



Emery Mukendi Wafwana & Associates
International Law Firm

The Practice of Mining Law in Africa

Invest Safely in Africa.

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Why Choose Emery Mukendi Wafwana & Associates?

Legal and tax expert in the mining industry with a team of multidisciplinary and multicultural lawyers and consultants who master the intricacies of the mining sector.

- Based in New York (USA) with offices in Johannesburg (South Africa), Kinshasa, Lubumbashi

and Matadi (Democratic Republic of Congo), Brazzaville (Republic of Congo), and partner law firms in other countries in Africa.

- Adheres to international labor standards and is respectful of anti-corruption regulations.
- Great experience in the drafting and revision of mining legislations and regulations in Africa.
- Strong expertise in legal counsel and assistance for the realization of mining investments projects.
- Excellent experience in representing clients before authorities and mining administrations across Africa.



An International Law Firm with World Class Standards at the Service of the Mining Industry in Africa

For more than a decade, we have been providing a targeted range of legal services that meet international standards required by all stakeholders of the mining industry among which are small and large mining companies, investors, international financial institutions, public and private companies, international law firms and governments.

Our legal services cover all stages of the implementation of mining projects. These services include, inter alia, drafting mining legislations and regulations, purchase and management of mining rights and titles, analysis, drafting, negotiation and renegotiation of mining contracts, conducting legal and tax due diligence, legal advice in financing mining projects and during

mergers and acquisitions in the mining sector, legal representation in claims and litigation pertaining to mining rights and titles.

We have an in-depth knowledge of mining legislations in force in African countries and an excellent understanding of the geopolitical and socio-cultural aspects of the local mining industries.

Our firm is globally recognized for its expertise in the field of mining law in many countries in Africa. We are continually strengthening this expertise and reputation to remain the ideal choice for the realization of mining projects and transactions in the continent.

Service Provided

➤ Drafting of Mining Laws and Regulations

We assist and advise several governments and public organizations, at the national and international levels, in the reform and review of legal, social, commercial, tax, customs and currency exchange frameworks in the mining sector.

➤ Management of Mining Rights and Titles

We advise and represent our clients during mining research, development and construction of mining infrastructures, production and marketing of commercial products, and closure of the mine. We also advise and assist our clients in procedures related to the granting, renewal and waiver of mining rights and titles, the extension of these mining rights or titles for other associated or non-associated substances and their transformation into other mining exploitation rights and titles. We assist in fulfilling all requirements to ensure the validity of mining titles and environmental, social, fiscal, customs and exchange obligations.

➤ Analysis, Drafting, Negotiation and Renegotiation of Mining Contracts

We advise, assist and represent many clients in the analysis, drafting, negotiation and renegotiation of contracts such as mining research and exploitation agreements, mine leasing contracts, assignment contracts, merger and acquisition contracts, joint venture contracts for the operation of mining projects, option contracts in mining research, mining mortgage contracts, and contracts between investors and holders of mining rights for the financing of mining projects.

➤ Litigation and Claims

We assist our clients with litigation on the validity of mining rights and titles, especially in matters of refusal of assignment, renewal, withdrawal or cancellation of rights and titles, or forfeiture of their holders' rights. We also or for feiture of their holders' rights. We also work in other litigations related to the mining activities, in particular, litigation related to environmental damage, litigation related to the expropriation of mining rights and titles.

Expertise and Solutions for the Mining Industry

Our legal services cover all stages of the implementation of mining projects and include:

➤ Acquisition and Management of Rights and Titles for Research

- Procedures for granting, renewal and waiver;
- Development and negotiation of mining research and exploitation agreements;
- Extension procedures to other associated or non-associated substances;
- Procedures for the transformation into mining rights and titles for research and exploitation;
- Approval in case of force majeure.

➤ Transactions on Mining Projects or Assets:

- Negotiation, drafting and registration of joint venture agreements, assignment contracts, transfer, farm-out contracts, mining research option contracts;
- Legal advice for initial public offerings and stock market quotes.

➤ Infrastructure Building:

- Obtaining administrative permits for the construction of related infrastructures on the mine site (road, rail, port and airport infrastructure);
- Obtaining concessions and construction, production and transport permits for power and water (negotiation of contracts of concession, rehabilitation of power plants and electricity supply);
- Delocalization and relocation of local populations.

➤ Production and Marketing

- Authorizations for setting and operating metallurgy and processing plants;
- Authorizations for marketing and exporting minerals;
- Labor, employment, health and safety;
- Local content;

- Tax and administrative procedures;
- Compliance with environmental standards;
- Ongoing legal advice and assistance.

➤ Mining Closure and Abandonment Phase

- Termination of employment contracts and award of benefits;
- Mining infrastructure management;
- Site remediation and environmental discharge;
- Termination of contracts.

➤ Litigation and Claims

- Refusal to grant, revocation, withdrawal and cancellation of mining rights and titles;
- Expropriation of mining projects;
- Commercial and social.

Legal and Fiscal Due Diligence

We conduct several legal and fiscal due diligences on behalf of companies desiring to acquire mining projects or participate in the financing of such projects or the mining assets of operating mining companies. We prepare due diligence reports specifying issues related to compliance with the legislation applicable to the activities of mining companies and the validity of their mining rights and titles, and we propose solutions to the identified legal problems. As part of the implementation of the results of the due diligence, we prepare draft contracts and legal documents related to the purchase and sale of mining assets or mining companies including necessary documents for financial transactions.

Selected Mining Transactions

➤ Legal counsel and assistance to a/an:

- Chilean company and an investment fund of Oman for the acquisition of an Australian company, the major shareholder of two potash mining

companies in the Republic of Congo;

- Russian bank for the conclusion and facilitation of a US \$3,014,223,744 loan to a Dutch company with shares in a copper and cobalt mining company in Katanga (Democratic Republic of Congo [DRC]);
- Mauritius company in the acquisition of the exploitation permit of the BISIE tin mine valued at US \$120,000,000 and in the settlement of a litigation with the tax administration in the DRC;
- South African financial institution in various transactions for the acquisition of shares in a mining company in the DRC, a transaction in the amount of US \$10,000,000;
- Group of Canadian companies in the negotiations and drafting of agreements and documents for the transfer of additional shares of a mining company for the exploitation of the Kamoia and Kakula copper and cobalt deposits in DRC;
- South African bank in loaning a US \$30,000,000 to a Congolese company whose shares were pledged;
- Canadian company for the transformation of its research permit into an exploitation permit for the Kamoia and Kakula project in the DRC, representing an investment of US \$1,200,000,000;
- Canadian company for the acquisition of the Kipushi mine in the DRC, a transaction in the amount of US \$200,000,000;
- Congolese state company in the re-negotiation of 20 joint venture agreements with its private partners;
- Australian and Congolese companies for mining operations with OKIMO (SOKIMO) and the management of the mining projects of Borgakim and its affiliates (Amani Gold, Blue-Rosse, Gorumba and Henry Gold) today acquired by Kibali Gold;

- Canadian gold mining company as part of the provision of security interests for the financing of a gold project in the amount of US \$ 175,000,000 and the relocation of local communities in Maniema and South Kivu in the DRC;
- US mining company in the acquisition of a US \$ 1,000,000,000 copper mining project in the DRC;
- Canadian company in the acquisition of mining rights, a transaction valued at US \$168,000,000;
- Canadian mining company for the acquisition of mining research permits in the province of Katanga in the DRC, the drafting of the mining permits' assignment contract; the preparation of the applications for exploitation permits and the constitution of the local exploitation company into a commercial company;
- Chinese company in conducting a due diligence for the acquisition of several copper projects in the province of Katanga in the DRC;
- Australian mining company in the acquisition of gold and silver projects in the Moku mine in the DRC and in drafting the prospectus of its initial public offering at the Toronto Stock Exchange and plans of dividends;
- British Island mining company for the acquisition of 17 research permits in Katanga in the DRC;
- Company from Jersey in the negotiation with the Minister of Mines to obtain approval to export minerals from the DRC;
- Financial institution in the United States for a

US \$5,000,000 loan to a foreign investor for the purchase of manganese mines in Burkina Faso and Mali;

- Canadian company for a legal due diligence on a mining company in the Republic of Congo for its listing on the Toronto Stock Exchange with a value of US \$12,000,000;
- Company of the Cayman Islands in its acquisition of research and exploitation projects for quarry substances in the DRC;
- American investor in a dispute relating to his investment in a mining company in Guinea;
- Angolan company in the acquisition of a mining research permit in Angola and in the drafting of the assignment contracts of mining permits;

Development of Mining Laws and Regulations

- Legal counsel and assistance to the Central African Economic and Monetary Community in the study for the drafting of a community mining code and a field assessment mission mission in Gabon, Chad, Central African Republic, Congo, Equatorial Guinea and Cameroon (GIZ funding, 2016-ongoing);
- Preparation of the decree and its amendments on the creation and functioning of the Office for Coordination and Follow-up of Chinese and Congolese Projects in the DRC (2016);

From the Chambers Global guide 2016

"This esteemed firm has a global platform with offices in Johannesburg and New York. The team is often engaged in matters concerning OHADA law and frequently advises on international litigation. It stands out for its capabilities in the natural resources sphere with sources highlighting its 'good practice in the mining sector.' It is also adept at assisting foreign clients looking to invest in the African market."



- Assistance in the Diagnosis Project of the legal and tax frameworks of the mining sector of Senegal (2013);
- Legal assistance to the DRC government in the revision of the 2002 Mining Code and its implementation measures (World Bank funding, 2012-2016)
- Legal assistance to the government of the Republic of Congo in the revision of the Mining Code and its implementation decrees (World Bank funding, 2014-2016);
- Legal assistance to the DRC government for the preparation of a decree providing the content of feasibility studies for mining projects (World Bank funding, 2015-2016);
- Preparation of a decree on the organization and functioning of the Mining Registry and the Commission in charge of validating mining rights and quarries in the DRC (World Bank funding 2001-2003);
- Legal assistance to the DRC government in the reform of legal, tax and customs and exchange frameworks of the mining sector (World Bank funding, 1999-2001);

"...the largest and one of the most sophisticated law firms in the DRC. It is famous for its mastery of local laws, and for its particular interest in the mining sector."

Lars-Eric Johansson, CEO of Ivanplats Ltd

Our Vision

Africa continues to grow. We do the same and continue to expand our legal practice on the African continent and beyond to get closer to our clients from North America, Latin America, Asia, Australia and Europe who focus on the mining industry.

Our expansionary vision makes us your obvious choice for securing your access and investments in Africa legally. Our global vision, knowledge of the situation on the ground and long experience enable us to accompany and secure your mining investments. Pioneer in mining law in Africa, our law firm will continue to develop our leadership in the mining sector and contribute our expertise to further develop the legal, tax, customs and foreign exchange frameworks of the mining sector in Africa .

Merit of Chambers Global 2011

"Law firm that provides very practical solutions. Excellent negotiating skills and in-depth knowledge of the mining industry, particularly in French-speaking African countries."

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Our partner Law Firms and lawyers are located in the
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