



Projections for the Nigerian Mining Sector

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The Nigeria mining sector has in the last one year recorded gradual but steady growth contributing approximately N3.5 billion to the Federation Account in 2017.

However to attain the targets set in the roadmap for the sector, a number of measures must be taken.

Removing the Legislative Bottlenecks in the Nigerian Mining Sector and addressing the issue of state participation

The Ministry of Mines and Steel Development (MMSD) has at different forums emphasised the role and importance of state government participation in increasing the mining fortunes of the country particularly in the area of administration of mineral titles. Whilst the call for greater state participation in the administration of mining titles is a welcome development, the good intent may be “dead on arrival” given the monumental hurdle that must be surmounted before this is attainable. The present constitutional framework does not allow for the participation of state governments in the administration of mineral titles.

The provisions of **Section 4 (2)** and **(3)** of the Constitution of the Federal Republic of Nigeria 1999 (as amended) highlights the limitation on the state governments ability to participate in the mining sector to the extent being recommended above. The provision grants exclusive powers to the federal government to make laws and legislations on the matters included in the Exclusive Legislative List as contained in the Part 1, second schedule of the Constitution. Particular reference is made to item 39 on the list empowers the federal government to make laws on matters relating to mining and minerals, including oil fields, oil mining, geological surveys and natural gas.

If state governments are therefore to actively participate in the administration and development of the mining sector, the constitution has to be amended so that mining and mining related issues are moved from the exclusive to the concurrent legislative list or in the least certain powers be appropriated to the states specifically in relation to issues around mineral title rights.

It must be stated that the roadmap identifies this issue as it clearly highlighted that as part of the timelines set for the effective implementation of the roadmap, it is expected that in the medium term *i.e. initiatives that are expected to start between 2 to 5 years of issuance the roadmap*, both the national and state legislatures are to partner in addressing the gaps and conflicts in the governing mining legislation. It is therefore projected that by 2021 the gaps within the legal framework for the Nigerian mining industry would accommodate state participation.

In most successful mining jurisdictions operating with a federal system of government, such as Australia, states are empowered to make legislations to govern mining and mining related activities. The Australian Constitution sets out all of the matters that form the Federal government's exclusive jurisdiction and all other matters are taken to be part of the jurisdiction of the state legislatures. Given that the Constitution of Australia does not list onshore minerals as a matter over which the commonwealth has jurisdiction, the power to legislate with respect to onshore minerals and mining falls upon the states making up Australia.

Artisanal and Small scale Mining (ASM)

Artisanal and Small-scale Mining (ASM) is a key segment of the Nigerian mining sector value chain with the potential to increase both internally generated revenue and foreign exchange earnings. It can also be an enabler in reducing unemployment and, poverty, and in encouraging Foreign Direct Investment (FDI) to the mining sector if properly managed. .

Artisanal miners are usually characterised by their informality and inability to obtain financial and technical assistance. Given their importance to the development of the mining sector, subsidised credit policies must be introduced by the government as a strategy to encourage small scale miners. It is in realization of this, that the Federal Government, through the Bank of Industry (BOI) introduced the N5b Artisanal and Small-Scale Miners (ASM) Financing Support Fund. The Fund is to be made available in the form of Term Loans or Working Capital for such items such as the purchase of plants and machinery, payment for drilling, geological and other services related to mining business as may be required, and working capital for purchase of materials/other expenses. This introduction of this fund will hopefully drive the gradual integration of artisanal mining into the formal sector.

Conclusion

The growth and success of the mining sector in Nigeria or otherwise will largely depend on the reformation of the legal and regulatory framework for the sector. A reliable legislative framework and a firm policy on funding for artisanal and small scale miners will no doubt help in attaining a vibrant mining sector.