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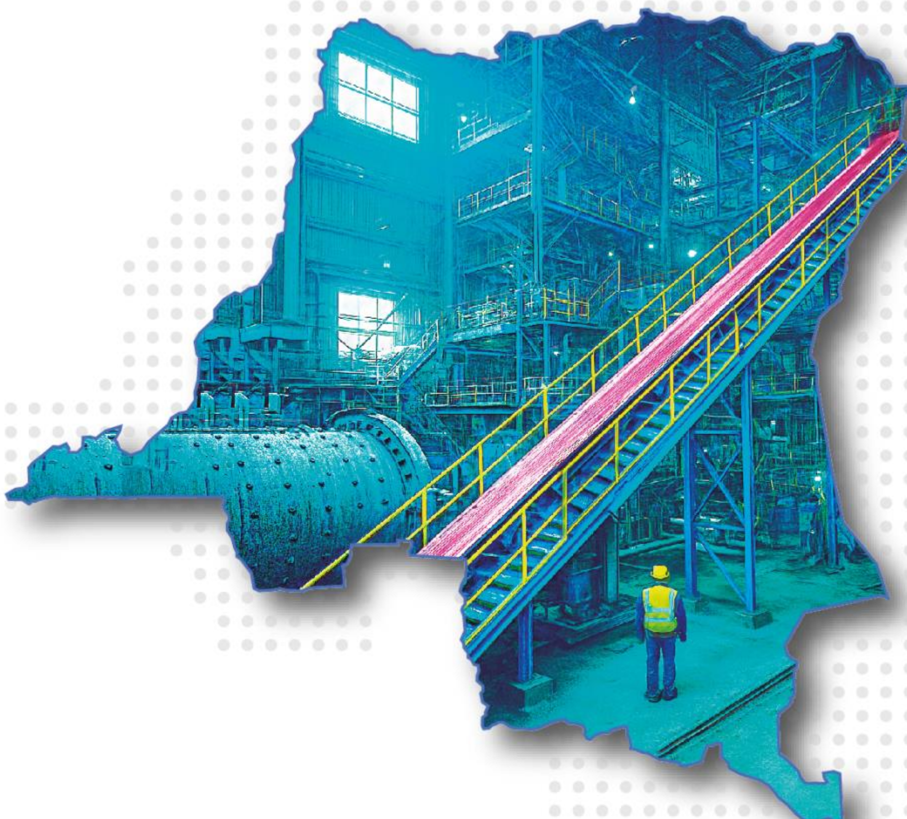
PROPOSED LAW ON LOCAL TRANSFORMATION AND THE DEVELOPMENT OF MINERAL VALUE CHAINS IN THE DEMOCRATIC REPUBLIC OF CONGO



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PROPOSED LAW ON LOCAL TRANSFORMATION AND THE DEVELOPMENT OF MINERAL VALUE CHAINS IN THE DEMOCRATIC REPUBLIC OF CONGO

STATEMENT OF REASONS

The Democratic Republic of Congo possesses exceptional geological potential, placing the country at the heart of 21st-century industrial and technological value chains. However, the value captured from mineral resources within Congolese territory remains low, limited by predominantly extractive exploitation, which exposes the national economy to price volatility and external shocks, and hinders the transformation of this potential into a sustainable and inclusive engine of prosperity.

In this context, faced with the global reconfiguration of value chains and increased competition for access to mineral resources, the Democratic Republic of Congo must implement a post-extraction industrialization strategy. This strategy consists of hasdevelop local processing capacities, sustainably integrate national production into local, regional and international markets, create skilled jobs and technological capacities, and finally generate sustainable tax revenues.

The law on local transformation and development of value chains for mineral substances gives normative force to this strategy by setting out the guiding principles, the steering architecture and the economic instruments; while referring to the implementing texts the precision of the criteria and procedures in order to preserve the adaptability of the system.

Complementary to the Mining Code, this law does not modify the titles, royalties, or upstream procedures. It organizes the downstream sector, that is to say, all industrial activities taking place after extraction: refining, physico-chemical conversions, manufacturing of intermediate or advanced materials, recovery and recycling, management of by-products and, more generally, any activity aimed at transforming, valorizing or integrating mineral substances into industrial value chains.

This text implements the mandate already established by the Mining Code (articles 82 and 108 quater), which reserves post-extraction processing for dedicated legislation. It establishes a clear boundary: the Mining Code governs upstream activities (prospecting, rights, extraction, processing/concentration); while this law governs downstream activities (primary processing, industrialization, manufacturing of finished products).

Local processing and the development of value chains for mineral substances, in addition to being governed by specific legislation, fall under the purview of the industrial sector. To address these issues, it was necessary to fill this legal gap with legislation extending beyond the Mining Code. The legal tipping point occurs upon the physical removal of the material from the extraction site or its transfer to an authorized processing entity, whichever comes first.

Thus, this law sets out stable and non-negotiable guiding principles: creation of local value, competitiveness, predictability and legal certainty, responsible integration into value chains, technological neutrality and proportionality of obligations.

It refers to the implementing texts, the setting and updating of technical and situational parameters, without this list being exhaustive, including: lists and categories of substances, levels and thresholds of transformation, technical, quality and sustainability standards, incentive mechanisms, as well as monitoring, evaluation and adjustment mechanisms.

This legislation establishes a single, clearly defined management responsibility, entrusted, as implementation needs require, to an existing entity or, where appropriate, to a dedicated entity designated by regulation. This mandatory responsibility is an essential prerequisite for the coherence and effectiveness of public action, as well as for the clarity and predictability of the procedures applicable to operators.

It is carried out within a unified framework, by means of a single strategic window responsible for guiding, coordinating and securing the post-extraction transformation policy.

The law on local processing and development of value chains of mineral substances in the Democratic Republic of Congo establishes balanced economic instruments: targeted, temporary and reversible incentives, compatible with the sustainability of public revenues and conditional on measurable results.

It declares energy and logistics infrastructure serving processing hubs, as well as the operations necessary for their supply of raw materials, to be a national priority.

It supports access to finance through diversified and needs-proportionate instruments, including for the benefit of small and medium-sized enterprises/small and medium-sized industries (SMEs/SMIs), and promotes the participation of nationals in the processing industry.

Finally, this law operationalizes industrial policies and strategies, and supports duly approved sectoral strategies.

It gives legal force to the ambition of industrializing the Democratic Republic of Congo, fuels institutional alignment, but also creates the conditions for a technological upgrade in the service of sustainable and shared prosperity.

It also takes into account the importance of minerals essential to the energy transition, in particular critical and strategic minerals, due to their growing global demand and the role they play in key sectors such as aerospace, electronics, nuclear, defense, telecommunications, renewable energy, health, transport, infrastructure, etc.

This lawThis fills a long-standing deficit in the sector and sets the main guidelines for local processing and development of mineral value chains in the Democratic Republic of Congo, guaranteeing national sovereignty and territorial integrity.

This Act comprises six (6) titles, namely:

- Title I: General provisions relating to post-extraction industrial activities and the development of value chains for mineral substances;
- Title II: Regime applicable to critical and strategic minerals;
- Title III: Strategic Investments and Partnerships;
- Title IV: Institutional framework;
- Title V: Offenses;
- Title VI: Transitional and final provisions

This is the general outline of this Act.

The National Assembly and the Senate have adopted it.

The President of the Republic promulgates the following Law:

TITLE I

GENERAL PROVISIONS RELATING TO POST-EXTRACTION INDUSTRIAL ACTIVITIES AND THE DEVELOPMENT OF MINERAL VALUE CHAINS

Chapter I
Of the object, the scope, and the definitions

Section 1
Object and Scope

Article 1

The purpose of this law is to promote the industrialization and local transformation of mineral substances occurring after their extraction in the Democratic Republic of Congo, in accordance with Article 202, point 36 f of the Constitution.

It sets out the guiding principles and legal framework applicable to post-extraction industrial activities of mineral substances and to the development of their value chains.

Article 2

This law applies to post-extraction industrial activities aimed at transforming, valorizing or integrating mineral substances into industrial value chains, up to the first placing on the market.

Article 3

This law applies to any economic entity constituted as a sole proprietorship, commercial company or cooperative society, registered in the Democratic Republic of Congo and authorized to operate in its territory in accordance with its laws, and which carries out or intends to carry out all or part of the activities referred to in Article 2.

Article 4

The law concerning the local processing and development of value chains of mineral substances applies throughout the national territory, including in any area with a special legal regime.

Section 2

Definitions

Article 5

For the purposes of this Act, the following definitions apply:

1. **Post-extraction industrial activities:**A set of activities taking place after the extraction of mineral substances and aimed at transforming, valorizing or integrating these substances into industrial value chains, up to the first marketing. They include in particular refining, physico-chemical conversions, the manufacture of intermediate or finished products, recovery and recycling, the management of by-products, as well as operations.
2. **Supplying the processing hubs**: all contractual, logistical and technical operations aimed at the regular, traceable and compliant delivery of raw materials and inputs necessary for the activities of the processing centers.
3. **Benefits :**support measures, incentives or procedural, fiscal, parafiscal, financial or non-financial facilities granted to operators, under the conditions set by the implementing texts.
4. **Mineral value chains:**coordinated set of activities and links connecting mineral substances, from their post-extraction availability, to intermediate or finished products and their markets, including reuse and recycling loops.
5. **Local content**: the share of goods, services, labor, technology and capital of national origin integrated into the design, implementation and operation of activities governed by this law, including the share carried out by eligible subcontractors in accordance with applicable legislation. This share is calculated and certified according to rules established by regulation.
6. **Performance contract**: a legal instrument linking benefits granted to an operator, such as guarantees of stability, to measurable results, particularly in terms of local added value, employment and training, technology transfer, sustainability and traceability. The contract includes incentive and corrective mechanisms.
7. **Recycling entity**: any economic entity constituted as a sole proprietorship, commercial company or mining cooperative which valorizes waste by processing it to produce materials or substances for their original function or for other purposes.

8. **Processing entity**: any economic entity constituted as a sole proprietorship, commercial company or mining cooperative which, through mineral processing and/or metallurgical processes, obtains from ores a marketable mineral product in the form of a concentrate or refined or refined metal.
9. **Transformation entity**: any economic entity constituted as a sole proprietorship, commercial company or mining cooperative which, through industrial processes, changes the form and nature of the concentrate or therefined or refined metal, and obtains finished or semi-finished products that can be sold.
10. **Feasibility study**: report stating the feasibility of transforming a raw material or a raw and semi-finished product into a finished product, within a factory or industrial complex.
11. **Environmental and social impact assessment**(EIES): systematic process of identifying, forecasting, evaluating and reducing the physical, ecological, aesthetic, social effects prior to carrying out post-extraction transformation activities and enabling assessment of their direct or indirect consequences on the environment.
12. **Mining legislation**: the Mining Code and its implementing measures.
13. **Mineral**: a set of chemical elements constituting a natural body, simple or compound, inorganic or organic, generally in solid state, and in some exceptional cases, in liquid or gaseous state.
14. **Critical Minerals**Essential minerals for the energy and digital transition as well as for high-tech industry and its applications, supporting the global economy, important for national security, and presenting a high risk of shortage in their supplies nationally and/or internationally.
15. **Industrial minerals**substances and minerals, mostly non-metallic, found in varying concentrations in various types of natural rocks and used as basic or complementary raw materials in the manufacturing processes of many industrial sectors.

    These are essentially clays, silica, kaolin, quartz, gypsum, talc, mica, feldspar and andalusite.
16. **Strategic minerals**Essential minerals for the energy and digital transition, as well as for high-tech industry and its applications, supporting national and international economic growth, and of which the country is full of abundant reserves in the face of growing global demand.

17. **Industrial operator (or operator)**: any economic entity constituted in the form of a sole proprietorship, commercial company or mining cooperative, under public or private law, national or foreign, registered either in the Trade and Personal Property Credit Register or in the Register of Cooperative Societies, and carrying out all or part of the post-extraction industrial activities referred to in this law.
18. **Strategic Partnership**: cooperation framework concluded by the State or its public institutions with third parties, intended to enable and/or accelerate the local transformation and development of post-extraction value chains of mineral substances through the joint mobilization of investments, technologies, know-how, market access and financing, in line with national priorities.
19. **Transformation Hub (PDT)**: A perimeter delimited within or entirely occupying a special economic zone, dedicated to the establishment of post-extraction industrial activities; not establishing an autonomous derogation regime, but articulating with the legal regime of the special economic zone according to procedures set by decree of the Prime Minister.
20. **First point of market entry**: first session, export or industrial delivery of a product from post-extraction activities, according to criteria and procedures set by regulation.
21. **Reference framework**: document containing a set of structured information, from the definition of terms to recommended practices.
22. **Recycling and recovery**: recovery operations by which waste, scrap, residues or by-products from mining or industrial activities are treated in order to produce reusable materials or substances, either for their original function or for other functions, in accordance with environmental legislation.
23. **Exit from the extraction site**: physical and legal point of transfer from which mineral products cease to be processed within the perimeter authorized by the Mining Code and fall within the scope of this law.
24. **Mineral substance**: any inert or artificial natural body containing one or more minerals in amorphous or crystalline form, solid, liquid or gaseous, having economic value. Quarry products are mineral substances within the meaning of this Act.
25. **Transformation**: industrial operations carried out downstream of the extraction site exit, aimed at the production of materials, precursors, components, alloys,

intermediate or finished products, including recycling and remanufacturing operations, according to technical standards set by regulation.

Terms not defined in this article shall be understood as defined in the Mining Code, environmental legislation and the texts adopted for the application of this law.

Chapter II
Fundamental principles

Section 1
Guiding principles

Article 6

The State exercises permanent sovereignty over its mineral resources contained in the soil and subsoil.

Article 7

The State guarantees thelocal transformation of mineral substances in the Democratic Republic of Congo for sustainable and shared prosperity.

In this regard, he asserts:

1°. Access to mineral substances and traceability
2°. Creation of local added value and integration into national, regional and international value chains;
3°. Competitiveness, technological neutrality and proportionality of obligations;
4°. Predictability and legal certainty as well as speed of decision-making;
5°. Environmental and social sustainability, and compliance with applicable standards;
6°. Transparency, accountability and public monitoring and evaluation;
7°. Development of local content and appropriate participation of nationals, in compliance with applicable legislation;

8°. Interinstitutional coherence, convergence of public policies and intersectoral synergies, as well as anticipation of systemic risks;

9°. Skills development, research and innovation, as well as promotion of technology transfer and market access;

10°. Mobilizing capital and access to inclusive, innovative and sustainable financing.

Article 8

Local post-extraction processing:

1. Pursues national security and economic sovereignty objectives, by strengthening the resilience of supply chains, preventing the risks of predation and destabilization, as well as the capacity to adjust to geopolitical developments and the global economy;
2. It enshrines the principle of developing local transformation capacities and integrating national production into national, regional and global value chains, while respecting technological neutrality and the proportionality of obligations.
3. It enshrines the principle of proactive and integrated management of current and future mineral resources.

Article 9

This proposed law is universal in its principles and flexible in its modalities of application, which are adapted by sector and specified by regulation, in order to avoid any normative overlap and to guarantee legal certainty.

Section 2
Unified governance and management

Article 10

The State establishes a single and clearly identified steering body for local post-extraction processing and the development of value chains for mineral substances.

Article 11

The steering body is placed under the supervision of the ministry responsible for Industry.

A decree of the Prime Minister, deliberated in the Council of Ministers, on the proposal of the Minister of Industry, establishes the organization and operation of this steering body.

Section 3
Economic instruments and performance conditionality

Article 12

The State dedicates balanced, targeted, temporary and reversible economic instruments, compatible with the sustainability of public revenues and the public interest, and conditional on measurable results.

Benefits such as stability guarantees are linked by performance contract to verifiable objectives and indicators, particularly in terms of local added value, employment and training, technology transfer, sustainability and traceability.

These contracts include incentive and corrective mechanisms.

The categories of benefits and the terms and conditions for granting, maintaining, revising, suspending, withdrawing and, where applicable, recovering them, are set by decree of the Prime Minister.

Article 13

Performance contracts set objectives and indicators adapted to the sector concerned, in accordance with the standards mentioned in Article 113.

As an exception, and for the purpose of innovation or accelerated industrialization, they may provide for duly justified experimental derogations, accompanied by an intermediate and final evaluation, without prejudice to the rules of safety, environment, competition and traceability.

Section 4
Public supply, energy and logistics

Article 14

The State guarantees the supply of mineral substances to the hubs of the local processing industry; and considers the infrastructure as well as the energy and logistics services that serve them to be of national priority.

It ensures the intersectoral coordination of actors, the compatibility of procedures and, where appropriate, the establishment of public utility easements, rights of way and temporary occupations, as well as any other necessary measures, in compliance with applicable laws.

A decree from the Prime Minister sets out the rules.

Article 15

Easements and other infringements of property or usage rights shall, where appropriate, give rise to fair and prior compensation, in accordance with the legislation relating to expropriation for reasons of public utility.

Expropriation can only occur as a last resort, after the failure of amicable procedures and temporary occupations, and according to the terms provided by law.

Chapter III
Approval as a processing or recycling entity

Section 1
Approval of processing and recycling entities

Article 16

Local processing and development of value chains for mineral substances are subject to approval issued by Order of the Minister responsible for Industry, after a favorable opinion from the steering body established by this law.

Article 17

The accreditation file includes, but is not limited to:

1°. Registration documents for the Trade and Personal Property Credit Register or the Register of Cooperative Societies;
2°. Technical and economic documentation of the project, including a feasibility study or equivalent report;
3°. Justification of financial capacity;
4°. The authorizations required by environmental legislation, according to the applicable EIES category;
5°. A skills development plan and, where appropriate, a plan for integrating local content and traceability.

Article 18

The approval may cover one or more sectors or links, and may be subject to specific conditions.

Article 19

The documents and content of the file, the procedures for investigation, the enforceable decision deadlines, the means and deadlines for appeals, as well as the duration of the approval are set by an order of the Minister responsible for Industry.

Section 2

Eligibility and proportionality criteria

Article 20

The eligibility criteria and conditions for granting, maintaining, suspending, or withdrawing accreditation are established by an order of the Minister responsible for Industry, in accordance with the principles of proportionality and non-discrimination. These criteria include, in particular, legal, technical, and financial capacity; environmental and social compliance; adherence to quality and traceability standards; and the project's land and territorial compatibility.

Section 3

Access to mineral substances

Article 21

The State ensures that approved entities have access to the mineral substances necessary for their activities, through transparent, non-discriminatory and compatible mechanisms.

Article 22

An interministerial decree issued by the Ministers responsible for Industry, Mines, and Foreign Trade establishes the framework applicable to access to mineral substances. Depending on the sector, this framework determines:

1°. The proportion of mineral substances reserved for local processing and the development of value chains;

2°. The obligation to give priority to local processing entities;

3°. The conditions for concluding long-term supply contracts;

4°. The quality and traceability standards for inputs, including the procedures for testing, certification and control;

5°. The procedure for publishing allocation decisions, periodic adjustment mechanisms and the relationship with export regimes.

The terms and conditions set out in the preceding paragraph may be differentiated by link in the value chain and by project size.

Section 4

Technology transfer, skills and performance contracts

Article 23

The State encourages training, research, innovation, technological development, the creation of skilled jobs, and economic diversification.

To this end, training centers and technical centers, laboratories and clusters, work-study programs and technology transfer programs are promoted, in particular and without limitation; as well as academic, industrial and financial partnerships.

The eligibility and support conditions are set out in an interministerial decree of the Ministers in charge of Industry, Vocational Training, Higher and University Education, Scientific Research and Finance.

Article 24

The approval and/or granting of benefits under this law may be subject to commitments to technology transfer, research and development, market access, training and local skills development.

These commitments are integrated into a performance contract which sets verifiable objectives and indicators, deadlines, as well as incentive and corrective mechanisms.

The expenses recognized under this contract shall be allocated in full against the obligations stipulated in theArticles 27 to 29.

Article 25

The incentives referred to in paragraphparagraph 1 of Article 23take the form of partnerships or agreements, without this list being exhaustive, with educational and research establishments, vocational training centers and work-study programs, joint technical centers or shared laboratories.

The regulatory framework, particularly with regard to intellectual property, is established by regulation.

Section 5

From the categorization of local industrial transformation projects

Article 26

Local transformation industrial projects are classified into two categories:

1. Critical and strategic minerals;
2. Other mineral substances.

Article 27

For projects involving mineral substances other than those classified as critical and strategic, the annual allocation for research, innovation, testing, training and skills development, as well as the procedures for carrying over funds in the event of insufficient profit, are determined by interministerial decree of the Ministers in charge of Industry, Higher Education, Vocational Training, Scientific Research and Finance, by sector and by project phase, in the form of a range with a floor and a ceiling.

Eligible expenses and in-kind contributions shall be charged against the allocation provided for in this article. Double counting is not permitted.

If there is no profit for a given financial year, no allocation is due for that financial year.

Article 28

The endowment can be made through directly eligible expenditures - including funding for chairs, laboratories, shared equipment, scholarships, work-study programs, testing and certifications, innovation programs, skills training and know-how transfer actions - or by contributing to a recognized sectoral fund.

The detailed list of eligible expenses and the rules for valuing in-kind contributions are set by an interministerial decree of the Ministers in charge of Industry, Higher and University Education, Vocational Training, Scientific Research and Finance.

Eligible expenses, including duly valued in-kind contributions, are deducted from the obligation stipulated in this article. Double counting of the same expense or benefit is not permitted.

The duration of the grant is aligned with the validity period of the first approval, except for regulatory provisions which specify the terms and conditions.

Article 29

An interministerial decree from the Ministers responsible for Industry, Higher and University Education, Scientific Research, Vocational Training and Finance specifies the allocation of benefits due for training, the applicable scales, the content of three-year plans and agreements, as well as the procedure for submitting and examining applications.

Article 30

The transformation entity can execute its own three-year plan approved by the steering body, including verifiable milestones.

It can, in whole or in part, contribute to a recognized sectoral fund that finances shared equipment and services.

Article 31

In the event of the classification or declassification of a mineral substance on the list ofCritical and strategic mineralsThe change in category of a project takes effect in the first financial year beginning after the entry into force of theamending decree.

Obligations already recognized for the current financial year are not retroactively affected.

The adjustment procedures are set by a ministerial decree of the Minister in charge of Industry.

Chapter IV
Promoting local transformation

Article 32

The State ensures the establishment, expansion, and capacity building of processing and recycling units throughout the national territory, in accordance with territorial planning. Processing hubs may be defined within special economic zones or occupy them entirely, and be dedicated to post-extraction industrial activities.

Article 33

The delimitation of a processing hub, within a special economic zone or fully occupying it, is fixed by Interministerial Decree of the Ministers in charge of Industry and Land Affairs, on the proposal of the steering body, after consultative opinion of the Special Economic Zones Agency, the relevant provincial authorities and the competent technical services.

Article 34

For post-extraction processing activities of mineral substances, the principles and definitions of this law prevail, without prejudice to the legal regimes specific to special economic zones. The benefits associated with the special economic zone regime and those granted for the processing of mineral substances do not overlap. They may be combined up to a maximum limit and without double counting of the same benefit. Any benefits applicable to the post-extraction processing of mineral substances are established by decree of the Prime Minister, deliberated in the Council of Ministers, upon the proposal of the relevant sectoral ministers, and in accordance with applicable laws.

Article 35

The conditions for recognition and governance of sectoral funds, the rules for annual publication of funded projects, the procedures for certification by the company, and the controls by the competent authority areset by a decree of the Prime Minister deliberated in the Council of Ministers.

Article 36

Specific arrangements for coordination are detailed by an order of the Minister responsible for Industry, for specific cases of application between this law and the legislation relating to special economic zones, in order to guarantee clear and predictable treatment for the operator.

TITLE II
THE REGIME APPLICABLE TO CRITICAL AND STRATEGIC MINERALS

Chapter I
Classification criteria and procedure

Article 37

The State organizes mineral substances into categories and identifies minerals that may be classified as critical or strategic, according to its national policy and the international context.

Article 38

Minerals are classified as strategic, based on criteria of economic and technological importance, significant contribution to the energy and digital transition, geostrategic and security issues, abundance of reserves and concentration of supply.

Article 39

Minerals are classified as critical, based on criteria of economic and technological importance, significant contribution to the energy and digital transition, geostrategic and security issues, supply vulnerability and high risks of shortage.

Article 40

The list of critical and strategic classified minerals is established by decree of the Prime Minister, taken in the Council of Ministers, on the proposal of the sectoral Ministers, after consultation with the steering body.

This list is reviewed at least every three years, and at any time in the event of significant changes in the national or international context.

Article 41

Specific rules are established applicable to critical and strategic classified minerals, with regard to supply, local processing, and development of value chains in the Democratic Republic of Congo.

Chapter II
Effects of classification

Section 1
Legal effects

Article 42

The provisions of Title I apply to the local processing and development of value chains of critical and strategic classified minerals, subject to the adaptations provided for by this title and its implementing texts.

Article 43

The classification of mineral substances into critical or strategic minerals includes, depending on the case:

1°. Specific access and allocation procedures are provided for inArticles 21 and 22;
2°. Enhanced requirements for traceability, compliance and transparency;
3°. Prioritizing the transformation hubs delimited within the special economic zones;
4°. Coordinated and accelerated procedures for eligible projects, without prejudice to controls;
5°. Tax, parafiscal and customs advantages and obligations;
6°. The integration of commitments for progressive local transformation, skills development, research and development, innovation and technology transfer into performance contracts.

Section 2
Strategic sourcing

Article 44:

The provisions relating to the organisation of access to mineral substances apply mutatis mutandis to critical and strategic classified minerals.

Article 45:

The State guarantees the supply of local industry by ceding a portion of the critical and strategic minerals it holds, in accordance with the provisions of the Mining Code, especially in its article 71.d.

The Ministers in charge of Industry and Mines shall determine, by interministerial decree, the quantity of critical and strategic classified minerals reserved for local processing.

Article 46

The Ministry of Industry develops and updates annually a National Plan for the local supply of critical and strategic minerals, aligned with the country's industrial priorities.

Section 3
Public and national participation

Article 47:

Any transformation or recycling entity automatically cedes five percent of its share capital to the State without compensation.

These shares are free of all charges and are non-dilutable.

Article 48

The participation of natural or legal persons of Congolese nationality in the Transformation Entities is promoted by priority subscription and co-investment mechanisms, compatible with applicable legislation and good governance practices, without prejudice to the bankability and attractiveness of the project.

Contracts in execution on the date of entry into force of this law are not affected; the provisions of this article apply to subsequent transactions.

Article 49

Without prejudice to competition rules, beneficial ownership transparency and other applicable legislation, any takeover or transfer of essential assets relating to critical or strategic classified minerals, falling within the scope of this law, shall be subject to prior notification and, where appropriate, authorization.

The conditions for identifying the operations and assets concerned, the procedure, the time limits and the effects of exceeding them, the assessment criteria, the measures that may be imposed, the appeal procedures, and the applicable administrative sanctions are set out in an order of the Minister responsible for Industry.to article 87.

The measures taken pursuant to this article are aimed exclusively at preserving the essential interests of the Democratic Republic of the Congo and shall be applied in a proportionate and non-discriminatory manner.

Section 4
From contributing to research and development, innovation and skills

Article 50

For any local processing project involving critical and strategic classified minerals, the processing entity allocates each year, for each profitable financial year, an allocation equal to two percent of the net profit of the financial year, relating to the financing of research, innovation, training and local skills development activities.

Article 51

Operators make commitments regarding research and development, innovation and skills development, integrated into performance contracts, according to terms set by regulation.

These commitments primarily aim to enhance the skills of Congolese managers, engineers and technicians, particularly through work-study programs, academic partnerships and technology transfers.

Any operator subject to this article shall submit, when applying for initial accreditation, a three-year skills development plan specifying the quantified objectives for training, work-study and skills transfer, the academic or technical partnerships mobilized, as well as the evaluation methods.

This plan is attached to the performance contract and updated annually.

Article 52

Operators can fulfill their obligations under this article by contributing to the strengthening of a national network of testing, trial, metrology, accreditation and certification capabilities, supported by academic and technical partnerships.

The eligibility, accounting and evaluation procedures for these contributions are set by means of an interministerial decree of the Ministers in charge of Industry, Finance, Higher and University Education, Scientific Research and Vocational Training within their respective responsibilities.

Article 53

The provisions set out in Articles 28 to 31 of this law shall apply mutatis mutandis to any company involved in local processing and development of value chains for critical and strategic minerals.

Article 54

The levels, bases, ceilings and accounting methods by sector and according to the size of the project are defined by regulation, and integrated into the performance contract.

Article 55

The allocation procedures for the grantreferred to in Articles 28, 29 and 50 are fixedby an interministerial decree of the Ministers in charge of Industry, Finance, Higher and University Education, Scientific Research and Vocational Training within their respective responsibilities.

TITLE III

STRATEGIC INVESTMENTS AND PARTNERSHIPS

Chapter I

Investments

Section 1

The framework applicable to investments

Article 56

Investments made under this law fall, depending on the eligibility of the project, under the regime of Law No. 004/2002 on the Investment Code and, where applicable, under Law No. 14/022 of July 7, 2014 relating to special economic zones and their implementing texts, without prejudice to the specific regimes provided for by this law and its implementing texts.

Article 57

The terms and conditions for combining, coordinating or not combining between schemes are set by interministerial decree of the Ministers in charge of Industry, Planning and Finance, in compliance with the principles of neutrality, predictability and proportionality.

Article 58

Potential benefits are governed by performance contracts under Article 12, linking their granting, maintenance and revision to verifiable results.

Section 2

Investments with territorial impact and complementary support

Article 59

Investments in infrastructure and energy services with socio-economic utility directly linked to projects for the transformation or development of critical and strategic mineral value chains, such as access works, collective equipment, and other basic services, are recognized as amortizable expenses according to terms set by decree of the Prime Minister.

Article 60

Priority projects serving special economic zones and their processing hubs, identified by the national logistics master plan, may benefit, under conditions set by order of the Minister of Industry, from adapted procurement procedures, risk sharing mechanisms and multi-year phasing coordinated with provincial programs.

Section 3
Financial instruments and risk reduction

Article 61

To support local processing investments in mineral substances and the infrastructure associated with special economic zones and their processing hubs, the State can mobilize risk reduction instruments such as credit guarantees, risk insurance, liquidity facilities, first loss funds and mixed financing mechanisms combining public, private and concessional resources, without prejudice to public finance rules.

A dedicated window for small and medium-sized enterprises in the ecosystem of Transformation Hubs is established by an interministerial decree of the Ministers in charge of Industry, Small and Medium-Sized Enterprises, and Finance, to facilitate access to financing in terms of working capital, equipment, certification or standardization.

Article 62

The instruments provided for in the previous article are implemented through existing public financial entities or specialized public services.

They are subject to rules of transparency, publication of impact indicators and periodic evaluation. Access to the instruments is conditional, where applicable, on the commitments made in the performance contract and compliance with the support measures provided for in Article 12.

Article 63

For implementation purposes, the State is organizing a robust, innovative and inclusive financial framework, based in particular on the joint mobilization of public, private, concessional and innovative capital, on risk sharing and reduction mechanisms, on financing access mechanisms adapted to SMEs and SMIs and local actors, on the promotion of national participation in the capital of processing industries, as well as on coordination with regional and international financial mechanisms.

The intervention procedures are set by an interministerial decree of the Ministers in charge of Industry, Small and Medium Enterprises, and Finance.

Article 64

The Industry Promotion Fund creates a sectoral allocation account entitled "Transformation and development of mineral substance value chains", attached to its investment budget.

This account is funded monthly by a portion of the net revenues from the Industry Promotion Tax, at a minimum equal to thirty percent of the fundable resources of the Industry Promotion Fund.

The resources of the account are exclusively intended to finance, guarantee or enhance local transformation projects and development of value chains of mineral substances, with priority to critical and strategic minerals as defined by this law.

This provision does not affect the nature or legal distribution of the other resources of the Industry Promotion Fund, nor its bodies as established by the applicable laws.

Article 65

The Industry Promotion Fund remains the decision-making authority for the allocation of resources in the account, in accordance with its organic texts.

Once the complete application has been submitted by the steering committee, the Industry Promotion Fund will make a decision within a maximum of sixty working days. Any refusal will be justified and communicated to the steering committee and the applicant.

If the decision is favorable, the disbursement or implementation of the guarantee/bonus will take place within fifteen working days following the decision.

The Industry Promotion Fund may, where appropriate, use agreements with approved establishments for technical instruction or the portability of financing, without transfer of the decision.

Article 66

The Industry Promotion Tax portion referred to in Article 64 is subject to automatic monthly transfer to the dedicated budget line item within the Industry Promotion Fund's investment budget for the local processing of mineral substances. Any delay will incur default interest at the legal rate for the benefit of said line item.

The Industry Promotion Fund publishes quarterly, via the steering body, the status of execution concerning among other things commitments, disbursements, average processing times, leverage, default/recovery rate, jobs.

Article 67

The steering body defines and updates:

(i) the eligibility framework and sectoral prioritization;
(ii) the service charter setting out the processing times and the documents required for the files;
(iii) the performance and transparency indicators applicable to the account.

The steering body ensures the pre-selection of projects with regard to the reference framework and transmits the complete files to the Industry Promotion Fund.
It publishes a quarterly performance dashboard.

These powers are exercised without prejudice to the powers of the Industry Promotion Fund.

Chapter II
Strategic partnerships

Section 1
Regarding the purpose, scope, and eligibility criteria

Article 68

Eligible for strategic partnership qualification is any integrative project that combines local processing of mineral substances and value chain development activities with at least one key support sector – including energy, infrastructure, logistics, agriculture, training and research – and that has a significant multiplier effect and demonstrates additionality compared to existing arrangements.

Article 69

Strategic partnerships prioritize local transformation, local content, technology transfer, skills development, innovation, environmental and social sustainability, traceability and cross-sectoral synergies, while respecting technological neutrality and the principle of proportionality.

Article 70

Any strategic partnership entitles the holder to conditional benefits, governed by a performance contract that complies with this law and its implementing regulations.

The Government may, by decree of the Prime Minister deliberated in the Council of Ministers, and on the proposal of the sectoral Ministers, determine exceptional measures in favour of strategic partnerships linked to the local processing and development of value chains of mineral substances.

Section 2

Selection, procedure and governance

Article 71

The criteria for selecting strategic partnerships, the conclusion procedure – including, where appropriate, the call for expressions of interest and the appropriate competitive procedures – the transparency requirements as well as the rules of compatibility with the public procurement and public-private partnership regimes are set by decree of the Prime Minister.

Article 72

Strategic partnerships incorporate a cross-sectoral synergy plan specifying contributions and milestones related to energy, infrastructure, and Logistics, agriculture, training and research and innovation, as well as the arrangements for coordination with the relevant national and provincial authorities. This plan is annexed to the partnership and updated annually.

Article 73

Every strategic partnership is governed by a performance contract that includes verifiable objectives and indicators, incentive and corrective mechanisms, as well as provisions relating to intellectual property, local content, skills development, compliance with sustainability standards, and traceability. The terms of suspension, withdrawal, and revision are specified therein.

Article 74

The steering body provided for by this law will investigate and coordinate strategic partnerships, gather opinions from the competent authorities, publish a service charter and implement enforceable deadlines for investigation and decision-making.

Article 75

Monitoring, evaluation, and accountability are ensured by the steering body through public indicators, periodic reports, and, where appropriate, audits. A non-confidential summary of qualified partnerships and their commitments is published according to procedures established by order of the Minister responsible for Industry, in compliance with legally protected secrets.

Section 3
Support measures and regulated exemptions

Article 76

Local mineral processing projects, which are of major public interest and have a proven multiplier effect, may benefit from specific, temporary and proportionate support measures, after budgetary and economic impact analysis.

These measures are coordinated with the instruments provided for in Article 70 and remain subject to performance contracts and periodic reviews of results.

The procedures for evaluating, granting, publishing and revising support measures are set by decree of the Prime Minister deliberated in the Council of Ministers, on the joint proposal of the sectoral Ministers.

Chapter III
Tax, Parafiscal and Customs Regimes

Section 1
Of the object and applicable frameworks

Article 77

A tax, parafiscal and customs regime is established based on incentives, the scope and limits of which are established by this law.

These incentives are targeted, temporary and reversible, compatible with the public interest and revenue sustainability, and conditional on measurable results in accordance with Article 12.

The implementation procedures are set by a decree of the Prime Minister deliberated in the Council of Ministers, on the proposal of the sectoral Ministers, in compliance with the international commitments of the Democratic Republic of Congo.

Section 2
Eligibility for the tax, parafiscal and customs regime

Article 78

Eligible are industrial operators duly approved under this law, domiciled in the Democratic Republic of Congo and in compliance with the laws and regulations in force.

Effective access to benefits is subject to the conclusion and compliance with a performance contract.

Article 79

They are not eligible

1°. Operators whose de jure or de facto directors have been definitively convicted of corruption or embezzlement of public funds;
2°. Operators irrevocably convicted of tax fraud, forgery and use of forged documents, fraudulent bankruptcy, illegal exploitation of natural resources, money laundering or similar offenses;
3°. Operators subject to a final administrative sanction for serious breaches of tax, parafiscal, customs or social security obligations;
4°. Operators or beneficial owners listed on national or international sanctions lists applicable in the Democratic Republic of Congo.

Article 80

The obligations of transparency of beneficial ownership and compliance with provisions relating to the fight against money laundering and the financing of terrorism apply.

Section 3

Fiscal, parafiscal and customs stability

Article 81

Operators involved in local processing and value chain development of mineral substances benefit from a five-year period of stability in the tax, parafiscal and customs regime, starting from the date of obtaining their first approval.

For projects relating to the transformation and development of value chains of critical and strategic classified minerals, the stability period is ten years, from the date of obtaining the first approval.

Article 82

The stability guarantee covers, according to the decree that grants it, direct taxes, fees, duties and customs procedures, as well as legally established and published parafiscal levies. Value-added tax may fall within the scope of this stability guarantee.

The precise list of taxes and procedures covered is set by decree of the Prime Minister deliberated in the Council of Ministers, on the proposal of the sectoral Ministers.

Article 83

The stability guarantee extends to the exchange and tariff rules applicable to the operations concerned, excluding exchange parities, monetary policies, and refunds and reimbursements related to exports.

The operations remain subject to the exchange regulations, prudential regulations and the provisions relating to the fight against money laundering and the financing of terrorism of the Central Bank of Congo.

Article 84

The granting and maintenance of any fiscal, parafiscal and customs stability are subject to the conclusion and execution of a performance contract as defined herein.the law, including verifiable objectives in terms of local added value, jobs, training, technology transfer, traceability, environmental and social compliance.

Article 85

Tax, parafiscal and customs stability may be suspended or withdrawn in the event of substantial non-performance of commitments, fraud, unauthorized change of control or false declaration, under conditions set by decree of the Prime Minister.

Article 86

In the event of a substantial change in legislation or regulations, subsequent to the granting of stability, and significantly affecting the economic balance of the project, the most diligent party may refer the matter to the steering body for the purpose of rebalancing.

The rebalancing may include adjusting commitments, adapting benefits or extending the stability period, without guaranteeing a specific level of profitability.

The rebalancing is carried out in compliance with the balance of public finances and cannot lead to the creation of advantages not provided for by law, nor to general restitutions without legal basis.

Article 87

The rebalancing procedure includes:

1°. a written and reasoned notification, accompanied by supporting documents, addressed to the steering body and the relevant authorities; the date of regular receipt of the notification starts the time limits running;
2°. a mediation phase conducted by the steering body within a maximum period of forty-five calendar days from said receipt;
3°. in the absence of an agreement, recourse to the dispute resolution mechanisms provided for in the performance contract or, failing that, by applicable law.

The detailed terms of the procedure, such as the forms of notification, the list of documents, the organization of mediation, the effects on the statute of limitations, internal deadlines and document templates, are set by decree of the Prime Minister.

Article 88

Stability does not preclude general public order measures relating to the fight against evasion, security, health, the environment, technical standards, or the application of general and non-discriminatory general legal rules.

Section 4

Targeted additional measures

Article 89

For minerals classified as critical and strategic, a decree of the Prime Minister, deliberated in the Council of Ministers upon the joint proposal of the sectoral Ministers, may establish supplementary and differentiated incentive and benefit measures, proportionate and not redundant with existing schemes. These measures are aligned with the duration and milestones of the accreditation and performance contract, and are subject to periodic review at least every twenty-four (24) months.

Article 90

Strictly targeted supplementary incentive measures, for projects of major economic interest, will be applicable, subject to:

1°. an ex ante assessment of the budgetary impact and compliance with international commitments;
2°. of limited duration, with a review and expiry clause;
3°. of a publicity of the decisions and criteria;
4°. of an integration of commitments into a performance contract and a periodic monitoring and evaluation system set by decree.

Section 5

From the enforceable public register

Article 91

No parafiscal levy may be demanded or collected unless it is provided for by current legislation.

Any collection made in violation of paragraph 1 is void and gives rise to an automatic refund to the debtor, without prejudice to any liabilities incurred.

An annual transparency report is published by the Steering Body, no later than March 31 of the following year, and presents at a minimum:

(i) the list of applicable parafiscal levies,
(ii) the amounts received,
(iii) their allocation and their use.

Article 92

The procedures for publicizing authorized parafiscal levies, the procedures for reimbursement provided for in Article 91, as well as, where applicable, the applicable interest and the rules relating to a consolidated scale and the format of the annual report, are set by an interministerial decree of the Ministers in charge of Industry and Finance.

Section 6
Beneficiaries, scope, and non-accumulation

Article 93

The benefits apply to new processing or recycling entities, as well as to existing entities for their industrial projects, approved in accordance with Chapter II, Title I.

Holders of mining or quarrying rights can benefit from it for their eligible local post-extraction processing activities, without prejudice to the Mining Code.

Article 94

The benefits cannot be combined with other equivalent schemes for the same investment and the same basis.

Adapted arrangements can be provided for the benefit of SMEs/SMIs and local actors, without prejudice to the requirements of quality, traceability, security and integrity.

Article 95

The beneficiary chooses a plan during the approval process.

The option is irrevocable for the stability period, except for a more favorable general and non-discriminatory improvement applicable to all eligible operators, which the beneficiary may request with effect for the future.

For the purposes of this article, a single investment is defined as the coherent set of assets, activities and commitments as approved in the approval decision.

Artificially splitting a project in order to circumvent the rule against combining projects is prohibited.

TITLE IV
OF THE INSTITUTIONAL FRAMEWORK

Chapter I
The role of the State

Article 96

The State is the promoter and guarantor of the development of post-extraction industrial activities and value chains of mineral substances.

In this capacity, he ensures the creation of local value, competitiveness, predictability, and adherence to the stated guiding principles.to article 7.

Article 97

The State is the regulator of local processing and development of value chains for mineral substances, including for minerals classified as critical and strategic, according to a coordinated approach and without prejudice to the powers of legally established sectoral authorities.

Chapter II

The Prime Minister's skills

Article 98

By decree deliberated in the Council of Ministers, the Prime Minister:

1°. Stop and update the list of critical and strategic minerals;

2°. Establishes a tax, parafiscal and customs regime based on incentives, the scope and limits of which are established by this law;

3°. Adopt targeted incentives for projects of major economic interest, in compliance with Article 90 related to evaluation, advertising, limited duration, conditionality;

4°. Defines priority sectors, reference industrial models and capacity index programming, including associated thresholds and requirements, in compliance with technological neutrality and proportionality of obligations. These elements are periodically reviewed and coordinated with the national planning framework and territorial mechanisms provided for in this law;

5°. The government may, on an exceptional and temporary basis, implement safeguard measures aimed at preventing or halting a serious or imminent threat to security of supply, the integrity of value chains, or public order. These proportionate and justified measures may include priority allocation, the establishment of strategic reserves, the requirement of prior authorization, or the strengthening of controls. They are limited to twelve months, renewable once, and are implemented without prejudice to the Republic's international commitments.

Article 99

Implementing decrees will specify:

1°. The interministerial coordination and sets the operating procedures of the steering body provided for in Article 11, as well as, where applicable, the decentralized mechanisms at the provincial level;

2°. The distribution of responsibilities between the steering body, central administrations and provincial bodies;

3°. Coordination procedures, information exchange and the control plan while avoiding duplication;

4°. Parafiscal rationalization, the official register, consolidated scales, and enforceable deadlines applicable to the single window.

Article 100

The Prime Minister, by decree deliberated in the Council of Ministers, establishes the rules applicable to the takeovers and disposals of essential assets mentioned inArticle 49,notably :

1°. control thresholds, the list or criteria for identifying essential assets, including strategic intangible assets;
2°. the required documents and information, the procedure, the processing times and the effects of exceeding the deadlines;
3°. the assessment criteria and the measures that may be imposed, proportionate and justified;
4°. the avenues of appeal and coordination with competition, financial, sectoral and economic security authorities;
5°. the transitional rules applicable to operations initiated before the entry into force of the decree.

Chapter III

The skills of the Minister of Industry

Article 101

The Minister of Industry:

1°. Exercises oversight of the steering body and approves its service charter;

2°. Issues, suspends or withdraws the approval of processing or recycling entities, after consultation with the competent authorities, via the single window;

3°. Approves the National Mineral Supply Plan developed by the steering body in collaboration with the Minister of Mines and his specialized services. This plan includes at a minimum a diagnosis of existing and projected capacities, an estimate of needs by sector and by three-five and ten-year horizon, guidelines for coordination with the Ministry of Mines, quality and certification requirements for inputs, logistical priorities, as well as measures for the reliability and resilience of supply chains;

4°. Establishes jointly with the Minister of Mines, and in accordance with Articles 21 and 22 of this law, the framework for access to substances intended for local processing and the development of value chains;

5°. Sets, jointly with the Minister responsible for Finance, the rates of duties, taxes and fees to be collected at the initiative of the ministry in charge of Industry;

6°. Proposes and, where appropriate, co-signs with the sectoral Ministers, the lists of goods eligible for specific customs regimes, in accordance with the applicable texts;

7°. Approves the performance contracts prepared by the steering body;

8°. Establishes the technical and economic standards for the sector, as well as their periodic or accelerated updates as needed, concerning thresholds, standards, quality and compliance requirements, traceability methodologies, and performance indicators. These standards are published, revised at least every three years, and are binding on operators for the application of this law;

9°. Establishes quality and conformity standards for inputs intended for priority sectors, as well as their periodic or accelerated updates; these standards are binding on operators for the application of this law;

10°. Fixed the quality, conformity and traceability requirements applicable to inputs intended for priority sectors; which may include recognized certification schemes, minimum technical specifications and proportionate control methods, published and regularly updated.

Chapter IV
Powers of the Provincial Government

Article 102

Without prejudice to the constitutional and legal powers of the provinces and in coordination with the designated steering body, the provincial governments shall contribute to the implementation of this law and shall be responsible in particular for:

1°. Participate, within the planned mechanisms, in the identification, classification and prioritization of Transformation Hubs (PDT), as well as in the decentralized processing of projects;

2°. Contribute to the collection, transmission and updating of useful data, as well as to the monitoring of socio-economic impacts at the provincial level;

3°. To facilitate, within the limits of their competences, the establishment and extension of public interest infrastructures serving the Transformation Hubs (PDT), including the related local procedures.

Chapter V

Within the jurisdiction of the Administration of the Ministry of Industry

Article 103

The Industry Administration includes the General Secretariat, the directorates, divisions and services, as well as the public institutions under supervision, each involved in the implementation of this law.

They are governed in accordance with the legal and regulatory texts in force relating to the Public Administration.

They support the steering body without prejudice to its own powers.

Chapter VI

Within the purview of the Steering Committee

Article 104

The steering body is responsible for:

1°. To process applications for accreditation and forward them to the Minister responsible for Industry;
2°. To issue opinions prior to the granting of the approvals provided for by this law;
3°. To develop and submit, for approval to the Minister in charge of Industry, the performance contracts referred to in Article 12, including the application of the incentive and corrective mechanisms they provide for, and ensuring their monitoring and evaluation;
4°. Supporting the competitive alignment of sectors;

5°. Identify, plan and qualify the Transformation Hubs - program the technical, land, energy and logistical prerequisites - and propose the corresponding activation measures;
6°. To ensure continuous monitoring of resources, technologies and markets; to propose necessary adjustments to public policies, frameworks and implementation tools.

Chapter VII

From the competence, coordination and control of local transformation

Section 1

Operational coordination and the one-stop shop

Article 105

The steering body acts as a single point of contact for the processing and monitoring of projects falling under this law.

Acting as a strategic one-stop shop, the steering body, without prejudice to the prerogatives of the supervisory authorities, guides, coordinates and secures public action.

It provides operational mediation between the administrations and authorities concerned, aiming at the diligent resolution of difficulties related to procedure, scheduling or regulatory coordination.

The steering body, in consultation with the sectoral ministries, periodically assesses existing and future input capacities and anticipates the needs of priority sectors.

It coordinates the actions of the competent authorities and bodies, harmonizes procedures and aligns applicable schedules and requirements, without prejudice to the prerogatives of the supervisory authorities.

Coordination mechanisms avoid duplication and prioritize the processing of high-impact projects.

Article 106

The steering body publishes a service charter specifying the steps, the enforceable processing and decision deadlines, the contacts, as well as the means and deadlines for appeals.

It establishes a single point of contact and appropriate means of filing, tracking and notification, including electronic means where available.

No request may be refused or delayed on the grounds of the unavailability of a tool; failing that, the filing, monitoring and notification shall be ensured by any other appropriate means.

Article 107

For any application declared complete at the single point of contact, the competent authority will make a decision within the prescribed time limits. The decision period begins from the date the applicant is notified that their application is complete.

Article 108

The Charter of services, the list of required documents, the modalities of the coordinated procedure, the organization of the submission and monitoring of files, the processing and decision deadlines, the single point of contact for project promoters, the rules for the exchange of information between competent authorities, the effects of exceeding deadlines, as well as the means and deadlines for appeals are set by a decree of the Prime Minister deliberated in the Council of Ministers.

Article 109

Decentralized coordination mechanisms may be established at the provincial level by order of the Minister in charge of Industry.

They are placed under the technical authority of the steering body and act in coordination with the competent provincial authorities, in compliance with the constitutional and legal distribution of powers.

Section 2
Monitoring, inspection and information exchange

Article 110

The control of local processing and development of the value chain of mineral substances is exercised by the competent authorities in accordance with their respective legal powers.

The steering body organizes the exchange of information, traceability and complementarity of controls.

Article 111

The steering body publishes indicators, dashboards, and periodic reports on the progress of projects and transformation hubs, keeps statistics relating to metals, ensures the traceability of flows of processed and recycled products and makes available reference materials and maps.

The reference data and maps are subject to periodic updates at least annually and whenever there is a substantial change.

These publications respect the protection of trade secrets, legitimate interests, competition rules and security requirements.

The frequency and scope of publication are set by order of the Minister responsible for Industry.

Article 112

Operators transmit to the steering body, in standardized and interoperable formats, the required data with the quality and frequency determined by regulation, in order to ensure interoperability and accuracy of information.

The transmitted data may be subject to verification and audits.

Refusal to transmit, dilatory or late transmission, fraud or falsification of data exposes one to the administrative and criminal penalties provided for in Title V.

Article 113

The steering body establishes and manages a national information management and exchange system, interconnected with the relevant authorities, ensuring the uniqueness of identifiers and the consistency of reference data. Non-sensitive data is made publicly available as open data.

Sensitive data is subject to specific access rules.

The Provinces supply the information system by electronically transmitting data and documents falling within their remit.

Failing that, they transmit them by any other appropriate means, without the absence of transmission being able to suspend the processing of the files.

The terms of access, dissemination and, where applicable, pricing of information services, as well as the rules for the retention and archiving of data, are set out in an order of the Minister in charge of Industry.

Article 114

Without prejudice to data protected by law and within the strict framework set by decree, the steering body may share with the competent public authorities the information strictly necessary for the purposes of economic security and prevention of risks of predation or destabilization.

All sharing is subject to appropriate measures of confidentiality, traceability and minimization.

Article 115

The certification and traceability systems for inputs intended for the processing and development of mineral substance value chains are recognised and published in a register maintained by the steering body.

The data formats are interoperable and, for non-sensitive information, accessible as open data.

Specific security and confidentiality rules apply to sensitive data.

TITLE V

OFFENCES

Chapter I

Practicing without approval

Article 116

Any person who carries out the activities of transforming or recycling mineral substances without having obtained approval from the Minister responsible for Industry as a transformation or recycling entity is punishable by penal servitude of six months to two years and a fine of 100,000,000 to 500,000,000 Congolese francs.

Article 117

Any person who carries out the activities of processing and recycling critical or strategic minerals without having obtained approval as a processing or recycling entity from the Minister responsible for industry is punishable by penal servitude of one to five years and a fine of 300,000,000 to 800,000,000 Congolese francs.

In the event of a repeat offence within five years of the conviction becoming irrevocable, the sentence is increased to its maximum and accompanied, as a subsidiary measure, by a ban on engaging in the activities covered by this law for a maximum period of five years.

Article 118

Infringements of this law are investigated and recorded by sworn officials and agents of the administration in the various sectors, and the corresponding sanctions are imposed in accordance with the applicable legal texts.

Article 119

The fines provided for by this law shall be reassessed using the official substitute index measuring household inflation to be fixed by decree, without altering the indexation formula.

Chapter II
Specific violations of legal obligations

Article 120

Punishable by sentences of penal servitude of six months to two years and a fine of 100,000,000 to 500,000,000 Congolese francs:

1°. Diversion or speculation on volumes/quotas reserved for local supply; circumvention of priority offers obligations, or deliberate non-compliance with quality/traceability standards;
2°. Making an inaccurate or false statement with a view to obtaining approval, an advantage or a procedural facility;
3°. The serious and repeated failure to comply with performance contracts, noted after a formal notice had been issued and remained unsuccessful;
4°. Obstruction of control, including refusal to provide required data/statistics or hindering inspections.

Chapter III
Graduated administrative sanctions

Article 121

Regardless of any potential criminal proceedings and in accordance with the principles of due process and proportionality, the administrative authority may, depending on the seriousness of the breaches and any potential recidivism, impose the following:

1°. A warning and a formal notice with a compliance plan;
2°. Daily on-call duites;
3°. The suspension of benefits and/or approval;
4°. The withdrawal of benefits, the recovery of benefits unduly received, and/or the withdrawal of approval;
5°. Temporary exclusion from any new support scheme or any new allocation of quotas.

The scale of sanctions, the thresholds, the amounts and applicable deadlines, the conditions for aggravation in the event of recurrence, as well as the designation of the competent authorities and the procedures for implementing penalty payments are set by decree of the Prime Minister.

Article 122

Controls and sanctions are implemented using a risk-based approach and inter-institutional coordination. Double sanctions of the same nature are not imposed by different authorities for the same offense.

Article 123

All administrative sanctions are imposed following an adversarial procedure, with reasons given, and are notified with information on the available appeal procedures and deadlines. Appeals are conducted in accordance with applicable laws.

Chapter IV
On the prevention and resolution of disputes

Article 124

Disputes arising from the interpretation or performance of contracts and agreements concluded under this law shall be subject, as a preliminary step, to a phase of prevention and amicable settlement, including, as appropriate, consultation, mediation, and/or independent technical expertise, within specified time limits. Unless there is a serious and imminent risk or otherwise stipulated, the performance of essential obligations shall continue during the amicable phase.

Article 125

Subject to the provisions of Article 127, any dispute shall be subject to a prior amicable procedure conducted by an independent mediator or conciliator chosen by mutual agreement or, failing that, appointed according to procedures laid down by order of the Minister in charge of Industry.

The amicable settlement attempt takes place within thirty days, which may be extended once for the same duration by written agreement of the parties. It is confidential and suspends the limitation periods.

Article 126

If an amicable agreement cannot be reached within the allotted time, the dispute is submitted to an arbitration mechanism or any other alternative dispute resolution method in accordance with applicable laws.

The seat, rules of procedure and competent institution are specified by the contract.

Excluded are matters that are not subject to arbitration under applicable law.

Article 127

The following remain within the jurisdiction of the courts designated by law:

1°. legal recourse against unilateral acts of public authority;
2°. tax, customs and parafiscal disputes;
3°. administrative sanctions;
4°. any matter that the law expressly reserves for state courts.

Article 128

Dispute resolution mechanisms are applied in compliance with the requirements of integrity, prevention of conflicts of interest and the fight against corruption.

The procedures for publicizing decisions, while respecting legally protected secrets, are set by order of the Minister responsible for industry.

Article 129

Unless otherwise provided by law, contracts and agreements are governed by Congolese law, subject to mandatory application rules.

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

Article 130

Operators already in operation on the date of promulgation of this law shall submit their application for approval within six months.

Subject to compliance with a compliance plan, they provisionally continue their activities until the decision, which is made within an enforceable period set by order of the Minister responsible for industry.

Failure to submit the application within the deadline exposes the operator to the penalties provided for in Title V.

Article 131

Supply or sales contracts in force on the date of entry into force of the texts adopted for the application of this law shall remain applicable until their expiry, subject to the legal provisions of public order and the revision clauses they contain.

They can be adjusted by rebalancing agreed upon by the parties or in cases expressly provided for by law.

Article 132

Within ninety days of the promulgation of this law, the Prime Minister shall issue the following decrees, deliberated in the Council of Ministers, upon the proposal of the sectoral Ministers:

1°. The decree classifying critical and strategic minerals;
2°. The decree establishing the access and supply framework provided for in Articles 21 and 22;
3°. The decree establishing the organization and operation of the Steering Body, including the service charter and the enforceable processing and decision deadlines;
4°. The decree sets out the scale of administrative sanctions, the organization of control, as well as the procedures relating to data.

Article 133

At the end of two years from the entry into force of this law, and then every year thereafter, without prejudice to the legislation in force, the Government shall submit to Parliament an evaluation report on its implementation.

The report covers at a minimum:

1°. The local added value created and the integration into value chains;
2°. Employment, training and skills development;
3°. Technology transfer, compliance with sustainability standards and criteria, and traceability;
4°. The cost-effectiveness of the incentives and benefits granted;
5°. The adequacy of the framework for access to inputs and supply;
6°. The performance of the Transformation Hubs scheme and the territorial effects, particularly for the benefit of SMEs/SMIs;
7°. The budgetary and parafiscal impact, as well as the sustainability of public revenues;
8°. The concentration index by sector and the degree of diversification of minerals processed in the DRC;
9°. The degree of resilience and security of supply chains, including a concentration index by sector, the level of diversification of processed minerals and the risks of predation or destabilization identified and the responses provided.

The report is public. It is presented to the relevant parliamentary committees and, where appropriate, includes an action plan proposing the necessary adjustments.

Article 134

All prior provisions contrary to this law are hereby repealed.

Article 135

This law comes into force on the date of its promulgation.

Done in Kinshasa, on …/…/…

Félix-Antoine TSHISEKEDI TSHILOMBO

President of the Republic

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