

# The Examination of the Framework for Mineral Lease Contracts in the Structure of the Ministry of Industry, Mine, and Trade of Iran with a Look at Similar Models in the Legal Systems of Canada and France

Hamid Reza. Rafipour Tehrani<sup>1</sup>, Bakhtiar. Abbaslou<sup>1\*</sup>, Hatam. Sadeghi Ziazi<sup>2</sup>

<sup>1</sup> Department of Private Law, Central Tehran Branch, Islamic Azad University, Tehran, Iran

<sup>2</sup> Department of Law, Payame Noor University, Tehran, Iran

\* Corresponding author email address: abaslob@yahoo.com

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In 2020, the Ministry of Industry, Mine, and Trade of Iran introduced a mechanism known as "Build-Operate-Transfer" (BOT) for the delegation of mining projects to the private sector. This system grants specific privileges to contractors, expecting them to commit to the development of ancillary industries. The present study investigates the operational and administrative challenges of this model and proposes solutions to improve its performance. The identified challenges include the lack of defined contract forms, insufficient economic criteria for determining the duration of exploitation, and operational obstacles arising from unprofessional opinions and limitations imposed by related institutions. For comparison, in the French legal system, since 2006, mining projects have been privatized using the BOT method. This approach has allowed for a reduction in economic interventions and the attraction of foreign investments, with the Ministry of Economy assuming responsibility for the pricing and duration of exploitation. In the Canadian legal system, similar projects have been delegated using the BOT method since 2010, with the distinction that the government has retained a monopoly on the purchase of mineral products and permits only sales to selected state-owned companies. The findings of this research suggest that for the successful and effective implementation of this model in Iran, it is essential for the Cabinet to support the powers of the Ministry of Industry, Mine, and Trade. Additionally, leveraging the experiences of France and Canada could assist the Ministry of Industry, Mine, and Trade in contract formulation and in reducing operational barriers.

**Keywords:** Contract, Mining, BOT, Ministry of Industry, Mine, and Trade, French Legal System, Canadian Legal System, Standardization.

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## 1. Introduction

Minerals are considered national wealth and, from the perspective of Islamic jurisprudence, are part of the "Anfal," which are under the exclusive management of the Islamic ruler. With this important principle in mind, the Mineral Law was enacted in 1998,

formalizing the legal methods of exploiting these resources. Like any government project, such as road construction, urban affairs, or electricity transmission, the mechanism for private sector involvement in mining has been defined, generally referring to administrative regulations, since the Mineral Law addresses this matter broadly, and its expansive interpretation and the



establishment of related executive regulations are carried out by the executive branch.

Some authors have criticized direct contracting in mining, considering it a precursor to corruption (Jabbari, 2010, 2013). In another study, the transfer of mining rights was viewed as ambiguous, creating opportunities for windfall profits (Dowlatabadi et al., 2021). In a country like France, the possibility of private-public partnerships for mining exploitation exists (Betancourt, 2023). Furthermore, one scholarly investigation criticized the direct involvement of third-world governments in mining activities (Dai et al., 2008).

Elsewhere, the necessity for an economic balance when transferring mining rights was emphasized (Haq Gozar et al., 2014).

In response to improving the mineral lease mechanism, a new initiative was approved by the Ministry of Industry, Mine, and Trade in early 2020, coinciding with the outbreak of the COVID-19 pandemic. However, this initiative has yet to be fully implemented. According to this novel scheme, mining operations are transferred to the private sector through a "Build-Operate-Transfer" (BOT) contract, and the expectations, which were previously implied in other projects for contractors, have been officially specified. This is done with the aim of encouraging investment in such projects by expanding ancillary industries. A similar model has been implemented in France and Canada, which have been deemed successful.

This research is innovative in its approach, as none of the legal studies related to mining have focused on the new way of private sector involvement, making it entirely original.

The significance of this study lies in the fact that, given the current sanctions on the country, there is a dire need to expand ancillary industries. If this initiative is fully implemented, it could lead to foreign exchange savings and more job creation. Therefore, given the general nature of the existing law and the significant discretion granted to the Ministry of Industry, Mine, and Trade regarding the establishment of executive mechanisms for mining, it is essential to identify the administrative challenges in this regard and provide a model for its proper implementation. Hence, this research is necessary both from a theoretical and practical perspective.

The research question is: What are the strengths and weaknesses of the new mineral lease transfer scheme, and what are the administrative solutions for its correct implementation?

It is hypothesized that the comprehensiveness of this scheme is one of its strengths, but disagreements over the powers of the Ministry of Industry, Mine, and Trade, a lack of attention to contractors' rights, and the failure to provide a standard contract form are its executive weaknesses, which need to be addressed by the authorities.

In this study, the transfer of mining rights will first be analyzed from an administrative perspective, followed by the examination of related challenges. A comparative analysis will be made with similar models in the legal systems of Canada and France, and a proposed model for solving these issues will be presented.

## 2. Transfer of Mining Rights

In most countries, minerals are considered a national asset. This means that all mineral resources throughout the country belong to the general public. According to clear legal sources, the use of natural resources for personal consumption is not problematic, but if it is for economic activity, permission from the Islamic ruler is required (Eslami Panah, 2003, 2019). This principle has formed the basis of current legislation, where any economic activity related to natural resources requires obtaining the relevant permits. This section discusses the transfer of mining rights from various perspectives.

### 2.1. Legal Perspective

Currently, the most important legal source concerning mining is the "Mineral Law," which was passed in 1998 by the Expediency Council. The law applies the general principles of the Constitution, particularly Articles 44 and 45, to mining activities and provides detailed executive guidelines.

In the introductory definitions, it states that an "exploration permit" is "a license issued by the Ministry of Mines and Metals for conducting exploratory operations in a specified area."

Two points are noteworthy in this regard. The first is that today, the Ministry of Industry, Mine, and Trade has replaced the Ministry of Mines and Metals from that time, and therefore the duties and powers assigned to this

ministry in the law are also applicable to the current Ministry of Industry, Mine, and Trade.

The second point is that this definition marks the beginning of the Ministry of Industry, Mine, and Trade's administrative responsibility for mining, limiting the involvement of other institutions in mining affairs. It is worth mentioning that the Environmental Protection Organization and the Natural Resources Organization have, in some cases, obstructed mining activities. Expansive interpretations of the law could prevent such interference (Tabatabai Motameni, 2018).

Furthermore, Article 2 explicitly states that "in accordance with Articles 44 and 45 of the Constitution, the responsibility for exercising state sovereignty over the country's mines, preserving mineral reserves, issuing permits for mining activities specified in this law, monitoring these activities, facilitating the development of mining operations, achieving added value from raw minerals, developing the export of value-added minerals, creating employment in this sector, and increasing the mining sector's share in the country's economic and social development is assigned to the Ministry of Mines and Metals."

Also, in Article 7, it is stated that "the Ministry of Mines and Metals is obliged, after reviewing and approving the exploration operations, to issue a discovery certificate in the name of the exploration permit holder. The certificate should include the type or types of minerals discovered, quantity, quality, boundaries, area, and exploration costs. The certificate, with the Ministry's approval, will be transferable to third parties within one year of its issuance."

Thus, the handling of formal mining matters within the framework of the law falls under the jurisdiction of the Ministry of Industry, Mine, and Trade, and other organizations are required to cooperate with this ministry. The relationship between other organizations and the Ministry of Industry, Mine, and Trade regarding mining is not horizontal but rather vertical (Abdollahzadeh, 2013).

## 2.2. Administrative Powers

In 2008, the Cabinet approved the executive regulations for the Mineral Law. According to Article 1 of these regulations, the Ministry of Industry, Mine, and Trade is designated as the responsible and executing body for mining activities. Other organizations are only required

to respond to the Ministry of Industry, Mine, and Trade in the form of legal inquiries, and exploitation licenses are issued only after these inquiries. The Ministry of Industry, Mine, and Trade, in this regard, does not bear any legal responsibility (Ketabi Roudi, 2015).

However, in 2000, during discussions about downsizing the government, the authority over oil exploitation was granted to the Ministry of Petroleum, while the Ministry of Industry, Mine, and Trade was given executive authority over mining. This one-article decision clearly defined the Ministry of Industry, Mine, and Trade as the authorized representative of the government in the execution of Articles 2 and 7 of the Mineral Law (Keshtkar Zadeh, 2003).

Therefore, just as the authority for oil exploitation was delegated to the Ministry of Petroleum, the authority for the management of mining operations was fully transferred to the Ministry of Industry, Mine, and Trade, and no explicit legal provision has been enacted to contradict this. Thus, it can be stated that within the framework of the law, the Ministry of Industry, Mine, and Trade holds sufficient authority for the delegation of mining operations.

## 2.3. The Latest Proposed Model

Currently, no exploitation licenses have been issued for precious mines such as gold, silver, and copper. All related activities are carried out by state-owned companies, and only the discoverer of the mine is granted a fee for the transfer rights, with the other party having no option but to accept this arrangement (Mousazadeh, 2019).

This issue is not addressed in either the existing laws or the written administrative regulations concerning mining. However, it is clear that, given the executive powers in this regard and based on the previous tradition, the transfer of precious mines was considered contrary to national interests. This approach is still followed and remains within the executive powers of the Ministry of Industry, Mine, and Trade.

In some cases, like other projects, the Ministry of Industry, Mine, and Trade grants amounts to contractors, receiving in return the mining products. Such transfers are observable in medium-value industries, such as limestone mining in the Khorasan Razavi province (Ahmadi, 2010).

In the most common type of transfer, observed in stone mines, the Ministry of Industry, Mine, and Trade estimates the approximate amount of product extraction and sets a price per ton, which the contractor is obligated to pay. The criticism against this type of transfer is that the amount received does not align with the contractor's profit. In contrast, the Ministry of Industry, Mine, and Trade has stated that such profits are reasonable, given the contractors' significant investments in stone mines (Jabbari, 2010).

"Build-Operate-Transfer" (BOT) contracts, or their Persian equivalent, "Build-Operate-Transfer" (B.O.T), have been common in some industries, such as sewage treatment plant construction and road construction. A detailed discussion of these contracts is beyond the scope of the present research, but in the simplest definition, the project is initially transferred to the contractor, who then sets up the project at their own expense (Mousazadeh, 2019). Several years after the completion of the project, the contractor generates income from their temporary ownership and then fully transfers it to the client. This type of transfer has not yet been implemented in industries such as oil and gas or mining. However, in 2020, the Ministry of Industry, Mine, and Trade issued a decree outlining the details of this transfer model, though it has not been fully implemented yet. When compared to other uses of these contracts (such as in road construction and water and sewage industries), several important points stand out.

After the exploitation period, the same contractor is typically responsible for maintaining the project, which is informal and customary. However, in the new model of the Ministry of Industry, Mine, and Trade, this has been formally committed for the first time in the world.

The security of the contractor's market during the exploitation period was never guaranteed, but for the first time, the Ministry of Industry, Mine, and Trade has made such a commitment.

The contractor's commitments have always been limited to the commissioning and delivery of the original project. In this model, for the first time, there is an obligation to expand manufacturing industries.

Foreign exchange obligations, which are to be executed by the Central Bank, have been committed by the Ministry of Industry, Mine, and Trade.

It is evident that the new model for the transfer of mining rights is innovative both in mining industries and in its

unique approach. No such model has been implemented anywhere in the world. Therefore, this necessitates legal examinations.

### 3. Current Administrative Challenges

Unfortunately, like many other plans, bills, and decisions, this new mechanism has been accompanied by executive challenges, and after about four years since its introduction, it has not been fully implemented. The administrative challenges related to this issue are discussed below.

#### 3.1. Criticism of the Ministry of Industry, Mine, and Trade's Powers

After the official announcement by the Ministry of Industry, Mine, and Trade regarding the new method of mining transfer, the following criticisms were raised: (Nateghpour & Abbasi, 2024).

In 2021, the Vice President stated that the implementation of this plan was conditional upon the approval of the Cabinet. This decision was annulled the same year by the order of Martyr Raisi (Omrani Far & Abbaslou, 2023).

In 2022, the representatives of the Energy Commission of the Islamic Consultative Assembly deemed the Ministry of Industry, Mine, and Trade to lack sufficient authority to present such a plan.

In 2023, the Sixth Branch of the Legal Court of Mashhad ruled that one of the new contracts between contractors and the Ministry of Industry, Mine, and Trade was invalid and called for the annulment of the related directive from the Administrative Justice Court.

However, the countermeasures taken in this regard were as follows (Nateghpour & Abbasi, 2024):

In 2021, the then President explicitly stated that the necessary powers had been delegated to the Ministry of Industry, Mine, and Trade in 2000.

In 2022, the Minister of Industry, Mine, and Trade clearly stated that, according to the legal experts, the implementation of this plan was not problematic.

In 2023, the head of the Economic Commission of the Islamic Consultative Assembly explicitly stated that this model of mining transfer is an executive issue and outside the scope of the legislative and judicial branches, and it enjoys executive validity without the need for approval from these branches.

It seems that a capable and adaptable contractor for this plan has yet to be found, and the incentives provided have not effectively attracted investors.

### 3.2. Criticism of Overlooking Contractors' Rights

The main obligations of the contractor in the new model of mining transfer are as follows (Dowlatabadi et al., 2021):

1. No raw export of products, and final product sales according to the contract.
2. Investment and establishment of a holding company agreed upon with the Ministry of Industry, Mine, and Trade.
3. Use of movable buildings such as trailers and not constructing immovable buildings.
4. Technology transfer and no claim to intellectual property rights.
5. Full transfer of the project after the contract period ends.
6. Adherence to safety and environmental protection principles, as approved by the Environmental Protection Organization and the Ministry of Industry, Mine, and Trade.
7. No hoarding of produced products.
8. Adherence to the minimum production threshold specified in the contract.
9. Commitment to settling all debts by the end of the exploitation period.
10. Construction of the project with a specified lifetime as outlined in the contract.
11. Commitment to preventing environmental destruction.

The Legal Vice Presidency of the Twelfth Government regarded the obligation for the investor to establish ancillary industries as a violation of the principle of consent and opposed the execution of this contract (Asgari et al., 2022). It seems that due to political influences, the Ministry of Industry, Mine, and Trade refrained from pushing for the implementation of this plan, as the Cabinet, which had delegated these powers to the ministry, also had the authority to annul them (Kanaan, 2010). Nevertheless, this issue remained unresolved in the Thirteenth Government, and despite the valuable efforts of this administration to remove production obstacles, it remains one of the key challenges in implementing the proposed plan. Given that these disputes have largely occurred within the

executive branch, resolving them within the Cabinet could have been relatively straightforward.

### 3.3. Weakness of Public Law Courts

One criticism of the country's legal system is the weakness of public law courts, which, for the sake of brevity, is not elaborated upon. It suffices to mention that in most countries, there are courts for constitutional and administrative law (Hsiao, 2021). In our country, the Administrative Justice Court is located only in Tehran and annuls administrative directives only in cases of significant challenges in the execution process. However, there is no preventive action within the Administrative Justice Court.

It is not officially possible to comment on the legal issues of the new mining transfer model. Initially, it is necessary for the executive branch itself to declare the validity of these contracts, as the highest legal authority in this institution is its legal representative across the country. In the absence of a statement from the legislative and executive branches, based on the significant principle of Article 85 of the Constitution, this is deemed an endorsement (Mohammadi & Khordmandi, 2020). Thus, the unqualified statements of the Legal Vice Presidency during the Twelfth Government have obstructed the implementation of the new mining transfer model, and unfortunately, no attention was given to this issue in the Thirteenth Government. According to important administrative law precedents, the lack of a statement by the subsequent government regarding the opinions of previous administrations is considered an endorsement (Lahusen, 2019).

However, in the simplest legal interpretation, it can be stated that according to Article 10 of the Civil Code, contracts in indeterminate forms, if they do not violate public order and good morals, will not have any legal defects. The obligation to develop certain industries by the contractor is stipulated as a condition in the contract, and in return, the Ministry of Industry, Mine, and Trade has granted incentives to the contractor, and the contract is concluded after the full consent of both parties, thus there is no issue with the essential principle of consent. Furthermore, the requirement for inquiries from equivalent institutions and their sequential involvement in certain specific matters, as approved by the Cabinet, does not constitute an overreach of administrative powers (Pasban, 2005).

Therefore, the current status of organizations such as the Environmental Protection Agency, the Department of Natural Resources, and the Ministry of Agricultural Jihad, which play a role in the inquiries for issuing mining permits and, by virtue of the Ministry of Industry, Mine, and Trade's decree and the powers delegated to it in 2000, have acted legally.

### 3.4. *The Need for Standardization of Contracts*

The issue of contract standardization is an important matter in contract law, but for the sake of brevity, the details will not be mentioned. However, it should be noted that through standardizing contracts, formal aspects are provided, and customs related to them are strengthened. This way, within a short time, ambiguous aspects of contracts are eliminated, and potential disputes are minimized. At the same time, the related administrative processes are completed in the simplest possible manner (Zhou, 2020).

Despite the valuable initiative by the Ministry of Industry, Mine, and Trade in presenting this transfer model, the lack of a standard contract form remains a significant weakness. To date, the legal issues related to this contract have remained in the form of a decree, and unfortunately, due to administrative weaknesses, the contract form has not been provided. In contrast, under the delegated powers of 2000, the Ministry of Industry, Mine, and Trade could have issued the contract form within the framework of the decree without needing approval from another institution.

It seems that by standardizing the contract related to this sector, many administrative challenges in its implementation could be overcome.

## 4. Similar Executive Models in Other Countries

As previously mentioned, some components of the new mining transfer model are unprecedented. However, the "BOT" (Build-Operate-Transfer) method for transferring mines has only been implemented in France and Canada, and it is necessary to review similar cases, examining the strengths and weaknesses of each, in order to create a new model for our country and utilize it to address the existing challenges.

### 4.1. *France*

In 2006, France became the first country in the world to transfer its coal mines to private contractors using the "BOT" contract method. The policy of reducing government intervention in economic matters, along with the potential to attract foreign investment, led the government to transfer 16 of its major mines, primarily to German contractors, by 2015. This was seen as a commendable action, particularly in light of the country's unemployment crisis (Rozga, 2018).

The "BOT" contract mentioned is a standard type, with no specific innovation. However, the issue of price valuation in these contracts, which is determined by the "operating period," was delegated to the Ministry of Economy. According to most economists in the country, this criterion is considered fair (Ryan & Foster, 2023). Unlike other projects where negotiation revolves around the transfer amount, in these types of transfers, bargaining is primarily centered on the operating period. The Ministry of Economy of France used its administrative powers and, for the first time globally, established the valuation criteria.

The Ministry of Mines in France also approved a contract form and, without the need for a Cabinet proposal, issued it for implementation (Van Leeuwen, 2023). It is worth noting that, like our country, France operates under a semi-presidential, semi-parliamentary political system, and both countries have similarly adopted the Roman-Germanic legal system. Given these similarities, the specific functioning of the French Ministry of Mines can be endorsed and used as a model for the executive system in our country. A ministry responsible for mining cannot seek approval for every minor issue from the Cabinet, as reviewing certain matters in the Cabinet sometimes requires more than six months. Therefore, by obtaining broad powers from the Cabinet, the Ministry of Industry, Mine, and Trade can draft the contract form.

The issue of economic valuation is also of interest. It is worth mentioning that in our country, economic valuation in relation to the transfer of oil and gas projects using the "BOT" method has been a topic of discussion. Unlike other "BOT" contracts, which typically have an operating period of around 20 years, the operating period for oil and gas projects is set to less than five years, due to the high return rates in these industries (Ghorbani, 2011).

#### 4.2. Canada

After France, Canada was the first country to transfer mining projects in cold regions to private contractors using the "BOT" method in 2010. The reason cited for this approach was the government's inability to participate in projects in these areas (Hanaoka & Palapus, 2012; Pasban, 2005).

Canada's innovation in this type of contract is the exclusivity in the purchase of mineral products by the government. Contractors, during the operational period, are not allowed to sell the products to anyone except selected state-owned companies (Khanzadi et al., 2012). This transfer model was also conducted through a standardized contract form.

In the new model in Iran, the government has guaranteed the purchase of products during the operational period, but no exclusivity has been established in this regard. In comparison to the similar situation in Canada, it can be stated that, in practice, the government has guaranteed a fair purchase price, but the products remain in government hands, which constitutes a significant administrative burden. The objective is to counter hoarding in this regard. In our country, the guarantee of purchase does not imply exclusivity in the purchase (Shiroei, 2017). However, it is necessary to apply anti-hoarding penal laws to contractors, as they, like any businessperson, should not disregard commercial laws (Eslami Panah, 2019).

Therefore, in the new contract model, if hoarding is pursued under the framework of penal laws, the creation of purchase exclusivity does not seem necessary.

#### 4.3. Determining a Specific Model and Contract Form

Aside from the issue of mines, experience has shown that the contract form has effectively defined the legal nature of contracts, thereby preventing many violations in this area. In our country, this has been successfully implemented by the Real Estate Consultants Union. In both France and Canada, appropriate contract forms have been adopted, which have facilitated administrative processes in this sector. On the other hand, the executive mechanisms have been clearly defined, and the powers of the responsible ministries have been explicitly stated. Both countries have incorporated innovation in the application of the "BOT" contract. Although criticisms

have been made, its success can serve as a model for the new model in our country.

#### 4.4. Lack of Separation Between Public and Private Companies

In our country, depending on the security importance of bidding issues, state-owned companies may be granted privileges over private companies (Shafei, 2009). Currently, for transferring valuable mines, only state-owned companies are allowed to participate. As previously stated, there is no clear legal provision supporting this.

In the contract forms reviewed in France and Canada, both state-owned and private companies are treated equally, and a small number of state-owned companies have the right to enter bids, though they typically do not succeed (Lario, 2020, p. 116). Notably, due to the freedom of project transfer in both France and Canada, state-owned contractors often utilize secondary contractors from the private sector. However, in our country, this option is not available, as the right of transfer in ordinary mining contracts is excluded, and the transfer of exploitation rights is subject to the approval of the Ministry of Industry, Mine, and Trade.

It is essential to avoid creating advantages for state-owned or government-affiliated companies, as seen in France and Canada. Given the oversight by the Ministry of Labor in these countries on the rights of contractors and workers, even if secondary contractors are employed, there are minimal benefits for the primary contractor, thereby reducing opportunities for corruption (O'Gorman, 2019).

### 5. Proposed Model to Address Administrative Challenges

So far, it has been stated that the Ministry of Industry, Mine, and Trade, despite its valuable initiative to introduce a new model for the private sector's involvement in mining, which aligns with the country's sanctions situation, has been negligent in certain areas, leading to the incomplete implementation of this new framework. The shortcomings are outlined as follows:

- Failure to provide a contract form.
- Lack of constructive interaction with the government to provide definitive opinions on the status of this type of transfer.

- Failure to follow up on the non-expert opinion issued by the Legal Deputy of the Presidential Office during the 12th Government.
- Inadequate explanation of the mechanism and insufficient efforts to attract contractors.
- Improper enforcement of penal laws to ensure contractors do not engage in hoarding.
- Absence of a precise mechanism for determining a fair operating period.

### 5.1. *Establishing Economic Criteria*

The Ministry of Mines in France established a criterion for the duration of mining operations, and a similar initiative has been evident in the Ministry of Oil. However, in the new model, no mention has been made of the operating period. It is necessary to establish the operating period for each mine based on economic criteria and a reasonable profit margin for the contractor, a matter that should fall within the executive authority of the Ministry of Mines, without requiring approval from any other entity.

For precious mines such as gold, silver, and copper, the state monopoly on managing these resources is only implemented through the administrative approach of the Ministry of Industry, Mine, and Trade, and there are no legal or administrative barriers preventing private sector participation. The only concern has been that the profit balance may shift, and the state's and the nation's share of these resources may become negligible. However, with appropriate economic criteria, this concern can be addressed. By considering a reasonable operating period based on economic criteria, the involvement of the private sector in these industries becomes feasible. Additionally, guaranteeing the management of the project after the operating period, which has not yet been formally implemented, could be considered a concession to the contractor in exchange for reducing the operating period. These issues need to be addressed through an executive directive issued by the Ministry of Industry, Mine, and Trade.

### 5.2. *Clarity in Delegating Powers to the Ministry of Industry, Mine, and Trade*

As mentioned, in 2000 (1379 in the Iranian calendar), the responsibility for managing the mines was delegated to the Ministry of Industry and Mines (and later to the

Ministry of Industry, Mine, and Trade). Given the absence of a legal provision limiting this situation, the Cabinet can limit these powers. However, despite over two decades passing, no new resolution has been issued to alter this. Criticisms from other legislative and judicial officials regarding the lack of competence of the Ministry of Industry, Mine, and Trade have been met with no response from the Cabinet, with only the Ministry of Industry, Mine, and Trade defending its stance. It is necessary for the Cabinet to explicitly declare the competence of the Ministry of Industry, Mine, and Trade in this regard and respond firmly to the non-expert opinions within the Executive branch, a matter that was not addressed despite the commendable actions of the 13th Government. This will eliminate the administrative-executive barriers to utilizing the aforementioned model.

### 5.3. *Coordination*

It is expected that by preparing a contract form for the implementation of the new mining transfer model, administrative and executive problems will be minimized, and the legal custom of this new contract will be strengthened.

As stated, according to the majority of administrative legal experts, after the delegation of authority from the Cabinet to a specific body, the inquiry bodies remain in a secondary position, not a primary one. Other organizations related to mining should only be responsible for responding to inquiries and should not have a role in the transfers. This issue needs to be clarified in a Cabinet meeting so that, without occupying the Cabinet's time, the Ministry of Industry, Mine, and Trade can address the matter directly.

## 6. **Conclusion**

The research question was: What are the strengths and weaknesses of the new mining transfer plan, and what are the administrative-executive solutions for its proper implementation?

It has been hypothesized that the comprehensiveness of this plan is one of its strengths. However, differences in the powers of the Ministry of Industry, Mine, and Trade, failure to consider the rights of contractors, and, ultimately, the lack of a standardized contract form are



its executive weaknesses, which need to be addressed with the efforts of the responsible authorities.

The research hypothesis is confirmable. The new framework by the Ministry of Industry, Mine, and Trade is highly innovative, and in exchange for specific concessions granted to contractors, it obliges them to carry out certain actions that create added value and more employment in the context of the country's sanctions. However, the contract form has not yet been prepared, and no responses have been provided to the ambiguities in this regard. Unfortunately, due to the legal opinion issued by the Legal Deputy of the 12th Government, the implementation of this framework was delayed, even though this contract model has been implemented with the full satisfaction of contractors, and its fundamental principle of consent has not been violated. However, no efforts were made to resolve this simple challenge. According to the Cabinet's resolution in 2000 (1379), the Ministry of Industry, Mine, and Trade has full authority over mining management, and criticisms based on the lack of Cabinet oversight or coordination should not be raised. The response to inquiries from other entities is also a legal necessity. However, an economic criterion for determining the operating period has not been established, and it is necessary to consult with economic experts to draft a regulation on this matter.

In the implementation of this plan, the following recommendations are proposed:

- It is suggested to the Cabinet that, according to the broad interpretation of the Mining Law of 1997 (1377) and the resolution of authority delegation in 2000 (1379), the new mechanism of the Ministry of Industry, Mine, and Trade regarding mining transfers should be declared free from legal and administrative defects.
- It is recommended to the Ministry of Industry, Mine, and Trade to establish an economic criterion for determining the operating period based on the opinions of economic experts.
- It is recommended that the Ministry of Industry, Mine, and Trade prepare a contract form for transferring mines using the "BOT" method as soon as possible.
- It is recommended that the Ministry of Industry, Mine, and Trade address the customary prohibition of private sector involvement in

valuable mines and, through the preparation of a directive, formalize this practice, while also establishing a fair criterion for determining the contractors' operating period.

Finally, these measures will significantly enhance economic growth, furthering the development of the private sector, which is one of the government's concerns, and will reduce the outflow of currency from the country.

### Authors' Contributions

Authors contributed equally to this article.

### Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

### Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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### Declaration of Interest

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### Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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