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Mineral Resources Law Update

The PRC Mineral Resources Law is currently being evaluated and revised by the Ministry of Land and Resources ("MOLAR") in co-operation with various experts. Although the revised law is not expected to be put before the National People's Congress for at least another two years, a draft is underway and consultations have been ongoing for some months. MOLAR's goal in revising the law is to create a more modern, pragmatic and transparent system for the regulation of land and mineral tenure in the PRC. To that end, the following matters are all expected to be addressed as part of the revision:

- The revised law is likely to expand its focus on mining management. The current law is largely focused on broader resource management.
- Mineral resources may be categorized and the various categories are likely to be dealt with by different levels of government. At present it is contemplated that important energy and mineral resources will be managed by the central government; general minerals will be managed at the provincial level; and ordinary building materials will be managed at the city and county level.
- Mineral rights will be given the status and strict protection of property rights under the revised law. It is not clear whether exploration and mining rights will be bundled or dealt with separately, but one of MOLAR's goals is to ensure that a party with an exploration right has clear priority to the corresponding mining right.
- In order to encourage more exploration in China, it is anticipated that the new law will lower the threshold for explorers but will raise the qualifications necessary for the grant of a mining licence for a large-scale mine.
- The procedures for the granting of rights will probably be rationalized and the administrative structure simplified.
- Access to geological materials and data is likely to be made simpler and more efficient under the revised law.
- Not surprisingly, environmental protection is likely to become a key issue once the new law is passed. Environmental impact assessments will probably become the norm as will the posting of reclamation bonds.
- Finally, MOLAR is considering how to reduce the tax burden on investors.

Although it will be years before the New Mineral Resources Law is implemented, MOLAR's review and revision process would appear to demonstrate a commitment to attracting and ensuring national treatment of foreign investors.

If you wish to discuss this or any other issue relating to carrying on business in China, please contact Bob Kwauk at 011-86-106-561-0683 or bob.kwauk@blakes.com.cn.

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