

## Briefing

# Launch of the online mining cadastre transactional portal (the OMCTP)

This briefing looks at the launch of the OMCTP and provides a summary of the key mineral rights available in Tanzania. We also take a look at the manner in which mineral rights can be transferred.

### **Developments in the mining sector in Tanzania**

On 12 August 2014, the Ministry of Energy and Minerals in Tanzania (**MEM**) announced the launch of the OMCTP. The OMCTP is a geo-portal which will allow holders of mineral licences and stakeholders to apply for mineral rights, maintain existing rights, submit reports and production returns electronically and make online payments using mobile phones.

Some of the benefits of OMCTP include:

- facilitating MEM to swiftly improve the delivery of service and increase transparency in the administration of the mineral sector;
- reducing backlog of applications, especially those experienced in the Regional Mines Offices, by allowing applicants to record applications directly;
- allowing for the online management of mineral rights renewals, transfers and extensions;
- authorising for payments to be submitted and monitored through the OMCTP with the funds being deposited directly into MEM's bank account;
- monitoring all reports submitted electronically through the OMCTP;

- facilitating the Cadastre Officers with more time to process applications and follow up on compliance issues; and
- allowing for the timely update of information such as change of address and contact numbers by registered clients.

Current mineral rights holders are required to submit the following documents for validation by identified licensing officers (**Licensing Officers**) at the office where the mineral licences were issued:

- A duly completed OMCTP registration form which will become available from MEM's website as of 1 September, 2014;
- For Division A and B mineral licences holders, submission of the completed registration form at MEM should be accompanied by the original licence documents and proof of payments from the last renewal. Where licences were acquired through transfers, the transfer certificate should also be attached;
- Whereas, Division C and D mineral licence holders shall submit the completed registration form together with the original licence and proof of last renewal payment to the relevant Zonal or Resident Mines Office. Likewise, transfer

certificates must also be attached for in the case of transferred licences; and

- Clients who wish to be represented by agents to operate the OMCTP will require an original power of attorney endorsing such agents to be submitted together with the completed registration form.

Upon presentation of the documents, the validation process will be carried out as follows:

- Preparation of a Legal Entity History Report (**LEHR**)
  - the Licensing Officers will generate a LEHR which details the particulars of licences held by the respective licence holder. The LEHR will cover information such as particulars of licences held, overdue payments and overdue reports;
- User Registration- the Licensing Officers will only proceed to capture the User Registration once the data has been updated and will notify the OMCTP applicant should more information be required;

- Creation of User Profile- the Licensing Officers will create a User Profile in the OMCTP upon validating that the information has been duly updated;
- Activation of User Profile- the registered users will receive an email notifying them of the User Profile activation; and
- Creation of a password- the registered users will then be required to create an initial password before access on the OMCTP is enabled.

Notably, other users who do not currently hold mineral rights but wish to register in the OCMTTP may submit a completed registration form accompanied by identification documents.

The table below highlights the differences between the various types of licences and the manner in which they can be transferred.

#### Comparison of licences for mineral rights:

Prospecting Licence	Primary Mining Licence	Mining Licence
<b>Maximum Size</b> <ul style="list-style-type: none"> <li>- 5km<sup>2</sup> for building materials and gemstones</li> <li>- 300km<sup>2</sup> for industrial minerals</li> <li>- 300km<sup>2</sup> for metallic minerals, energy minerals and kimberlitic diamonds</li> </ul>	<b>Maximum Size</b> <ul style="list-style-type: none"> <li>- 5 hectares for building materials</li> <li>- 10 hectares for other minerals</li> </ul>	<b>Maximum Size</b> <ul style="list-style-type: none"> <li>- 10km<sup>2</sup> for metallic and energy minerals</li> <li>- 1km<sup>2</sup> for gemstones and 10km<sup>2</sup> for kimberlitic diamonds</li> <li>- 1km<sup>2</sup> for building materials and 10km<sup>2</sup> for industrial minerals</li> </ul>
<b>Duration</b> <ul style="list-style-type: none"> <li>- 1 year for 5km<sup>2</sup> size</li> <li>- 9 years for 300km<sup>2</sup> size</li> </ul>	<b>Duration</b> <ul style="list-style-type: none"> <li>- 7 years</li> </ul>	<b>Duration</b> <ul style="list-style-type: none"> <li>- 7 years</li> </ul>
<b>Renewal Period</b> <ul style="list-style-type: none"> <li>- non-renewable for 5km<sup>2</sup> size</li> <li>- 2 renewals for 300km<sup>2</sup> size; first renewal for 4 years, second renewal for 2 years; and each renewal with a 50% relinquishment of licensed area.</li> </ul>	<b>Renewal Period</b> <ul style="list-style-type: none"> <li>- 7 years</li> </ul>	<b>Renewal Period</b> <ul style="list-style-type: none"> <li>- "Renewable"</li> </ul>
<b>Application Fee</b> <ul style="list-style-type: none"> <li>- USD 300 on initial application + USD 300 on renewal for 5km<sup>2</sup> size and 300km<sup>2</sup> size of metallic minerals</li> <li>- USD 200 on initial application + USD 200 on renewal for 300km<sup>2</sup> for industrial minerals</li> </ul>	<b>Application Fee</b> <ul style="list-style-type: none"> <li>- Tsh 50,000 on initial application + Tsh 100,000 on renewal</li> </ul>	<b>Application Fee</b> <ul style="list-style-type: none"> <li>- USD 2,000 on initial application + USD 2,000 on renewal</li> </ul>

Prospecting Licence	Primary Mining Licence	Mining Licence
<b>Preparation Fee</b> – USD 500	<b>Preparation Fee</b> – Tshs 50,000	<b>Preparation Fee</b> – USD 1000
<b>Annual Rent</b> – USD 100/km <sup>2</sup> for 5km <sup>2</sup> size – USD 100/km <sup>2</sup> during initial period; USD 150/km <sup>2</sup> during first renewal; USD 200/km <sup>2</sup> during second renewal for 300km <sup>2</sup> size	<b>Annual Rent</b> – Tshs 40,000 per hectare of minerals other than gold, kimberlitic diamonds and gemstones – Tshs 80,000 per hectare of gold, kimberlitic diamonds and gemstones	<b>Annual Rent</b> – USD 3,000/km <sup>2</sup> for metallic minerals and gemstone categories – USD 2,000/km <sup>2</sup> for building materials

Source: Ministry of Energy & Minerals, 'Types of Mineral Rights in Tanzania' Guidelines – May 2014

### Primary Mining Licence (PML) Transfers

A PML is exclusively reserved for Tanzanians and requires the lowest capital investment of less than USD 100,000. PMLs only cover small scale mining operations in the country.

The steps which are involved in the transfer of a PML include:

- determining the entity to which the PML will be transferred (e.g. individual or corporate body);
- verifying that the PML will be transferred to a Tanzanian entity;
- ensuring that there are no encumbrances on the PML before the transfer (e.g. debts);
- drafting the deed of transfer;
- finalizing the transfer documents (e.g. tax clearance certificates); and
- submitting the transfer application to the relevant licensing authority (i.e. the Minister of Energy & Minerals, Commissioner for Minerals or Zonal Mines Officer).

The transfer fee for a PML is currently USD 200 as per the Schedule to the Mining (Mineral Rights) Regulations 2010 (the Mining Regulations). The transfer process may take up to two weeks depending on the availability of the licensing authority and the accuracy of the transfer documents.

### Prospecting Licence (PL) Transfers

A PL gives the holder the right to search for a variety of minerals and gemstones pursuant to section 28 of the Mining Act 2010 (the Act) a PL can be held by both Tanzanian and foreign entities.

The transfer of PLs is similar to that of PMLs. However, section 8(6) of the Act states that a PL cannot be transferred where the transferee owns more than twenty valid PLs, unless the cumulative prospective areas of the PLs do not exceed 2,000 square kilometres.

The transfer fee for a PL is currently USD 3,000.

### Mining Licence (ML) Transfers

An ML caters to medium scale mining operations where capital investment is between USD 100,000 and USD 100,000,000. Section 8(3) of the Act gives Tanzanians the exclusive right to mine for gemstones under an ML. Nevertheless, this right is limited by section 8(4) which states that the Minister may grant an ML to a foreign entity if the mining area requires specialised technology or a high level of investment. In such circumstances, the foreign entity is entitled to no more than fifty percent of the shares in the company that holds the ML. The remainder must be ultimately controlled by Tanzanian nationals.

Compared to the transfer of PMLs and PLs, written consent from the Minister must be obtained prior to the transfer of an ML. However, there are exceptions to this requirement which are listed in section 9(3) of the Act as follows:

- transferring to an affiliate, where the obligations of the affiliate are guaranteed by the transferor or by a parent company approved by the Minister;
- transferring to a bank or other financial institution by way of mortgage or charge given as security for any loan or guarantee; and
- transferring to another entity that constitutes the holder of the ML.

As in the case of PLs, the transfer fee for a ML is currently USD 3,000.

## **Mining Events in Tanzania Tanzanian Explorers Club**

The Tanzanian Explorers Club (TEC) is for people working in, or affiliated with, the Tanzanian mineral exploration sector and provides an informal environment to facilitate networking within the industry and information sharing between key participants in the Tanzanian mining sector. If you are interested in joining the next TEC meeting please email Clyde & Co's mining team to find out further details.

### **Further information**

If you would like further information on any issue raised in this update please contact:

#### **Peter Kasanda**

Partner, Dar es Salaam  
E: peter.kasanda@clydeco.com  
T: +255 767 850 056

#### **Michael Strain**

Senior Associate, Dar es Salaam  
E: michael.strain@clydeco.com  
T: +255 767 850 052

Clyde & Co Tanzania  
11th Floor, Golden Jubilee Towers  
Ohio Street, PO Box 80512  
Dar es Salaam, Tanzania  
T: +255 768 983 000 / 022  
F: +255 222 103 004

Further advice should be taken before relying on the contents of this summary.

Clyde & Co Tanzania accepts no responsibility for loss occasioned to any person acting or refraining from acting as a result of material contained in this summary.

No part of this summary may be used, reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, reading or otherwise without the prior permission of Clyde & Co Tanzania.

© Clyde & Co Tanzania 2014

[www.clydeco.com](http://www.clydeco.com)