	The arrangements/agreement should be subject to parliament review when it is in draft form.