UPDATE ON LEGAL AND REGULATORY FRAMEWORKS FOR THE GHANAIAN MINING SECTOR

BEN ARYEE, CEO
MINERALS COMMISSION, GHANA
PRESENTATION OUTLINE

- Introduction
- Brief overview of Ghana’s mining sector
- Outline of relevant laws & regulations
  - Key features of the Minerals and Mining Act 2006, (Act 703)
  - Draft Regulations to operationalise Act 703 and their key features
- Concluding perspectives
Brief Overview of Ghana’s Mining Sector

- Besides the pre-requisites of:
  - Enormous mineral resource endowment;
  - Stable political environment,
- Ghana boasts of a “favourable legal, fiscal and regulatory framework.
- Major multi-national companies operating in Ghana include; Goldfields, Randgold, Newmont, Golden Star Resources and Redback
Brief Overview of Ghana’s Mining Sector

- Major minerals currently mined are gold (8 large scale producers), diamond, bauxite, manganese and salt
- The sector attracted FDI of >US$7 billion (1980-2008) & contributes about:
  - 5.5% GDP
  - 12% of Government revenue
  - 7% of corporate tax earnings
  - Average 38% (45% in 2008) of total exports
SECTORS CONTRIBUTION TO ECONOMY: MERCHANDISE EXPORT TRENDS

Contribution to Total Merchandise Exports by Key Sectors (%)

- Cocoa Prod. & Marketing
- Timber
- Non Traditional
- Minerals

Years: 84-08
MINERAL REVENUES


- 46% MR Repatriated
- 54% MR Used Abroad
Brief Overview of Ghana’s Mining Sector

• Sector Aim: Continued development of a thriving mining industry contributing to sustainable development (SD)

• Contribution of mining to economic development can be enhanced through:
  • Creation of Linkages
    • Forward
    • Backward
    • Horizontal
  • Diversification of minerals exploited
  • ETC.
Relevant Laws and Regulations

- THE 1992 CONSTITUTION
- MINERALS & MINING ACT (2006) ACT 703
- EPA ACT, 1994 (ACT 490).
- LI 1652, ENVIRONMENTAL ASSESSMENT REGULATIONS
- PRECIOUS MINERALS MARKETING CORPORATION ACT, 1989 (PNDCL 219).
- INTERNAL REVENUE ACT, 2000 (ACT 592) AND ITS AMENDMENTS
Relevant Laws and Regulations

DRAFT REGULATIONS (to operationalise Act 703).

- MINERALS (ROYALTIES)
- MINES (SUPPORT SERVICES)
- MINES (COMPENSATION & RESETTLEMENT)
- EXPLOSIVES (MINING AND CIVIL)
- REGULATIONS ON HEALTH AND SAFETY
- MINERAL LICENSING REGULATIONS
- MINING (GENERAL)
Key updates under Act 703 (1/4)

- Governance Improvement
  - Priority to mineral applications that are first in time
  - Definite periods within which the Minister must grant mineral right applications [S.12]
  - Limitation on discretionary powers of Minister [S.5, 42]
  - Broad based dispute resolution mechanisms [S.27]
Key updates under Act 703 (2/4)

- The New Cadastral System [S.8]
  - Applications for mineral rights in blocks and should be contiguous.

- Application of mining lease by any other person [S.40]
  - A person not necessarily a holder of an RL or PL, may apply for a mining lease
Key updates under Act 703 (3/4)

- Compensation Principles [S. 72-75]
  - Deprivation of the use of land
  - Loss of /damage to immovable property
  - For land under cultivation, loss of earnings or sustenance suffered; &
  - Loss of expected income=$f(\text{nature of crops and life expectancy})
Key updates under Act 703 (4/4)

• **Stability Agreement [S. 48]**
  - Stability of especially Fiscal Terms for up to 15 years

• **Development Agreement [S. 49]**
  - Stability for investments above 500 million USD
## Fiscal Regime

<table>
<thead>
<tr>
<th>Imposts/Benefits</th>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mineral Royalty Rates:</strong></td>
<td></td>
</tr>
<tr>
<td>Royalty base</td>
<td>3% - 6%, prescribed in regulations</td>
</tr>
<tr>
<td></td>
<td>Gross market value of mineral sale</td>
</tr>
<tr>
<td><strong>Application Fees</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>As prescribed in regulations</td>
</tr>
<tr>
<td><strong>Surface Rentals</strong></td>
<td></td>
</tr>
<tr>
<td><em>Annual Ground rent:</em></td>
<td></td>
</tr>
<tr>
<td><em>Annual mineral rights fees:</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Payable to land owner, prescribed</td>
</tr>
<tr>
<td></td>
<td>Payable to Minerals Commission, prescribed</td>
</tr>
<tr>
<td><strong>Income Tax Rate:</strong></td>
<td></td>
</tr>
<tr>
<td>Capital allowances:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>25% now, prescribed in the law;</td>
</tr>
<tr>
<td></td>
<td>Initial 80% ; then 50% on declining basis;</td>
</tr>
<tr>
<td></td>
<td>+ 5% investment allowance</td>
</tr>
<tr>
<td>Allowable losses:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5 years Carry forward</td>
</tr>
<tr>
<td><strong>Dividend Withholding Tax</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8%</td>
</tr>
<tr>
<td><strong>Import Duty</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Concessionary rates for Plant, Machinery &amp; Equipment exclusively for mining</td>
</tr>
<tr>
<td><strong>Value Added Tax</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mining stage – Refundable</td>
</tr>
<tr>
<td></td>
<td>Exploration – Capitalized on making find</td>
</tr>
</tbody>
</table>
Key Features of Draft Regulations (1/4)

• MINES (SUPPORT SERVICES)

**SPECIFIC**: Contract mining; mineral exploration; drilling & blasting; assay lab. Operations; manufacture, supply & maintenance of mining equipment and spare parts for mining operations.

**GENERAL**: ore/mine consumables haulage; construction works such as: Heap leach pads, tailings storage facility etc.
MINES (COMPENSATION & RESETTLEMENT)

Expand on provisions of Act, especially procedures from determining compensation with respect to:

- Crops
- Deprivation of use of land
- Loss/Damage of immovable properties
- Compensation tied replacement cost.
MINING (GENERAL)

TRAINING & RECRUITMENT OF GHANAIANS
- Expatriate recruitment and replacement based on pre-approved programmes

PROCUREMENT OF LOCAL GOODS AND SERVICES
- Collaboration between Government & Industry to augment this
Key Features of Draft Regulations (4/4)

• EXPLOSIVES (MINING AND CIVIL)
  • Safety in Procurement, Handling and Usage of explosives

• HEALTH & SAFETY
  • Health of workers & Safety of working conditions in both surface and underground mines

• MINERAL LICENSING
  • Implementation of a cadastre
  • Principle of first come first served
Concluding Perspectives


![Chart showing mining vs. non-mining investments from 1994 to 2008](image)

- **Total Investment (US$ Million)**: 0, 2500, 1500, 1000, 500, 0
- **Legend**:
  - Yellow: Mining Investment
  - Brown: Non-Mining
Thank you for your attention