



GUIDEBOOK

FOR CONFLICT MANAGEMENT
IN MINING INDUSTRY
OF THE KYRGYZ REPUBLIC



KALIKOVA &
ASSOCIATES

law firm

GUIDEBOOK
FOR CONFLICT MANAGEMENT
IN MINING INDUSTRY
OF THE KYRGYZ REPUBLIC

Bishkek, 2017



Prepared by the Eurasia Foundation of
Central Asia and the law firm Kalikova &
Associates

11 DECEMBER 2017

This Guidebook was commissioned by the State Committee of Energy, Industry and Mineral Resources of the Kyrgyz Republic and produced with support from PeaceNexus Foundation. The Eurasia Foundation of Central Asia (EFCA) led the field research for the Guidebook between 2012 and 2015.

CONTENT

1.	Executive summary	4
2.	Causes of mining-related conflict in the Kyrgyz Republic	7
2.1.	Talas district	8
2.2.	Jumgal district	10
2.3.	Chatkal district	11
2.4.	Ala-buka district	12
2.5.	Chon alay district	14
2.6.	Kadamjai district	16
3.	Recommendations for conflict management in the mining industry	17
3.1.	Working with the local population	18
3.2.	Working with local authorities	19
4.	Mineral policy reform	20
	Annex 1. Legal and regulatory requirements relating to the mining industry and the rights of mining-affected communities	22
	Annex 2. Useful contacts	34
	Annex 3. Online resources	38

1. EXECUTIVE SUMMARY



This Guidebook is intended to assist companies, investors, state and local authorities, and international agencies to prevent and manage potential conflicts related to the Kyrgyz mining industry. In 2011, there was an upsurge in conflict between mining companies and local communities in Kyrgyzstan. In response, in 2012, the Eurasia Foundation of Central Asia (EFCA) commissioned research to understand the causes of conflict in mining districts throughout Kyrgyzstan. In addition, beginning in 2012, the Government of the Kyrgyz Republic initiated policy and legal reforms to protect the rights of mining-affected communities and strengthen regulation of the mining sector. This Guidebook aims to increase companies and potential investors' understanding of the causes of conflict in Kyrgyz mining sector and to recommend steps they can take to prevent and mitigate conflicts with local communities in the future. It also provides a guide to companies' legal obligations according to current Kyrgyz law, particularly requirements aimed at protecting the rights of mining-affected communities¹.

Section 2 of this Guidebook describes the causes of mining-related conflicts that took place between 2010-2015. This presents the findings of primary research conducted in 2012 in six districts where conflicts between local communities and mining companies use have taken place: Talas, Jumgal, Chatkal, Ala-Buka, Chon Alay and Kadamjai districts². Based upon surveys, interviews and conflict mapping exercises in each location, the key reasons why conflict occurred with mining companies included:

¹ The Guidebook is based upon the Kyrgyz legislation as of 1 September 2017.

² Oxus International, "Extracting Sentiments: The Effect of Mining Exploration on Eight Communities in the Kyrgyz Republic," 2012. The research was conducted by Oxus International for EFCA with funding from the United States Agency for International Development (USAID).

THE MAIN PREREQUISITES FOR CONFLICTS ARE:



1

Concern over environmental damage, pollution and public health risks associated with mining operations, including noise, air pollution and fears of contamination with toxic materials



2

Absence of forums for on-going communication and dialogue between mining companies and local populations affected by their operations



3

Lack of awareness among local communities of the opportunities and potential consequences associated with mining developments



4

Perception of unfair or unethical hiring practices of mining companies which do not favour local residents



5

Concern over the lack of transparency in the system for granting subsoil use rights



6

Lack of trust in local government institutions to act as intermediaries between mining companies and local communities

Section 3 sets out practical recommendations for mining companies and investors operating in Kyrgyzstan, focusing upon steps they can take to prevent conflict with local communities. The recommendations are based upon research and consultations with all parties – central and local government, mining companies, and local communities – and have been reflected in various ways in Kyrgyz policy and legal reforms. They have also been based on examples of good practice from a number of locations where company-community conflicts have been prevented or resolved.

Section 4 provides an overview of mineral policy reforms led by the State Committee for Energy, Industry and Mineral Resources of the Kyrgyz Republic, in cooperation with local authorities, mining companies, and donors. These include the introduction of new laws and regulations aimed at protecting the rights and interests of local communities affected by mining operations as well as initiatives to raise awareness among the local population of the mining industry and related environmental concerns. Finally, Annexes 1-3 provide detailed information to

companies and investors in the mining sector to enable them to understand and comply with Kyrgyz law and to successfully do business in Kyrgyzstan:

- Annex 1 provides an overview the main Kyrgyz regulatory authorities with which companies will interact in the course of their operations. It also details key legal obligations that exploration and mining companies must observe, including requirements related to licensing, environmental protection, land rights, reclamation of disturbed land, social benefits packages to affected communities, and taxes and other fiscal responsibilities;
- Annex 2 provides contact information for government authorities, business and labour unions, service providers and international agencies relevant to the mining sector;
- Annex 3 lists online databases and resources relevant to the mining sector.



2. CAUSES OF MINING-RELATED CONFLICT IN THE KYRGYZ REPUBLIC

Since independence, the Kyrgyz Republic has opened its market to foreign investment in the mining sector. Over 1,000 mineral deposits, including gold, copper, coal, antimony and rare earth metals, have been identified in the country, a number of which have been developed. Gold is the principal metal mined and accounts for approximately 94% of mining income, followed by copper (5%) and other metals (1%)³. The sector is dominated by a single mine overseen by the Kumtor Gold Company, a subsidiary of Canada's Centerra Gold.

The mining sector is important to the Kyrgyz economy, accounting for 8.4% of GDP in 2015⁴, and 45% of exports in 2016⁵. A total of 8,745 workers are employed in the mining sector (4.9% of the total workforce)⁶. Furthermore, mining revenue is a significant part of Kyrgyz government revenue, accounting for 8.2% of the total state budget and 17.5% of total tax revenues in 2014.⁷



³ European Bank for Reconstruction and Development (EBRD) Mining Strategy, 2017. The Kumtor mine employs 3,524 workers or 1.9% of the total workforce in the Kyrgyz Republic.

⁴ United Nations Conference on Trade and Development (UNCTAD), 2015, cited in EBRD Mining Strategy, 2017.

⁵ International Monetary Fund (IMF), 2016, cited in EBRD Mining Strategy, 2017.

⁶ EBRD Mining Strategy, 2017.

⁷ Extractive Industries Transparency Initiative (EITI) Report of Kyrgyz Republic for 2013-2014.

Because of the potential contribution of mining to the Kyrgyz economy and its significance as a source of state revenue, there is a strong political constituency in favour of developing the mining sector. Nevertheless, the expansion of the mining industry has been controversial. The first incident that sparked public mistrust in the mining industry occurred in 1998, when the Kumtor Gold mine spilled cyanide into the Barskoon River. Since then, concerns related to the potential environmental damage caused by mining projects have been a primary source of public resistance.

2011 and 2012 witnessed an upsurge in conflicts between mining companies and local communities that undermined the expansion of the industry. In a number of districts throughout Kyrgyzstan, violent clashes occurred between local people and mining compa-

ny staff, resulting in some cases in the destruction of company property. These conflicts exposed the lack of 'social license' to further develop the country's vast mineral reserves. In response to public concerns, since 2012, the Government of the Kyrgyz Republic has taken a number of steps to improve regulation of the mining sector and address public concerns (see Section 4 for a discussion of mineral policy reforms).

Based upon primary research conducted in 2012, the following sections describe the causes of conflict in six districts where there have been mining related conflicts – Talas, Jumgal, Chatkal, Ala-Buka, Chon-Alay and Kadamjai. This research captured local residents views of the mining industry and the causes of conflict through key informant interviews, a survey of 400 respondents per location, and three conflict mapping workshops per location.



2.1. TALAS DISTRICT



Map of conflicts in Talas region.

Talas is a geographically isolated and economically depressed district in which livestock and farming are the main livelihoods. The district has substantial gold deposits that are largely unexploited in its hills and offer one potential avenue for economic development. At the time the conflicts occurred, none of the district's three gold deposits – Jerooy, Taldy Baluk and Andash – were producing gold. A protracted licensing dispute has delayed the development of the Jerooy site. Foreign companies hold licenses to explore the other two sites but resistance from local communities has hindered their development.

In 2011, Talas was the centre of the most severe company-community conflicts in the Kyrgyz mining industry. In 2011, a mob attacked and looted one company's geological field camp in the village of Aral. Men on horseback subsequently attacked and burned the camp, causing sizeable damage to the company's property. Following the incident, in 2012, the company signed a partnership agreement with the local community and local authorities, promising jobs and compensation to the local community in exchange for the peaceful resolution of disputes. As a result, in 2012 the company reported that relations

with the local community had improved and it had been able to continue exploration activities without interference from local community members. However, some accounts of local residents suggest that they were not fully reconciled with the company, but rather were tolerating its presence out of fear that the company would take further legal action relating to the unrest in 2011.

In another incident in 2011, local supporters of a different exploration company were assaulted and violently threatened. Shortly after the incident, the Kyrgyz parliament revoked the company's license and the company shut down its operations in the district. The company's subsequent efforts to gain access to the community were physically resisted by local residents and the company has yet to be granted a new license.

The 2012 survey found that over half of respondents in Talas had negative views of the mining industry, with some of the strongest anti-mining sentiments in Aral where confrontations had occurred. Over 60% of respondents in Aral indicated they had negative views of the industry and 80% felt that mining companies did not care about providing benefits

to the community. The overwhelming reason for Talas residents' negative views were concerns about environmental damage from the mining industry (72% cited this as their top concern). The main gold deposits in Talas are adjacent to residential areas, which is among the factors heightening residents' concerns about the health and ecological consequences of mining.

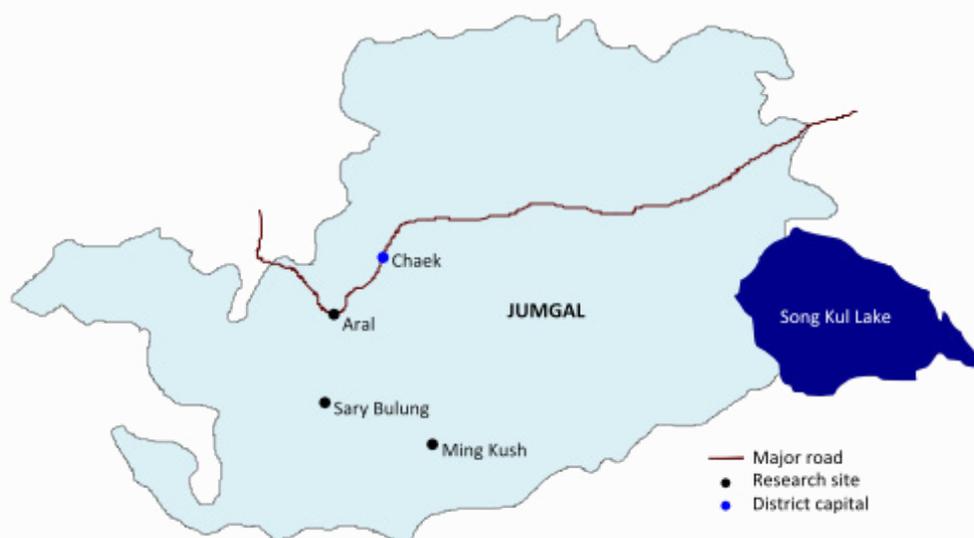
Overall, local residents believed that the negative environmental impact of mountain mining would outweigh its potential economic benefits in the long term. The field research reinforced that local residents' fears about environmental damage were sincere and that this was their primary motive for conflict with the companies. It also found that other factors contributed to residents' views that mining would not foster local development:

- Residents lacked reliable information about the environmental impact of the mining industry as well as the activities of the companies operating in the district. As a result, they often distorted the facts about the potential environmental damage caused by mining.

- Residents were suspicious of foreign companies, lacked information about their origins and ownership, and doubted their financial transparency, particularly regarding benefits and compensation provided to local residents.
- Companies lacked permanent representative offices in the localities where they were operating and employed staff from outside the district. As a result, residents viewed hiring practices as unfair, lacked channels for ongoing information and dialogue with companies, and doubted that mining would bring significant economic benefits locally.
- Residents conveyed a lack of trust in government to represent their interests in dealing with mining companies, including concerns that local authorities received payments from mining companies that were not transparent and were not used to benefit local communities.
- Residents expressed an interest in learning how they could effectively advocate for their rights and engage legally with mining companies and government officials, but felt they lacked the skills as well as trustworthy sources of information and assistance.



2.2. JUMGAL DISTRICT



Map of conflicts in Jumgal region.

Jumgal district has a long history of coal mining. During Soviet times, Jumgal district had a well-developed coal mining industry and benefited economically from mining-related activities. The region was also the site of a large Soviet uranium mine. However, the industry shrunk following independence, negatively impacting the local economy.

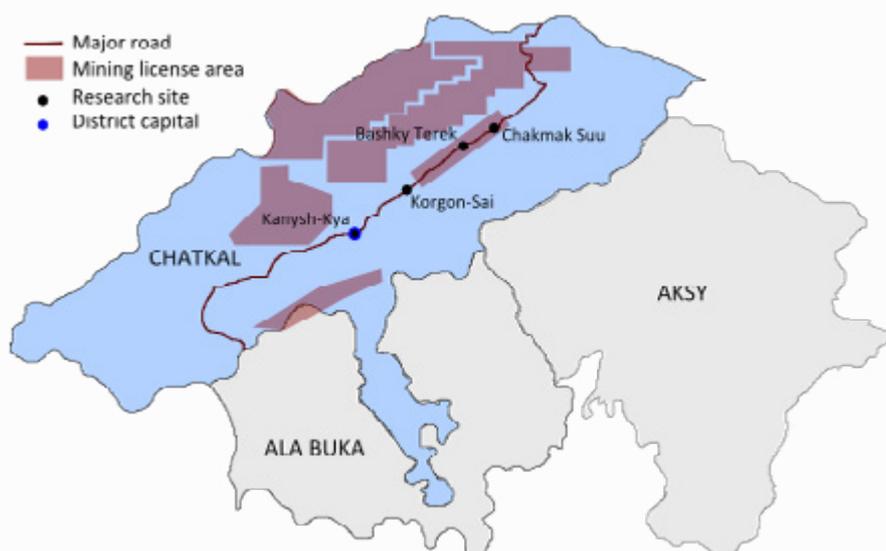
Unlike other districts, the conflicts in the mining industry in Jumgal have centred around who has control over the mines and how they are operated, rather than resistance by communities to mining development due to its environmental impact. In 2005, during the instability that followed the Tulip Revolution, Kara-Keche coal fields were illegally seized and held for about one year. In 2010, there was another conflict over the control of the Kara-Keche, during which local people's demands for changes to the administration of the coal mining companies and the rehabilitation of roads were partially met. However, the district's main problems were not perceived as resulting from tensions between mining companies and local communities, but rather from the collapse of the mining industry and the economic decline associated with this.

Residents of Jumgal district held the most positive views of the mining industry of all of the areas studied. Less than 30% of respondents held negative views of the industry and less than half felt the companies did not care about providing benefits to the community (the lowest among the districts).

Respondents in Jumgal reported the highest level of trust in mining company officials compared with other districts, with over 60% stating they found information from mining officials to be reliable. As in other areas, the local population was concerned about the potential environmental impact of mining. However, overall, local residents believed the potential economic benefits of mining outweighed the risk of environmental damage. According to local residents, the potential for conflict was minimal, and many openly supported the development of the coal mining industry.

There are several factors that likely contribute to the low risk of company community conflict in Jumgal. The first is that the mining companies have provided benefits to local residents, both by employing local people and by providing subsidised coal to local residents. The second is that public fears related to the environmental impact of coal mining are less severe than those related to gold mining. Because of the long history of coal mining in the district, residents are more accustomed to its affects and the coal industry is not affected by the widespread fears surrounding gold mining in Kyrgyzstan. Finally, residents viewed the relationship with mining companies as akin to a two-way partnership rather than a one-sided exploitation. This is likely helped by the fact that the largest active mining company in the district is Kyrgyz.

2.3. CHATKAL DISTRICT



Map of conflicts in Chatkal region.

Chatkal district has a long history of small-scale artisanal gold mining. In the years leading up to the conflict in 2011, many exploration licenses were awarded to foreign, commercial companies, and residents' reactions to this were mixed.

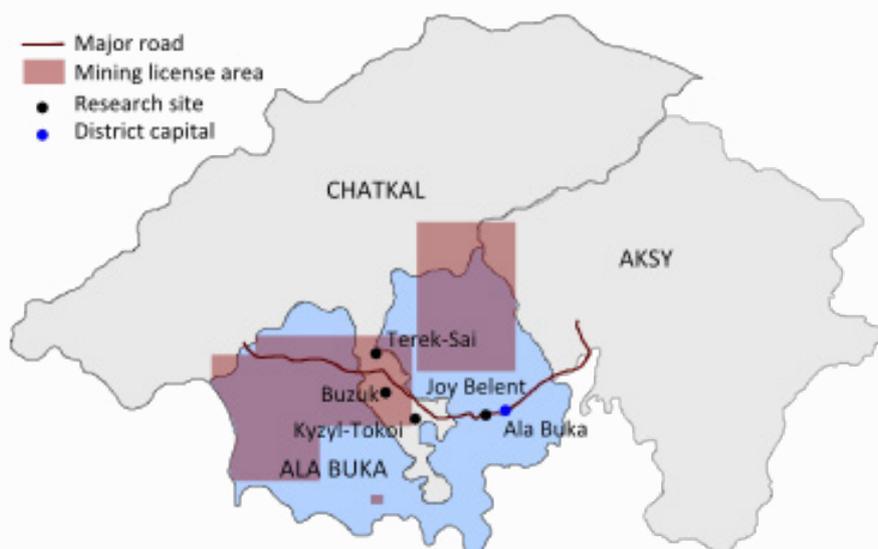
In one publicly reported incident in 2011, local residents unlawfully captured several trucks belonging to a Chinese exploration company. The reason for the dispute apparently related to claims that the company failed to allocate all of the funds it had promised to rehabilitate roads and bridges that had been damaged by the company's cargo trucks. According to residents, the Aksakal Council convened to mediate the dispute, which resulted in compensation for the villagers.

The 2012 survey found that nearly half of Chatkal respondents held negative views of the mining industry, which is very similar to the national average (52%). However, Chatkal respondents had the highest response rates related to the willingness to resist mining companies in their area, indicating a high risk of conflict. They recognised a number of potential

positive economic benefits from mining, including jobs, infrastructure development, and support to the commercial and cultural life of the community. Nonetheless, overall, they opposed the industry largely due to environmental concerns. The reason behind this apparent paradox appears to be that there were several companies that had engaged positively in the community, including providing various forms of local assistance and accessible information about their activities, however the majority of mining companies were not well-regarded.

Many local residents believed that mining companies operated with a sense of impunity and could not be trusted. Interviewees repeatedly expressed views such as "mining companies do not keep their word" and were concerned that the lack of publicly available information about mining activities made it impossible to scrutinise companies' activities. They also felt that mining companies communication with local residents was poor.

2.4. ALA-BUKA DISTRICT



Map of conflicts in Ala-Buka District

Ala-Buka district is located in southern Kyrgyzstan and shares a number of characteristics with neighbouring Chatkal, which is also located in Jalalalabad province. Like Chatkal, it has a history of artisanal gold mining and there has been a more recent influx of commercial companies with exploration licenses.

In 2011, the provincial government accused mining companies in Chatkal and Ala-Buka of working 'beyond the law' and promised to investigate claims related to environmental abuses. Shortly afterwards, local residents in Ala-Buka staged protests against mining companies and blocked the sole access road to one company's mine site. Among their demands, the media reported, was that the company clean up a local river that they claimed had been polluted with harmful waste. As a result of the protests, the company suspended its operations. The Kyrgyz Prosecutor General's Office accused the company of illegal land use and initiated criminal proceedings. However, shortly afterwards the media reported that work at the sites had resumed. In 2012, the company reported that the dispute had been resolved through discussion with the community and by providing them with information about the benefits of mining. The field research highlighted that a committee focusing

on workers rights had been formed that was working to address concerns related to industrial safety and compensation for deaths in mining accidents, however this had not addressed the concerns over the environmental issues that were at the heart of the conflict.

Overall, the field research found that Ala-Buka residents believed that mining companies were exploitive and would have a detrimental effect on the local environment. Negative response rates relating to opinions of the mining industry were the second highest of the districts surveyed. In general, local people felt that mining companies were not interested in benefiting nearby communities, or even Kyrgyzstan, and would take their profits abroad, leaving behind only environmental degradation. As in Chatkal, residents viewed mining companies as untrustworthy. However, compared with other districts, respondents in Ala-Buka expressed a stronger belief that the national government could not be trusted to help and that local people needed to take the mining industry into their own hands.

2.5. CHON ALAY DISTRICT



Map of conflicts in Chon-Alay district

The Chon Alay valley is a remote and rural area in southern Kyrgyzstan with little history of mining. In 2007, two Chinese companies were granted licenses for gold exploration and by 2011, their presence had spurred major protests. Residents of one village blocked the district's highway and demanded the companies cease operations, citing concerns that radiation from the mines was negatively affecting people's health, causing infant mortality and miscarriages. The Osh administration formed a commission to investigate these claims, the results of which were never reported. In 2012, a committee of the Kyrgyz Parliament terminated one company's license claiming it had been mining and exporting gold illegally.

The field research found that Chon Alay residents' attitudes tended to be negative, reflecting views nationwide (about half of respondents had negative views of the mining industry). As in other gold-mining districts, the local population is concerned about the potential impact of mining on residents' health, agricultural livelihoods and the environment more generally. In addition to concerns about largely invisible radiation or toxic chemicals associated with mining, local residents complained about physical damage caused by heavy vehicles, including damage

to roads and dust interfering with agriculture. The limited interaction between the companies and local people contributed to mistrust and provided fertile ground for suspicion and anger.

In contrast to their experience with Chinese gold mining companies, residents of Taldy-Suu village had a positive partnership with a nearby coal mining company. This may provide a positive model for company-community relations in the mining industry in the region. According to residents, the head of the company was accessible, regularly spoke with residents about community issues, and sought the counsel of community elders. The company provided the local mosque with coal, assisted poor families, and helped the community address other problems. The company has an advantage over gold mining companies in that coal mining is viewed as less harmful to the environment and is less profitable and therefore less likely to attract foreigners and unwanted political and economic interests. However, it is noteworthy that residents did not see coal-mining as free from environmental risks, but rather they accepted the risks because of the mutual respect they had with the company and the benefits the company offers.

2.6. KADAMJAI DISTRICT



Map of conflicts in Kadamjai district

Kadamjai has a long history of mercury and antimony mining, and used to be a major supplier of these materials to the Soviet Union. The Kadamjai Antimony Enterprise supplied 15% of the world's antimony at its peak. It has finished mining but continues to manufacture antimony at the plant by importing raw materials from other places. Khaidarkan Mercury Enterprise was the world's largest antimony and mercury mine for over 70 years. In addition to these Soviet era enterprises, new companies have been engaged in gold exploration in the district since independence. It is this new exploration that has been the major focus of company-community conflict.

After exploring gold in the district for several years and enjoying relatively good relations with the local community, an Australian company announced in 2011 that it intended to start extracting gold. This sparked local opposition and by 2012 local protests had become increasingly vocal and disruptive. Protesters blocked a local highway and demanded a moratorium on gold mining in the district citing environmental concerns.

The 2012 survey found that community attitudes towards mining in Kadamjai were among the most negative in Kyrgyzstan. 76% of respondents held

negative views of the industry and felt that mining companies did not care about their interests—the highest rate among the districts surveyed. The data suggest that the most prominent cause of this was the perceived lack of communication between the companies and communities. For example, 92% of respondents felt that their voice was not heard by mining companies. In addition, respondents indicated that they received information from mining companies less frequently than those in other districts. As a result, local residents received information from other people they knew, creating space for rumours and misinformation.

The conflict in Kadamjai differs from other districts in the extent to which community members saw it as intertwined with local government politics and rather than simply a matter of company-community dynamics. Kadamjai residents lacked confidence in the information they received from local government authorities and did not trust either national or local government to satisfactorily resolve their concerns about mining development, in part because their demands to halt gold mining were not being met. Many local residents believed that the mining companies were colluding with the local authorities and excluding community members from a genuine dialogue about resolving the conflict.

3. RECOMMENDATIONS FOR CONFLICT MANAGEMENT IN THE MINING INDUSTRY

The field research conducted in 2012 found that the overwhelming cause of local communities' resistance to the mining industry was concern over its environmental impact. Secondary to this, local residents were concerned that mining, particularly by foreign companies, did not bring social and economic benefits to local communities. They held grievances related to companies hiring of non-local employees, damage to local infrastructure, failure to provide promised local benefits or compensation, and general concerns that foreign companies would take profits abroad and that they would not contribute to the social and economic development of mining regions or even of Kyrgyzstan.

In some circles, 'third party players' with covert interests, such as seeking protection money or pushing certain companies out of licensed sites or to seize resources, have been accused of instigating communities' resistance to mining. While there have been instances in which external provocateurs have attempted to manipulate local residents, the field research suggests that local residents' grievances are widely held, sincere, and are the driving factors behind the conflict.

The experience in the Kyrgyz districts described above suggests that the lack of information, direct communication, and transparency of companies the local level plays a major role in increasing the likelihood of conflict:

Inadequate information about mining operations — especially the health and environmental impacts — in affected communities. Local residents are genuinely worried about the environmental and health impacts of mining projects. Yet the information companies provide to local residents about these risks and how they can be managed is often inadequate, irregular or in inaccessible formats. As a result, the information vacuum is often filled with

unreliable information that stokes local residents fears about the potential risks. It is therefore particularly important that companies actively and regularly inform residents about mining projects—especially the potential impact on the lives of local residents, their health, livelihoods and the local environment.

Absence of direct communication and forums for local residents to engage with mining companies on issues of concern. The perception that mining companies are operating secretly and are un-interested in local communities fuels mistrust among local residents. The majority of mining companies do not have local representative offices and communicate with local communities only occasionally and indirectly, through intermediaries such as the local government. This damages their reputation and reinforces the view that they are protecting their own, foreign/outside interests rather than those of local residents. For example, a number of local community members expressed views that mining companies operate covertly, exclusively protect the interests of their owners, and that company representatives are arrogant and not available for negotiations and talks.

Lack of transparent and open policies and practices, especially related to hiring and financial aid or payments. Mining companies are often lack open and transparent policies and practices, fuelling suspicions that they are corrupt, unethical or privileging certain groups. The issues local residents saw as cause for concern included lack of openness about mechanisms for hiring employees, about the provision of financial or other types of assistance, and about the work conducted at the licensed site.

3.1. WORKING WITH THE LOCAL POPULATION

In order to prevent conflict with local communities, mining companies should:

- Register and/or open offices, depending on the phase of the work, in the locality that is closest to the extraction/mining site;
- Prior to the project kick-off, conduct a campaign to raise awareness in the local community about the company's future work plans and actively inform the local population throughout the implementation of mining projects;
- Working together with state and local government officials, conduct public hearings on mineral exploration and development projects prior to starting actual work on licensed sites;
- Conduct public environmental monitoring on a regular basis with the participation of local community representatives, local government authorities and local self governing bodies;
- Working together with the local self governing authorities, develop mechanisms to involve local community representatives in the company's project activities;
- Consider the feasibility of creating joint commissions involving both active local residents and company representatives that can serve as a platform for future talks, negotiations, information exchange, and partnership between companies and local residents on various issues, including environmental issues;
- Establish local information centres/offices that provide timely, reliable and comprehensive information about the activities, plans and programs of the company;
- Provide timely and accessible information in the Kyrgyz language about planned activities, completed work results, rules on hiring employees, procuring local products and services etc.;
- Develop and publish corporate policies and principles related to hiring employees and procuring goods and services that consider the interests of local communities and bring these principles to the attention of local communities;
- Consider the interests and opinion of local residents in the hiring of employees and consider including local residents on hiring commissions;
- Reward the training and retraining of specialists in the mining industry. Attract young people from local communities for specialised trainings that are located near the deposit sites;
- Work to increase local people's knowledge of issues of ecology, subsoil use, and industrial safety through training and other information activities;
- Carry out social projects focusing especially on socially vulnerable sections of the population, persons with disabilities, women, children and elderly citizens;
- Develop a communication strategy to disseminate information about the company's social responsibility strategy;
- Participate in the cultural, social life of the local population.

3.2. WORKING WITH LOCAL AUTHORITIES

Mining companies should cooperate with local governments and local state administrations to mitigate conflict with local communities. They should:

- Work with local governments develop legal mechanisms to resolve conflicts involving local communities;
- Create a system for the exchange of reliable information and timely response;
- Jointly develop guidebooks and materials on the laws and regulation in the field of subsoil use;
- Jointly organise legal training on legal liability issues of local residents when committing unlawful acts against the property and employees of mining companies;
- If necessary, assist local authorities in developing long-term district development, taking into consideration mining companies' activities, including sustainable development outcomes after the completion of projects;
- Provide local authorities with information materials about the company's activities and current works in progress, which can be provided to interested residents;
- Consider the feasibility of having books of complaints and proposals in local government buildings and company offices, to record complaints and suggestions from the local population, and to monitor and supervise the timely response to such complaints and proposals.



4. MINERAL POLICY REFORM

In response to tensions between local communities and mining companies, the Government of the Kyrgyz Republic has taken a number of steps to prevent or mitigate mining conflicts. It is only by fostering positive, long-term cooperation between local communities and mining companies that Kyrgyzstan can realize the full potential of developing its mineral resources and promote foreign investment. In the long-term, if managed well, this has the potential to contribute to Kyrgyzstan's economic development.

In recent years, the Government has passed significant mineral policy and legal reforms. In 2017, the Budget Code of the Kyrgyz Republic and amendments to the Non-Tax Payments Act of the Kyrgyz Republic were adopted to regulate the distribution of tax revenues and non-tax payments (mineral rights and license retention fees) between the national and local authorities. This ensures that a proportion (2%) of non-tax payments from mineral resources are set aside to finance local infrastructure and economic development⁸. In addition, in 2014, the Government approved the Standard Regulation on Setting up Regional Development Funds (RDFs). The main purpose of the RDFs, which are funded from the 2% of non-tax payments, is to support community initiatives aimed at improving living standards and creating conditions for local economic development. As a result, 27 RDFs were set up. The RDFs may be used, for example, to improve infrastructure in mining affected communities to mitigate the negative impacts of mining (e.g. destruction of roads, pastures, water pollution).

The law has also been reformed to strengthen the legal rights of communities living near the licensed areas and to ensure they receive direct benefits from mining companies. In particular, the system for granting mineral rights was changed to make the process more transparent and to ensure local communities have a say in the process. Licenses are granted through a formal auction and tendering process, alongside direct negotiations. In addition, representatives of local communities must be included in the commissions granting mineral rights and auctions must be held in the areas where the mineral

deposits are located. Finally, in cases in which mineral deposits are of national importance, mining and exploration companies are obligated to enter into agreements with the Government on social benefits packages to contribute to the socio-economic development of affected communities.

While the legal framework has improved, the public remain concerned about companies' compliance with it. In particular, the local population is concerned about companies' fulfilment of tax obligations, social benefits package obligations, environmental obligations, and land reclamation obligations.

In addition, over the last five years, the State Committee on Industry, Energy, and Mineral Resources, in cooperation with local authorities, mining companies and donor organisations⁹, has been implementing public education and local outreach programs. These inform the public on various aspects of exploration and mining operations and aim to improve transparency and accountability in the industrial mining sector, in particular, in the process of granting mineral rights. The public information activities have included:

- training courses on the environmental impact of the mining industry;
- public hearings organised by local authorities and mining companies;
- public Information meetings, consultations, and auctions conducted by the representatives of the State Committee;
- daily consultations in public reception rooms located in the local authority.

As a result of these efforts, the interaction between community members, local authorities and mining companies has improved. Public information campaigns have had a considerable impact on public trust in the mining industry and improved public access to information. A recent survey conducted as part of an evaluation of public information activities in five districts found that more than 80% of respondents supported the development of the mining industry¹⁰.

⁸ According to Ministry of Finance data, at the end of 2015, 829,638,038.27 Kyrgyz soms were accumulated in the special Treasury account for the payment of 2% non-tax charges for the development of local infrastructure, of which 622,316,952.49 Kyrgyz soms were directed to the district and regional DFs and 207,321,085.78 Kyrgyz soms were distributed to local authorities.

⁹ These include USAID, EBRD, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the United Kingdom's Department for International Development (DFID), the World Bank, Peace Nexus, Soros Foundation and the International Development Law Organisation (IDLO).

¹⁰ M-Vector, "Public perceptions of mining and of interventions made as part of the 'local transparency and cooperation initiative' programme with the support of the United States Agency for International Development," 2015.



ANNEX 1: LEGAL AND REGULATORY REQUIREMENTS RELATING TO THE MINING INDUSTRY AND THE RIGHTS OF MINING-AFFECTED COMMUNITIES¹¹

1. STATE AND LOCAL AUTHORITIES RESPONSIBLE FOR REGULATING MINERAL RESOURCES

A number of different Kyrgyz state and local authorities play a role in formulating, implementing and ensuring compliance with Kyrgyz policies, laws and regulations that are relevant to the mining sector. The following is an overview of the powers and responsibilities of key authorities:

State Committee for Industry, Energy and Mineral Resources

<http://gkpen.kg/>

The State Committee for Industry, Energy and Mineral Resources of the Kyrgyz Republic (the State Committee) is responsible for implementing state policy on mineral resources. In addition to its industry, fuel and energy-related functions, the State Committee is vested with the following powers related to mineral resources:

- Developing state policy on mineral resources and arranging the system of granting mineral rights;
- Promoting investment in exploration and mining of mineral resources;
- Maintaining the State Register of Ore Reserves and the State Cadastre of Mineral Deposits and Occurrences;
- Granting, suspending and terminating mineral rights, including groundwater rights;
- Conducting assessments of exploration and mining projects;
- Exercising control over the use and protection of mineral resources during exploration and commercial development of mineral resources.

State Inspectorate for Environmental and Technical Safety

<http://www.geti.gov.kg>

The State Inspectorate for Environmental and Technical Safety (SIETS) is the state authority responsible

for supervising and inspecting compliance with a broad range of Kyrgyz environmental and safety regulations. This includes compliance with labour, industrial safety, environmental, nature conservation and natural resource management requirements.

State Agency for Environmental Protection and Forestry

The State Agency for Environmental Protection and Forestry (the SAEPF) is responsible for the implementation of Kyrgyz environmental policy and regulations to ensure environmental safety and efficient use of natural resources. The SAEPF conducts state environmental assessments of technical design documents for mining and exploration projects. These are mandatory for all mining and exploration projects.

State Tax Service

<http://www.sti.gov.kg/>

The State Tax Service is the state authority responsible for compliance with tax legislation and full and timely payment of tax and non-tax charges.

Local state administration and local self-government authorities

The Kyrgyz local state administration authorities are responsible for coordination, at the local level, of state ministries, state committees and other state authorities of the Kyrgyz Republic. Local self-government authorities are executive, representative authorities responsible for deciding local issues. Local state administration and local self-government authorities are vested with the following powers:

- Granting land sites and temporary land use rights, subject to the availability of license, in cases specified by law;

¹¹ The legal and tax information contained in this section does not constitute legal or tax advice or opinion and should not be construed as such. The information is based on the legislation of the Kyrgyz Republic effective as of September 1, 2017. At the time of preparation of this Guide the Parliament of the Kyrgyz Republic has initiated adoption of new edition of the Mineral Resources Law, which may enter force upon its approval by the Parliament and President of the Kyrgyz Republic.

- Terminating the unauthorized mining of mineral resources;
- Controlling the liquidation and conservation of assets used in the exploration or mining of mineral resources, the reclamation of land sites and licensed premises;
- Arranging public environmental assessments of mineral resources projects;
- Promoting public awareness among local communities to prevent illegal interference in mining and exploration operations.

Ministry of Economy

<http://mineconom.gov.kg/>

The Ministry of Economy (MoE) is responsible for the development and implementation of state policy on investment, trade, economic and regional development. Among other functions, the MoE is empowered to develop and implement measures in the field of export control, including the issuance of licenses for export of mineral resources from the Kyrgyz Republic.

Land Management and Real Estate Rights Registration Department of State Registration Service

The Land Management and Real Estate Rights Registration Department of the State Registration Service is the state authority responsible for maintaining the land cadastre, registering real estate rights and providing information on registered rights. Mineral resource users are required to register their rights over mineral resources and land sites with this department.

Kyrgyz Giprozem State Design Institute of Land Management

Kyrgyz Giprozem State Design Institute of Land Management is a state-owned enterprise under the Ministry of Agriculture and Melioration that is responsible for providing land management and cadastral surveying research and design services in the Kyrgyz Republic. Kyrgyz Giprozem is authorised to issue certificates confirming the exact borders and areas of rural counties included in mining licence areas, which is necessary to calculate the mineral license retention fee.

State Agency for Architecture, Construction, Housing and Utilities

<http://www.gosstroy.gov.kg/>

The State Agency for Architecture, Construction, Housing and Utilities is responsible for the issuance of licenses and permits for the construction of infrastructure and facilities that may be necessary for mining operations, usually at the stage that mineral resource deposits are developed.

Applicable laws and regulations governing the regulatory powers of state and local authorities in the area of mineral resources:

- Mineral Resources Law of the Kyrgyz Republic of August 9, 2012 No.160;
- Local Self-government Law of the Kyrgyz Republic from July 15, 2011 No. 101;
- Local State Administration Law of the Kyrgyz Republic from July 14, 2011 No.96;
- Government Resolution on State Tax Service under the Government of the Kyrgyz Republic from February 16, 2012 No.100;
- Government Resolution on the Land Management and Real Estate Rights Registration Department of the State Registration Service of the Government of the Kyrgyz Republic from February 5, 2010 No. 75;
- Regulation on the State Committee for Industry, Energy and Mineral Resources approved by the Government Resolution from July 15, 2016 No. 401;
- Regulation on the State Inspectorate for Environmental and Technical Safety under the Government of the Kyrgyz Republic from February 20, 2012 No.136;
- Regulation on the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic from February 20, 2012 No.123;
- Regulation on the Ministry of Economy of the Kyrgyz Republic approved by the Kyrgyz Government Resolution from February 20, 2012 No.117;
- Regulation on the procedure for licensing of mineral rights approved by the Govern-

ment Resolution from December 14, 2012 No. 834;

- Charter of Kyrgyz Giprozem State Design Institute of Land Management State-Owned Enterprise of the Ministry of Agriculture and Melioration of the Kyrgyz Republic approved by the Government

Resolution from February 20, 2012 No.140;

- Regulation on State Agency for Architecture, Construction, Housing and Utilities under the Government of the Kyrgyz Republic approved by the Government Resolution from June 24, 2013 No. 372.

2. LICENSING REQUIREMENTS FOR MINERAL RESOURCE USE

a) General licensing requirements

License agreements are executed between the State Committee for Industry, Energy and Mineral Resources and the company, which may be selected through tender, auction or direct negotiation. The requirements for awarding mineral rights are listed in the license agreement. Among other things, the license agreement states the procedures and conditions for the use of mineral resources, including the company's obligations to perform the agreed scope of work and to attract investment. The license agreement must be attached to the license and constitutes an integral part thereof.

The requirements for mineral resources users according to Kyrgyz law and detailed in license agreements include:

- to perform works in accordance with the technical design document;
- to observe regulations governing environmental and mineral protection, industrial and ecological safety;
- to develop and implement social benefits packages aimed at socio-economic development of local community;
- to make timely payments of all applicable taxable and non-taxable charges and deductions;
- to accumulate funds in reclamation accounts and conduct reclamation activities in a timely manner;
- to submit reports, transfer geological information and fulfil other binding obligations required by Kyrgyz regulations in a timely manner.

b) Grounds for suspension and termination of license

The Mineral Resources Law of the Kyrgyz Republic contains an exhaustive list of the grounds for suspension and termination of mineral rights.

Suspension of license

Suspension of a license, i.e. temporary limitation of a mineral right for up to 3 months, can occur on any of the following grounds:

- Violation of mineral resources protection, environmental and industrial safety requirements established by law;
- Failure to submit exploration and mining progress reports, and ore reserves movement reports within the time limits established by law;
- Submission of inaccurate exploration and mining progress reports and ore reserves movement reports;
- Failure to meet land and/or mine reclamation fund requirements;
- Application of mining technologies that create threats to health and safety of employees or the general public, or that may cause irreparable damage to the environment and loss of ore reserves;
- Failure to observe the time limits for payment of bonuses and/or license fees;
- Failure to notify the State Committee for Industry, Energy and Mineral Resources within the required time limits on changes in the charter capital of a company engaged in the use of mineral resources.

The State Committee for Industry, Energy and Mineral Resources can decide to suspend a license in the case of any of the above violations or, the courts can also suspend a license as part of a legal proceeding. Suspension does not relieve the user of mineral resources of its obligation to maintain the mining assets in a state that is secure, trouble-free and safe for humans and the environment.

Termination of license

Termination of mineral rights, i.e. withdrawal (annulment) of license by a decision of the State Committee for Industry, Energy and Mineral Resources, can occur on any of the following grounds:

- Waiver of mineral rights by the user of mineral resources;
- Expiration of the mineral license, unless the licensee submits a license renewal or transformation application before the expiration date;
- Carrying out works without a technical design document that is supported by positive findings from impact assessments;
- Failure to address the causes for suspension of mineral rights in a timely manner;
- Submission of inaccurate data, when obtaining the mineral license, on the company's owners or finances.

The Mineral Resources Law of the Kyrgyz Republic establishes additional grounds for termination of mineral rights related to mining sites included in the List of Mineral Deposits of National Importance and awarded through tender:

- Failure or late payment of the mineral resources fee or penalty provided by the tender conditions;
- Violation, after one renewal, of the time limits for the submission of a technical design document supported by positive findings from industrial, environmental safety and mineral resource protection assessments.

Termination of mineral rights does not relieve the user of mineral resources of its obligation to ensure the reclamation of the mining site or liquidation of the mining assets; the conservation and maintenance of the mining assets in a state that is secure, trouble-free and safe for humans and the environment until its transfer to the next holder of mineral rights; the submission of geological information and primary documentation to the Geological Information Fund.

Applicable laws and regulations governing the licensing requirements for mineral resource use are as follows:

- Mineral Resources Law of the Kyrgyz Republic from August 9, 2012 No.160;
- Regulation on procedure for licensing of users of mineral resources approved by Kyrgyz Government Resolution from December 14, 2012 No.834;
- Regulation on procedure and conditions for holding tender for mineral rights approved by Kyrgyz Government Resolution from December 14, 2012 No.834;
- Regulation on procedure and conditions for holding auction for mineral rights approved by Kyrgyz Government Resolution from December 14, 2012 No.834.
- Other laws and regulations.



3. ENVIRONMENTAL REQUIREMENTS FOR MINERAL RESOURCE USE

a) General environmental requirements

Mineral resource users must meet the following general environmental requirements:

- Carry out mining operations in accordance with the technical design document that passed through the state environmental assessment;
- Apply environmentally safe technologies and production processes;
- Ensure protection and efficient use of land, mineral, water, atmosphere, forest, plant and animal resources;
- Observe approved technological regimes and requirements and restrictions on use, protection, preservation, and restoration of the natural environment;
- Maintain buildings, structures and premises associated with the use of natural resources in a state not detrimental to the environment;
- Carry out liquidation or conservation of mining assets upon termination of mineral rights and maintain them in a state that is secure, trouble-free and safe for humans and the environment until their transfer to the next holder of mineral rights at the expense of the mineral resource user and in accordance with special technical design document;
- Ensure reliable and efficient operation of treatment and control facilities;
- Carry out special activities related to forecasting and preventing gas outbursts and water inrushes;
- Ensure liquidation or conservation of unusable mines and wells;
- Carry out reclamation of land sites;
- Protect mineral deposits from flooding, drowning, fire, and other factors reducing their quality and industrial value or complicate their future development;
- Prevent contamination of mineral resources in the course of operations, especially the underground storage of oil or other substances and materials, burial of hazardous substances or production waste and the discharge of wastewater.

• To prevent environmental damage, mineral resource users are prohibited from engaging in the following activities:

- Disposal of waste rock in residential areas resulting in pollution of atmospheric air by dust, harmful gases and foul-smelling substances;
- Unauthorised use of mineral resources;
- Carrying out works that disturb the surface or subsurface integrity before obtaining positive findings from the state environmental assessment;
- Carrying out unauthorised construction in areas containing mineral resource deposits and using these areas for other purposes.

In the case of environmental violations, mineral resource users are subject to disciplinary, criminal, or civil liability charges in accordance with the law. The imposition of disciplinary, administrative or criminal liabilities does not relieve the offender from the obligation to pay compensation for environmental damages.

b) Environmental assessment of technical design documents related to use of mineral resources

Technical design documents related to subsoil use, except in the extraction and use of groundwater, are subject to a state environmental compliance assessment. This is carried out in order to prevent possible negative environmental impacts of the proposed mineral resource activities. It is prohibited to carry out works without a technical design document that has passed through all necessary assessments, including the state environmental assessment.

In the Kyrgyz Republic, both state and public environmental assessments can be conducted. State environmental assessments are mandatory and are conducted by the State Agency for Environmental Protection and Forestry. Public environmental assessments are conducted at the initiative and expense of the general public, local authorities and public associations and are only advisory in nature.

Applicable laws and regulations governing the environmental requirements for mineral resource use are as follows:

- Water Code of the Kyrgyz Republic from January 12, 2005 No.8;
- Forest Code of the Kyrgyz Republic from July 8, 1999 No.66;
- Land Code of the Kyrgyz Republic from June 2, 1999 No.45;
- Mineral Resources Law of the Kyrgyz Republic from August 9, 2012 No.160;
- Law on General Technical Regulation on Ensuring Environmental Safety in the Kyrgyz Republic from May 8, 2009 No.151;
- Production and Consumption Waste Law of the Kyrgyz Republic from November 13, 2001 No.89;

- Environmental Assessment Law of the Kyrgyz Republic from June 16, 1999 No.54;
- Environmental Protection Law of the Kyrgyz Republic from June 16, 1999 No.53;
- Regulation on procedure for carrying out environmental impact assessment in the Kyrgyz Republic approved by the Kyrgyz Government Resolution from February 13, 2015 No.60;
- Regulation on procedure for carrying out state environmental assessment in the Kyrgyz Republic approved by the Kyrgyz Government Resolution from May 7, 2014 No.248;
- Regulation on procedure for licensing of use of minerals approved by the Kyrgyz Government Resolution from December 14, 2012 No.834.



4. OBLIGATIONS RELATED TO LAND RIGHTS

a) Land rights of companies engaged in prospecting, exploration and mining activities

Companies intending to engage in prospecting and exploration activities must obtain written consent/permission to use the land from the local public administration office or local self-government authority, or execute a lease agreement with the landowner or user on a free of charge basis. The consent/permission to use the land is granted for a specified period in the technical design document and the license agreement.

Companies intending to engage in mining activities must obtain land rights on the basis of a decision of the relevant national or local government authority, execute a land lease agreement and obtain the certificate of land use right.

The consent/permission to use land may not be unreasonably withheld or refused.

Permission cannot be granted to use land areas categorised as especially valuable agricultural land (irrigated and dry arable land, fallow land, land occupied by perennial fruit plantations, cultivated pastures, hayfields, radical improvement pastures) or especially protected natural areas (national natural parks, wildlife sanctuaries, natural monuments, botanical gardens, dendrological and zoological parks, biosphere territories and/or reserves, transboundary protected areas) for mining without a decision of the Government of Kyrgyz Republic to convert/transform the area into another land use category. Permission to use land areas that do not belong to these two categories for mining can be granted without requir-

ing conversion/transformation.

b) Land use rights of foreign exploration/mining companies

Kyrgyz land law provides that foreign exploration/mining companies can be awarded land use rights in the same way as the local exploration/mining companies.

c) Registration of land rights of exploration/mining companies

The land rights of exploration/mining companies must be registered in the Unified Title Registry maintained by the local office of the Cadastre and Real Estate Rights Registration Department of the State Registration Service.

d) Grounds for termination of land rights of exploration/mining companies

Land rights of exploration/mining companies can be terminated upon termination of mineral rights or violation of land legislation.

Applicable laws and regulations governing the obligations related to land rights are as follows:

- Land Code of Kyrgyz Republic from June 2, 1999 No.45

5. DISTURBED LAND RECLAMATION REQUIREMENTS

Land reclamation refers to a set of technical-engineering, ameliorative, agro-technical and other activities aimed at restoring the biological productivity of disturbed lands of national-economic value, as well as improving environmental conditions. The main purpose of land reclamation is to maintain the natural ecology, as well as to restore and improve the fertility and productivity of land used in agriculture, forestry and other forms of production.

a) Disturbed land reclamation requirements

After mineral resource users have conducted exploration, prospecting, construction or other activities on agricultural or forest lands, they are required to restore the land to a condition suitable for its use in agriculture, forestry, fishing or other industry at their own expense. They are also required to submit annual reports on land reclamation and the removal and use of the fertile soil layer.

Termination of mineral rights does not relieve the user of mineral resources of its obligation to carry out land reclamation.

Land and mine reclamation must be carried out in accordance with the technical design document related to reclamation.

Reduction of license area is allowed after the licensee submits the report on reclamation of disturbed lands to the State Committee for Industry, Energy and Mineral Resources.

b) Reclamation fund requirements

Mineral resource users holding exploration and mining licenses are required to transfer and accumulate funds in special bank accounts for reclamation purposes each month after the start of exploration and mining operations.

The reclamation funds must be kept in the licensee's account in a Kyrgyz bank. It is prohibited to use reclamation funds for other purposes, including enforcement of creditors' claims or tax and customs liabilities. In case of bankruptcy, liquidation, or death of the mineral resource user, the reclamation funds must be remitted, at the instruction of the State Committee for Industry, Energy and Mineral Resources, to the land owner's bank account for reclamation purposes.

These requirements apply to all subsoil use, including the extraction of groundwater, construction and operation of underground facilities not related to the mining of mineral resources. The requirement to open a reclamation account and to accumulate funds therein for reclamation purposes does not apply to those engaged in prospecting activities.

c) Liability for breach of reclamation requirement

Failure to observe the requirement to accumulate reclamation funds results in suspension of mineral resource rights for a period of up to 3 months.

Failure to observe the reclamation fund requirement during the exploration or mining of mineral resources (or other subsoil use unrelated to mining) as well as failure or refusal to carry out the reclamation lands disturbed as a result of exploration or mining entails an administrative fine of 50 to 100 times the calculation index (KGS 5,000 – 10,000).

Applicable laws and regulations governing the disturbed lands reclamation requirements for users of mineral resources are as follows:

- Land Code of the Kyrgyz Republic from June 2, 1999 No.45;
- Mineral Resources Law of the Kyrgyz Republic from August 9, 2012 No.160;
- Regulation on procedure for licensing of users of mineral resources approved by the Government Resolution from December 14, 2012 No.834;
- Regulation on reclamation (restoration) of lands and procedure for their commissioning into operation approved by Kyrgyz Government Resolution from July 12, 1993 No.304.

6. SOCIAL BENEFITS PACKAGE REQUIREMENTS FOR MINERAL RESOURCE USERS

a) Social benefits package

Social benefits packages are agreements to contribute to the socio-economic development of the affected community. These agreements are drafted on the basis of the local socio-economic development program and are executed between the mineral resource user and the executive body of the respective administrative-territorial unit.

b) Social benefits package requirement

Under Kyrgyz law, mineral resource users are required to design and implement a social benefits packages in cases in which the mineral deposits are designated as deposits of national importance. Mineral resource users engaged in exploration, prospecting or mining of regular mineral deposits are not required to provide social benefits packages.

c) Social benefits package contents

The social benefits package consists of a program of investment in social and living conditions of the affected community (training and employment of local people, building infrastructure and other). The agreement on social benefits is referred to the State Committee for further consideration and approval at the stage that the technical design document is developed.

The right to use mineral resources of national importance is awarded through tender. The interdepartmental tender commission determines the time limits for submission of the social benefits package, the minimum amount of investment for each mineral deposit of national importance, and other requirements. Social benefits package requirements for awarding mineral rights through tender therefore vary from case to case. The box below provides examples.

Social benefits package requirements for awarding mineral rights over the Jerooy site

Pursuant to the Government Resolution of February 16, 2015 No.41-p, in order to be awarded the mining rights over the Jerooy gold deposit and exploration rights over the Jerooy site, the winner of the tender is required to submit a social benefits package that includes a socio-economic development program for local communities and territories, a local infrastructure investment program, employment of local people, maximum involvement of local workers in the development of mineral deposit, training of local people to be involved in works, and assistance with the settlement of other issues related to the program of socio-economic development of the Talas region. During the first three years, the amount of annual investment in local development, in monetary terms, must be at least KGS 100 million, and in the next years, at least KGS 150 million.

Social benefits package requirements for awarding mining rights over the Terekkan, Perevalnoye and Terek deposits

Pursuant to the Government Resolution of September 16, 2015 No.459-p, some of the requirements for awarding mining rights over the Terekkan, Perevalnoye and Terek mineral deposits include the submission of a social benefits package including a socio-economic development program for local communities and territories and the training and employment of local people. During the construction of the gold mine, the annual investment in local development must be at least KGS 15 million, and in the next years, at least KGS 20 million.

Social benefits package requirements for awarding mineral rights over the Bel-Alma deposit

Pursuant to the Government Resolution of March 19, 2015 No.107-p, the winner of the tender for exploration rights over the Bel-Alma coal deposit is required to submit, within 2 months from the date of receiving the license, to the local authorities for further consideration and review, a social benefits package including socio-economic development program for local communities and territories, a local infrastructure investment program, the employment of local people, the maximum involvement of local workers in the development of the mineral deposit, training of local people to be involved in the works and assistance with the settlement of other issues related to the socio-economic development program.

Applicable laws and regulations governing the social benefits package requirements:

- The Mineral Resources Law of the Kyrgyz Republic from August 9, 2012 No.160;
- Regulation on procedure for licensing of users of mineral resources approved by the Government Resolution from December 14, 2012 No.834.

7. TAX AND OTHER FISCAL REQUIREMENTS

a) Mineral Resource Use Taxes

Bonus

Bonuses are one-time payments to the taxpayer upon the award of the mineral right and in some other cases specified in tax legislation. The bonus rate is determined by the Government of the Kyrgyz Republic in accordance with the mineral resources classification table, depending upon the amount of ore reserves in the case of mining and the size of license area in the case of prospecting and exploration of mineral resources.

For example, for deposits of hard rock gold and platinum-group metals that are explored and prepared for industrial development, the bonus rate is USD 60,000 per ton of ore reserves. For silver deposits, the bonus rate is USD 1,000 per ton of ore reserves. For prospecting and exploration of metal deposits, the bonus rate is USD 25 per 1 sq.km and for coal deposits it is USD 500 per 1 sq. km.

The basis for calculating the bonus rate depends upon a number of circumstances:

- In the case of mining of mineral resources, the amount of ore reserves recorded in the state register of ore reserves;
- In the case of the exploration and prospecting of mineral resources, the collection of mineral or fossil specimens for commercial purposes, or rock specimens for decorative, handicraft or building purposes, the size of the license area.
- In the case of groundwater extraction, the requested amount of water to be extracted;
- In cases of the transfer or assignment of mineral rights, the amount of ore reserves that remain unprocessed at a specified time according to progress reports of mineral resource users, or the size of the license area;
- In cases of the change of ownership interest in

the authorised capital of the mineral right holder, the amount of ore reserves that remain unprocessed at a specified time according to the progress reports of mineral resource users, or the license area in proportion to the changed interest;

- In cases of the increase in the amount of ore reserves, the amount of the increased ore reserves recorded by the State Commission for Ore Reserves.

Royalties

Royalties are periodic payments chargeable in relation to the mining of mineral resources and/or groundwater extraction. The royalty rate depends on the type of extracted or recoverable minerals, as well as ore reserves of the respective deposit. For example, it varies from KGS 0.01 to KGS 200 per cubic meter of extracted water and from 1% to 12% of proceeds from the sale of other minerals.

The basis for calculating royalties includes:

1. Proceeds from the sale of mineral resources or products derived from their processing, less VAT and sales tax;
2. Sales volume in kind; and
3. Extracted water volume as per water meter.

b) General tax requirements

Profit tax

Profit tax is applicable to entities and individual entrepreneurs operating under the general tax regime. The profit tax rate is 10% of the tax base. The tax base is the profit calculated as the positive difference between the aggregate annual income and permitted deductions.

Revenue tax

Revenue tax replaces profit tax for taxpayers engaged

in mining and selling gold ores and concentrate as well as gold alloy and refined gold. The revenue tax rate depends on gold prices per troy ounce and varies from 1% (if below USD 1,300) and 20% (if above USD 2,500). The tax base is the proceeds from the sale of gold alloy and/or refined gold and the cost of gold in gold-containing ore and gold concentrate calculated based on world prices in the manner prescribed by the Government of the Kyrgyz Republic (less VAT and sales tax).

Sales tax

The sales tax rate is 1-3% of the tax base for cash transactions and 0% of the tax base for noncash transactions. The tax base is the proceeds from sale of goods, works, or services, less VAT and sales tax.

Income tax

Income tax is tax on the income of individuals. However, business entities (including individual entrepreneurs) are responsible for calculating, withholding and paying income taxes on behalf of their employees. The income tax rate is 10% of the tax base. The tax base is the individual's income calculated as the difference between the individual's total annual income and permitted deductions.

Value Added Tax (VAT)

VAT is chargeable upon the import of goods, irrespective of registration for VAT, as well as upon VAT taxable supplies. Entities should voluntarily register to pay VAT if they meet the registration threshold of KGS 8 million over the period of 12 consecutive months or less.

The VAT rate is 12% of the tax base. The tax base for taxable supplies is the taxable cost of the supplies. The tax base for taxable imports is the taxable cost of the imported goods.

Property tax

Property tax is chargeable on taxable assets, if any, such as buildings, structures, premises, facilities, or vehicles. The property tax rate is 0.35% of the taxable cost of assets in the case of residential buildings, structures, premises or facilities not used for business purposes and 0.8% of the taxable cost of assets in case of the buildings, structures, premises or facilities (including those made of metallic constructions, and both residential and nonresidential facilities) intend-

ed or used for business purposes. The tax base for buildings, structures, premises, or facilities is the taxable cost of assets calculated according to a special formula specified in the tax legislation of the Kyrgyz Republic.

The vehicle tax rate depends on type of vehicle, year of manufacture and engine displacement and varies from KGS 0.05 to KGS 1.80 per cubic centimetre of engine displacement. In some cases (for example, if the vehicle has no internal combustion engine), the tax rate is 0.5% of the book value of the respective vehicle or the cost calculated in the manner required by the Government of the Kyrgyz Republic. The tax base for vehicles is the engine displacement or book value or value calculated in the manner required by the Government of the Kyrgyz Republic.

Land tax

The land tax rate depends on the location and category of the land site. The amount of tax is calculated according to a special formula that takes into consideration the size of the land site and a few adjustment factors.

c) Mandatory state social insurance contributions

Individuals pay mandatory social insurance contributions on their income. However, employers bear the responsibility for calculating, withholding and paying social insurance contributions for their employees to the Social Fund of the Kyrgyz Republic.

The tax rates for social insurance contributions are 27.25% of all types of payments to employees who are Kyrgyz citizens or permanent residents. Of this, 17.25% is payable by the employer, and 10% is withheld from the employees' salaries. The tax rate is 3% on all types of payments to employees who are foreign nationals or stateless persons temporarily resident in the Kyrgyz Republic or abroad (fully payable by the employer).

d) Non-tax charges and fees

License retention fee

Pursuant to the laws of the Kyrgyz Republic, mining companies are required to pay license retention fees. The amount of the license retention fee depends on the type of mineral rights (prospecting, exploration,

mining), the type of mineral resources, the size of the license area, the date of issuance of license and the period of use. The fee is calculated by the State Committee for Industry, Energy and Mineral Resources.

The holder of the mining license becomes exempt from the license retention fee after achieving its design capacity – the achievement of 90% of the annual mining output specified in the approved mining plan. Deductions for promotion and maintenance of local infrastructure

Companies holding mining licenses (except coal, mercury, mineral and thermal water, and building materials) are required to make deductions to promote and maintain local infrastructure. The rate of deductions is 2% of the proceeds (less indirect taxes) from sale of mineral resources.

Other non-tax charges

In addition to the above, mining companies are required to pay other charges, such as waste disposal charges and environmental pollution charges. The rates, base and procedure for payment of such charges are specified in Kyrgyz law.

Applicable laws and regulations governing tax and other fiscal requirements for users of mineral resources:

- Tax Code of the Kyrgyz Republic from October 17, 2008 No.230;
- Law on Tariffs of Insurance Contributions under State Social Insurance from January 24, 2004 No.8;
- State Social Insurance Law of the Kyrgyz Republic from July 17, 1996 No.20;
- Non-taxable Charges Law of the Kyrgyz Republic from April 14, 1994 No.1480-XII;
- Government Resolution on Measures for Implementation of Requirements of Tax Code of the Kyrgyz Republic from December 30, 2008 No. 736;
- Mineral Deposits and Occurrence Bonus Rates Classification Table approved by Government Resolution from December 30, 2008 No.736;
- License Area Bonus Rates Classification Table approved by Government Resolution from December 30, 2008 No.736;
- Other laws and regulations.

ANNEX 2. USEFUL CONTACTS FOR USERS OF MINERAL RESOURCES

STATE REGULATORS OF THE KYRGYZ REPUBLIC

State Committee on Industry, Energy and Mineral Resources of the Kyrgyz Republic	Bishkek, 2 Erkindik Avenue T: + 996 (312) 30-04-10, 30-07-06 F: + 996 (312) 30-07-18 E: geoagencykg@gmail.com W: www.gkpen.kg
State Inspectorate for Environmental and Technical Safety of the Government of the Kyrgyz Republic	Bishkek, 119 Akhunbaev Street T: +996 (312) 56-49-54, 56-30-27 E: getiserver@mail.ru W: www.geti.gov.kg
State Agency for Environmental Protection and Forestry of the Government of the Kyrgyz Republic	Bishkek, 228 Toktogul Street T: +996 (312) 35-27-27 F: +996 (312) 35-31-02 E: nature_kg@mail.ru W: www.ecology.gov.kg
State Tax Service of the Kyrgyz Republic	Bishkek, 219 Chui Avenue T: +996 (312) 61-28-86 E: sti@sti.gov.kg W: www.sti.gov.kg
Ministry of Economy of the Kyrgyz Republic	Bishkek, 106 Chui Avenue T: +996 (312) 62-52-41, 62-41-73 F: +996 (312) 66-18-37 E: mail@mineconom.gov.kg W: www.mineconom.gov.kg
Cadastre and Real Estate Rights Registration Department of the State Registration Service of the Government of the Kyrgyz Republic	Bishkek, 28 Manas Avenue T: +996 (312) 31-25-47 F: +996 (312) 31-28-03 W: www.gosreg.kg
Kyrgyz Giprozem State Design Institute of Land Management State-Owned Enterprise of the Ministry of Agriculture and Melioration of the Kyrgyz Republic	Bishkek, 44 Orozbekov Street T: +996 (312) 30-03-49, 30-03-54
State Agency for Architecture, Construction, Housing and Utilities of the Government of the Kyrgyz Republic	Bishkek, 28 Manas Avenue T: +996 (312) 61-36-97 F: +996 (312) 61-34-52 E: gosstroy_press@bk.ru W: www.gosstroy.gov.kg

BUSINESS ASSOCIATIONS & LABOUR UNIONS

International Business Council: Mineral Resources Committee	Bishkek, 191 Abdrakhmanov Street, Hyatt Regency Bishkek Hotel, office 113-114 T: +996 (312) 62-36-79, 62-38-01 F: +996 (312) 62-33-94 E: office@ibc.kg, lawyer@ibc.kg W: www.ibc.kg
Mining Association of the Kyrgyz Republic	Bishkek, 2 Erkindik Avenue, office 236 T: +996 (312) 30-04-78 E: kyrminaskg@gmail.com
Association of Miners and Geologists	Bishkek, 98 Mederova Street T: +996 (312) 90-98-67, 54-14-98
Association of Users of Mineral Resources	Bishkek, 207 Chui Avenue T: +996 (312) 62-57-31
Mining and Metallurgical Trade Union of the Kyrgyz Republic	Bishkek, 207 Chui Avenue T: +996 (312) 61-32-29, 61-32-24, F: +996 (312) 61-32-24 E: profgormet@list.ru W: www.gmpk.kg
Guild of Mining Industry (Miners)	Chui region, Novopavlovka village, 2 Stroitel'naia Street T: +996 (312) 60-90-08, 60-90-29
Kyrgyz Union of Industrialists and Entrepreneurs	Bishkek, 109/1 Turusbekov Street, BC Maximum, of- fice 112-114 T: +996 (312) 39-41-07, 45-15-11 E: ksppkg2015@gmail.com W: www.kspp.kg

SERVICE PROVIDERS

Eco-Service LLC (designing)	Bishkek, 40 Manas Avenue, office 309 T: +996 (312) 31-17-86
SGS Bishkek LLC (inspection company)	Bishkek, 191 Abdrahmanova Street, office 102 T: +996 (312) 66-29-58 W: www.sgs-caspian.com
ALS Inspection UK Limited, Representative Office (in- spection company)	Bishkek, 231 Tynystanova Street, apt. 20 T: +996 (312) 66-29-58
Ken-Too Research and Development Institution (de- signing)	Bishkek, 30 Erkindik Boulevard, office 9/239 T: +996 (312) 66-01-60 +996 (312) 39-21-34

Central Laboratory under the State Committee of Industry, Energy and Mineral Resources	Bishkek, 2 Erkindik Boulevard T: +996 (312) 30-03-84
Central Scientific Research Laboratory under the KGRK Open Joint Stock Company LLC	Kara-Balta, T. Kozhombardieva Street, industrial zone T: +996 (3133) 7-25-75 +996 (3133) 7-25-92 +996 (3133) 7-29-27
Chui Territorial Laboratory under the State Agency for Environmental Protection and Forestry	Bishkek, 34 Baitik Baatyra Street T: +996 (312) 54-07-66
Osh Territorial Laboratory under the State Agency for Environmental Protection and Forestry	Osh, 130 Kurmanzhan Datka Street T: +996 (3222) 2-25-66
Zhalal-Abad Territorial Laboratory under the State Agency for Environmental Protection and Forestry	Zhalal-Abad, 130 B. Osmonova Street T: +996 (3722) 02-95 +996 (777) 86-44-20
Kadamzhai Sanitary and Epidemiological Station	Kadamzhai district, Pul'gon village, 7 Bol'nichnaya Street T: +996 (3655) 5-02-96 +996 (3655) 5-02-73

INTERNATIONAL ORGANIZATIONS AND DONORS

United States Agency for International Development	Bishkek, Mira avenue, 171, 720016, T: +996 (312) 597000 F: +996 (312) 597744 W: www.usaid.gov/kyrgyz-republic E-mail: akgdocs@usaid.gov
European Bank for Reconstruction and Development	Bishkek, business-center "Orion" 4 floor, Erkindik boulevard, 21 720040, T: +996 (312) 624016, 624017 F: +996 (312) 666284 W: http://www.ebrd.com/russian/pages/country/kyrgyzrepublic.shtml E-mail: abdullaz@ebrd.com
Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH	Bishkek, Erkindik boulevard 22, 720040 T: +996 (312) 909070 , +996 (312) 909082 F: +996 (312) 909080 W: http://www.giz.de/de/weltweit/europa-kaukasus-zentralasien/655.htm E-mail: giz-kg@giz.de

UK Department for International Development

Bishkek, Erkindik boulevard , 21 office №404
720040,
T: +996 (312)303644
F: +996 (312) 303650
W: [http://www.dfid.gov.uk/Where-we-work/
Asia-Central/Kyrgyzstan/](http://www.dfid.gov.uk/Where-we-work/Asia-Central/Kyrgyzstan/)
E-mail: a-ashiralieva@dfid.gov.uk

World Bank

Bishkek, Moskovskiy street, 214, 720010
T: +996 (312) 625262
F: +996 (312) 625362
W: <http://www.worldbank.org/kg/>
E-mail: niosipenko@worldbank.org

Peace Nexus

Bishkek, Abdrakhmanov street 204, 4-floor
T: +996 (312) 664636
W: <https://peacenexus.org/>
E-mail: nazgul.aksarieva@peacenexus.org

Soros Foundation

Bishkek, Logvinenko street, 55a, 720040
T: +996 (312) 663475, 622655, 664218
F: +996 (312) 663448
W: <http://soros.kg/>
E-mail: office@soros.kg

International Development Law Organization

Bishkek, Abdrakhmanov street ,191, office
№ 120, 720011
T: +996 (312) 665272
W: www.idlo.int
E-mail: fhuston@idlo.net

ANNEX 3: ONLINE RESOURCES FOR MINERAL RESOURCE USERS

The following online databases and web portals provide information in the Kyrgyz and Russian languages. Some of the information is provided in English. Access to information is free of charge.

<http://www.gkpen.on.kg>

The online database of the State Committee on Industry, Energy and Mineral Resources contains up-to-date information on valid licenses, active applications for licenses, interactive maps of licensed areas, maps of mineral resources, and information on the procedure for obtaining mineral resources licenses.

<http://www.sti.gov.kg/>

The State Tax Service website contains information on registered taxpayers, tax legislation, reporting forms and instructions, an online calculator for certain taxes, online tools to verify information on taxpayers, invoices and patents.

<https://budget.okmot.kg/>

The Transparent Budget web portal contains information on national debt, revenues and expenditures of the Kyrgyz national and local budgets, as well as data on incentive grants. Transparent Budget also contains information on remittances of each taxpayer (legal entities) which includes the type, amount and date of payment of taxes, licence fees, and fees for other state services made by each tax payer.

<http://gosuslugi.mineconom.kg/>

The State and Municipal Services and Licensing System website contains information on services for citizens and business entities that are provided by the state and municipal authorities, as well as data on state control and supervision functions.

<http://register.minjust.gov.kg/>

The online database of legal entities and representative offices of the Ministry of Justice contains information on all registered legal entities in the Kyrgyz Republic including the name, status, foreign participation, registration number, tax identification number, legal address, CEO and current founders (with some exceptions).

<http://cbd.minjust.gov.kg/>

Centralised Database of Legal Information of the Ministry of Justice provides free access to up-to-date legislation of the Kyrgyz Republic in both Kyrgyz and Russian languages.

<http://stat.kg/>

The National Statistical Committee website contains statistical data on various social, economic, demographic and ecological phenomena in the Kyrgyz Republic, data on the main macroeconomic indicators of the country (GDP, consumer price index, minimum wage), including information on the amount of investment in mining industry, as well as the production of oil, gas, coal and other industrial outputs.

<https://t-zakupki.okmot.kg/>

The Public Procurement online portal provides information on auctions, agreements, procuring entities, and other issues related to public procurement.

<https://map.okmot.kg/>

The Economic Map of the Kyrgyz Republic contains information on the economic / financial state of different regions of the Kyrgyz Republic, including data from the Treasury and State Fund of Economic Development under the Ministry of Finance.

<https://okmot.kg/links.html>

This link of the State Informational Resources of the Kyrgyz Republic provides the list of websites of Kyrgyz government authorities.

<https://donors.okmot.kg>

The external aid web portal of the Ministry of Finance contains information on foreign donors.

<http://www.invest.gov.kg/en/>

The Investment Promotion and Protection Agency website provides useful information concerning the investment climate in the Kyrgyz Republic.



*Photos in this Guidebook are provided
by Kumtor Gold Company
and KAZ minerals PLC*

