SIGNED this *23rd* day of *July, 1999*

ALHAJI AHMAD TEJAN KABBAH,
President.

(LS)

No. 5

1999

Sierra Leone

The Commission for the Management of Strategic Resources, National Reconstruction and Development Act, 1999

Short title.

Being an Act to establish a Commission to secure and monitor the legitimate exploitation of Sierra Leone's gold and diamonds, and other resources that are determined to be of strategic importance for national security and welfare as well as to cater for post-war rehabilitation and reconstruction, as provided for under Article XXVIII of the Lomé Peace Agreement.

[23rd July, 1999] Date of Commencement.

PART I— PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires—

"Chairman" means the Chairman of the Board referred to in subsection (2) of section 3;

"Commission" means the Commission for the Management of Strategic Resources, National Reconstruction and Development established by section 2;

"Committee" means the Committee of Experts established by the Commission under section 20;

"Peace Agreement" means the Peace Agreement signed between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone at Lomé, Togo on 7th July, 1999;

"Executive Director" means the Executive Director appointed under section 16;

"member" means a member of the Board;

"RUF/SL" means the Revolutionary United Front of Sierra Leone or any political party replacing the same.

PART II — ESTABLISHMENT OF COMMISSION

Establishment of Commission.

2. (1) There is hereby established a body to be known as the Commission for the Management of Strategic Resources. National Reconstruction and Development.

(2) The Commission shall be a body corporate with perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, and, suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

3. (1) The governing body of the Commission shall be a Board in which is vested, subject to this Act, the control and supervision of the Commission. Board of Directors.

(2) The Board shall consist of a Chairman, and nine other members, all of whom shall be appointed by the President:

Provided that the office of Chairman shall be offered to the Leader of the RUF/SL, Corporal Foday Sankoh.

(3) The nine other members of the Board shall be the following:—

(a) two members appointed by the President, one of whom shall be the Executive Director referred to in section 16;

(b) two representatives of the political party to be formed by the RUF/SL;

(c) three members elected by recognised civil society representatives; and

(d) two representatives of other political parties appointed by Parliament.

(4) The members of the Board, including the Chairman, shall hold office until the holding of the next general elections under the Constitution when they shall vacate office but the Chairman and the other members shall be eligible for reappointment by the President.

(5) A member of the Board may resign his office by letter addressed to the nominating authority and may be removed from office for just cause by the President.

(6) In this section "nominating authority" in relation to a member of the Board, means the person or group of persons responsible for nominating or, as the case may be, electing the member for appointment to the Board.

Remuneration of members of Board.

4. The Chairman and the other members shall be paid such remuneration and allowances and be reimbursed for expenses incurred in connection with the discharge of their functions as such, as the Commission, with the approval of the Government may determine.

Proceedings of Board.

5. (1) The Board shall hold its first meeting on such date and at such place as the Government, after consultation with the Board, may determine; and thereafter the Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least six times in a year.

(2) An extraordinary meeting of the Board may be held at the request in writing of the Chairman and shall be held at the written request of one-third of the membership of the Board.

(3) At any meeting of the Board where he is present, the Chairman shall preside and, in his absence, the members present may elect one of their number to preside.

(4) The quorum at a meeting of the Board shall be two-thirds of the membership of the Board.

(5) Each member shall have one vote but in the case of an equality of votes, the Chairman shall have a casting vote.

(6) All acts, matters or things authorized or required to be done by the Board shall be decided at a meeting where a quorum is present and the decision is supported by the votes of at least two-thirds of all the members, including the Chairman.

(7) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of all member shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to such proposal.

Disclosure of interest.

6. (1) Any member having a personal interest, whether pecuniary or otherwise, direct or indirect, in any contract of the Commission or in any company or concern with which the Commission proposes to make any contract, shall disclose to the Board the fact of such interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Board, and such member shall take no part in any deliberation or decision of the Board relating to such contract.

(2) Any contravention of subsection (1) on the part of a member shall constitute a just cause for the removal of the member from the Board and any illegal gain by him arising from the award of the contract shall be forfeited to the State.

Secretary to the Board.

7. The Commission shall have a Secretary who shall be Secretary to the Board.

PART III—FUNCTIONS OF COMMISSION

Functions of Commission

8. (1) Subject to the control by Government of the exploitation of gold, diamonds and other natural resources for the benefit of the people of Sierra Leone, the Commission is charged with the responsibility of securing and monitoring the legitimate exploitation of the gold, diamond and other resources of Sierra Leone determined to be of strategic importance for national security and welfare as well as catering for the post-war rehabilitation and reconstruction referred to in Article XXVIII of the Peace Agreement.

(2) Without prejudice to the generality of subsection (1), it shall be the responsibility of the Commission—

(a) to inform or bring to the attention of the Government any security lapses in any area covered by any mining licence and any area subject to the exploitation of gold and diamond in order to enable appropriate and necessary measures to be taken against unauthorized exploitation;

(b) to authorize, for the purpose of the export or local resale of gold or diamond by the Government, a buying and selling agreement with one or more reputable international specialized mineral companies;

(c) to review, through the Committee established under section 20, the management of any natural resource of Sierra Leone, other than gold and diamond, in order to determine if its regulation is a matter of national security and welfare and, as required by clause 8 of Article VII of the Peace Agreement, to recommend appropriate policy to the Government;

(d) subject to the National Commission for Relief, Rehabilitation and Reconstruction Act, 1996, to cater for the post-war rehabilitation and development of Sierra Leone; and

(e) nothwithstanding anything contained in any other law, to ensure that the interests of the owners of land or the community in which the land which is subject to concessions or mining leases in gold or diamond are sufficiently protected; and

(f) to do all such things as are necessary for the attainment of the objects of this section.

Reports and records of Commission.

9. (1) The Commission shall, at the end of every three months, prepare a report of its activities, operations, undertakings, property and funding.

(2) The report shall be submitted to the President who shall cause a copy to be tabled before Parliament.

(3) In addition to the report referred to under subsection (1), the Commission shall prepare and issue monthly reports, including the details of all the transactions related to gold and diamonds, and other licences or concessions of natural resources and its own administrative costs.

(4) Every monthly report under subsection (3) shall be published as a Government Notice in the *Gazette*.

(5) All agreements and transactions of the Commission shall, in accordance with Article VII of the Peace Agreement, be subject to full public disclosure and records of all correspondence, negotiations, business transactions and any other matters related to exploitation, management, local or international marketing of any natural resources as well as other matters relating there to shall be public documents.

PART IV—EXPORT AND OTHER TRANSACTION IN GOLD AND DIAMONDS

Commission to sanction exploitation or other transaction in gold and diamond.

10. (1) Notwithstanding anything to the contrary contained in the Mines and Minerals Act, 1994 or any other law, as from the 21st July, 1999, every mineral right in gold and diamond shall be subject to the sanction of the Commission.

(2) The Commission shall also recommend to Government the licensing of artisanal production of gold or diamond in accordance with the prevailing laws and regulations.

(3) Every concession or mining lease relating to gold and diamond in existence immediately before 21st July, 1999 shall be reviewed by the Commission for the purpose of according it the sanction of the Commission.

(4) The Commission shall declare void any concession or mining lease in gold and diamond in existence immediately before 21st July, 1999 if such concession or mining lease is found to have been obtained by fraud or tainted with illegality or as being contrary to public policy or the general public interest.

(5) The Commission shall publish in the *Gazette* any concession or mining lease in gold or diamond declared void under subsection (4) and shall inform the holder of the concession or mining lease accordingly and such holder shall be given the right to be heard.

(6) Any person aggrieved by any decision in any hearing under subsection (5) may appeal to the High Court.

(7) The Commission shall, immediately upon the commencement of operations prescribe by statutory instrument, the form and procedure for obtaining the sanction of the Commission referred to in subsection (1).

Export of gold and diamond.

11. (1) Every export of gold and diamond shall be transacted by the Government or its appointed agent.

(2) The Minister responsible for mines shall, if necessary, seek the assistance and cooperation of other governments and their instruments of law enforcement to detect and facilitate the prosecution of cases of unauthorized export or smuggling outside Sierra Leone of gold and diamond.

Function of Minister, etc. under Act No. 5 of 1994 to continue.

12. (1) The functions of the Minister responsible for mines under the Mines and Minerals Act, 1994 or any other law, shall continue but without prejudice to the authority of the Commission in carrying out its functions in relation to the regulation of the exploitation of gold and diamond as an autonomous body.

(2) Any person who is in possession of any concession or mining lease in gold or diamond—

(a) immediately before the 7th July, 1999, and

(b) as from the commencement of this Act,

shall commence production, in the case of paragraph (a), not later than twelve months from the 7th July, 1999, and in the case of paragraph (b), not later than twelve months from the date of the grant of the concession or mining lease concerned:

Provided that, in the case of lode mining of gold and the kimberlite mining of diamond, the time for the commencement of production in respect of paragraphs (a) and (b), shall each be two years from 7th July, 1999 and from the commencement of this Act, respectively, unless, for good cause shown, the time for the

commencement of production is further extended by the Minister responsible for mines, upon the recommendation of the Commission.

(3) Any concession or mining lease in respect of which production is not commenced within the periods specified in sub-section (2) shall be cancelled.

PART V — FINANCIAL PROVISIONS

Funds of Commission.

13. The operations and activities of the Commission shall be financed by a fund consisting of—

(a) any moneys appropriated from time to time by Parliament for the purposes of the Commission;

(b) any moneys accruing to the Commission in the course of its operations; and

(c) in respect of its functions in relation to the post-war rehabilitation and reconstruction, any moneys, assets or other resources that may be placed at the disposal of the Commission by any person or authority as gift or donation.

Special Treasury Account

14. (1) There is hereby established a Special Treasury Account into which shall be paid as public monies the proceeds from the transactions of Government in gold and diamonds.

(2) The account shall be spent exclusively on the development of the people of Sierra Leone, with appropriations for public education, public health, infrastructural development and compensation for incapacitated war victims as well as post-war rehabilitation and reconstruction, with priority spending going to rural areas.

(3) As public monies, appropriations from the Special Treasury Account shall be administered by the Minister responsible for finance, subject to any directions that the President may give. All expenditures from that account shall be notified to Parliament quarterly.

(4) The Minister responsible for finance shall lay on the Table of Parliament at the end of every three months a report of all payments and expenditure out of the Special Treasury Account.

(5) In this section "incapacitated war victim" means any person suffering from physical disablement of such a degree as to render him unable to cater for himself without assistance.

Accounts and audit.

15. (1) The Commission shall keep proper books of account and other records in relation to the activities of the Commission and shall prepare in respect of each financial year of the Commission a statement of accounts in a form designed to—

(a) indicate monthly expenditures;

(b) provide data for up-to-date budget control under its management information system, if any, and

(c) ensure correct use of the funds of the Commission.

(2) The accounts of the Commission kept under subsection (1) shall be audited by the Auditor-General or an auditor appointed by him.

(3) The statement of accounts and the audit report thereon shall be submitted to the President who shall a cause a copy to be tabled before Parliament.

PART VI—STAFF OF COMMISSION

Appointment of Executive Director and other staff of Commission.

16. (1) The Commission shall have an Executive Director appointed by the President after consultation with the Commission and upon such terms and conditions as the Commission shall determine.

(2) Subject to this Act, the management of the operations, undertakings and property of the Commission shall be vested in the Executive Director.

(3) No person shall be appointed Executive Director unless he has proven knowledge and ability in administration, management of mines, minerals and other national resources of Sierra Leone and the delivery of humanitarian assistance and relief, together with such other requirements as the Commission may determine.

(4) The Commission may also, subject to such terms and conditions as it shall determine, appoint a Deputy Executive Director, such officers and other staff as it considers necessary for the efficient performance of its functions under this Act.

Functions of Executive Director.

17. (1) It shall be the function of the Executive Director, subject to any directions from the Commission—

(a) to ensure the proper implementation of the Commission's operations within the framework of operational plans approved by the Board.

(b) manage the assets and funds, whether capital or otherwise, vested in the Commission; and

(c) ensure the administration and development of the staff of the Commission, based on the terms and conditions of employment and the personnel guidelines prescribed by the Commission.

(2) For the efficient conduct of the day-to-day business of the Commission including its financial transactions, the Commission may delegate to the Executive Director such of its functions as are necessary for the purpose, including the power to administer all matters relating to the service and discipline of staff.

Secondment of public officers.

18. Public servants may be seconded or otherwise render assistance to the Commission but the Commission may request the withdrawal of any such seconded staff who is unable to carry out assigned functions in a manner satisfactory to the Commission.

PART VII—MISCELLANEOUS PROVISIONS

Common seal.

19. The Commission shall have a common seal, the use of which shall be authenticated by the signature of—

(a) the Chairman or other member of the Commission authorized either generally or specially by the Commission in that behalf; and

(b) the Executive Director of the Commission.

Committee of Experts.

20. (1) The Commission shall have a Committee of Experts to advise the Commission with regard to the Commission's functions in relation to the determination and regulation of strategic natural resources.

(2) The Committee shall be composed of at least two members of the Board and three other persons co-opted from time to time by the Commission from among persons with expert knowledge about the exploitation and conservation of natural resources.

Regulations.

21. The Commission may make regulations prescribing anything required to be prescribed under this Act and, generally, for carrying out or giving effect to this Act.

Passed in Parliament this *21st* day of *July*, in the year of our Lord one thousand, nine hundred and ninety-nine.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.