

**2013 GEOSCIENCE INFORMATION IN AFRICA
(GIRAF) WORKSHOP
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**Governance in the Mineral Resources Sector
in Africa: The Africa Mining Vision and
Ghana's Framework**

PRESENTED BY

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OUTLINE

- **Introduction:**
 - Stakeholder Issues & Some Industry Characteristics
 - Definition & Characteristics of Governance
 - Conditions for Mining to Catalyse SD
- **Some Governance Challenges Facing Africa's Mining Countries**
- **The Africa Mining Vision:**
 - Key Governance Prescriptions to Address the Challenges
- **Building on the Africa Mining Vision: Recommendations of the Africa Progress Panel (APP) Report**
- **Ghana's Governance Framework for Minerals Investment Catalyzing Sustainable Development**
- **International Cooperation**
- **Conclusions and Way Forward**

INTRODUCTION (1)

- The extractive industry has multiplicity of issues and diverse stakeholders. Major stakeholders include:
 - **Host Country**
 - Expectation: **Extractive Industry to catalyse broad based development**
 - **Investors**
 - Expectation: **Commensurate Returns on Investment**
 - **CONFLICT IN EXPECTATION**
- However, when managed responsibly and effectively, and in a context of good governance, the minerals and mining sector can **contribute significantly to improvement** in our economy and more particularly eradication of poverty.

INTRODUCTION [2]

Characteristics of the Extractive Industry

Need to take cognizance of the ff. unique X'tics of the industry:

- **High risk**
- **Price taker**
- **Capital intensive**
- **Finite life (Depletable Resource)**
- **Environmental & Social Impacts**

INTRODUCTION (3): **Definition of Governance**

GOVERNANCE:

“the exercise of political authority and the use of institutional resources to manage society's problems and affairs - **(World Bank)** - <http://www.answers.com/topic/governance>

SOME CHARACTERISTICS OF GOOD GOVERNANCE:

- **Existence of Framework (Institutions, Laws, Etc) to ensure design & adoption of appropriate policies & their effective implementation**
- Transparency and Accountability
- Respect for Human Rights
- Stakeholder Involvement in Decision Making Processes
- Access to Information etc.

INTRODUCTION (4): **Conditions for Mining to Catalyse SD**

For mining to catalyse SD by generating other Economic activities along

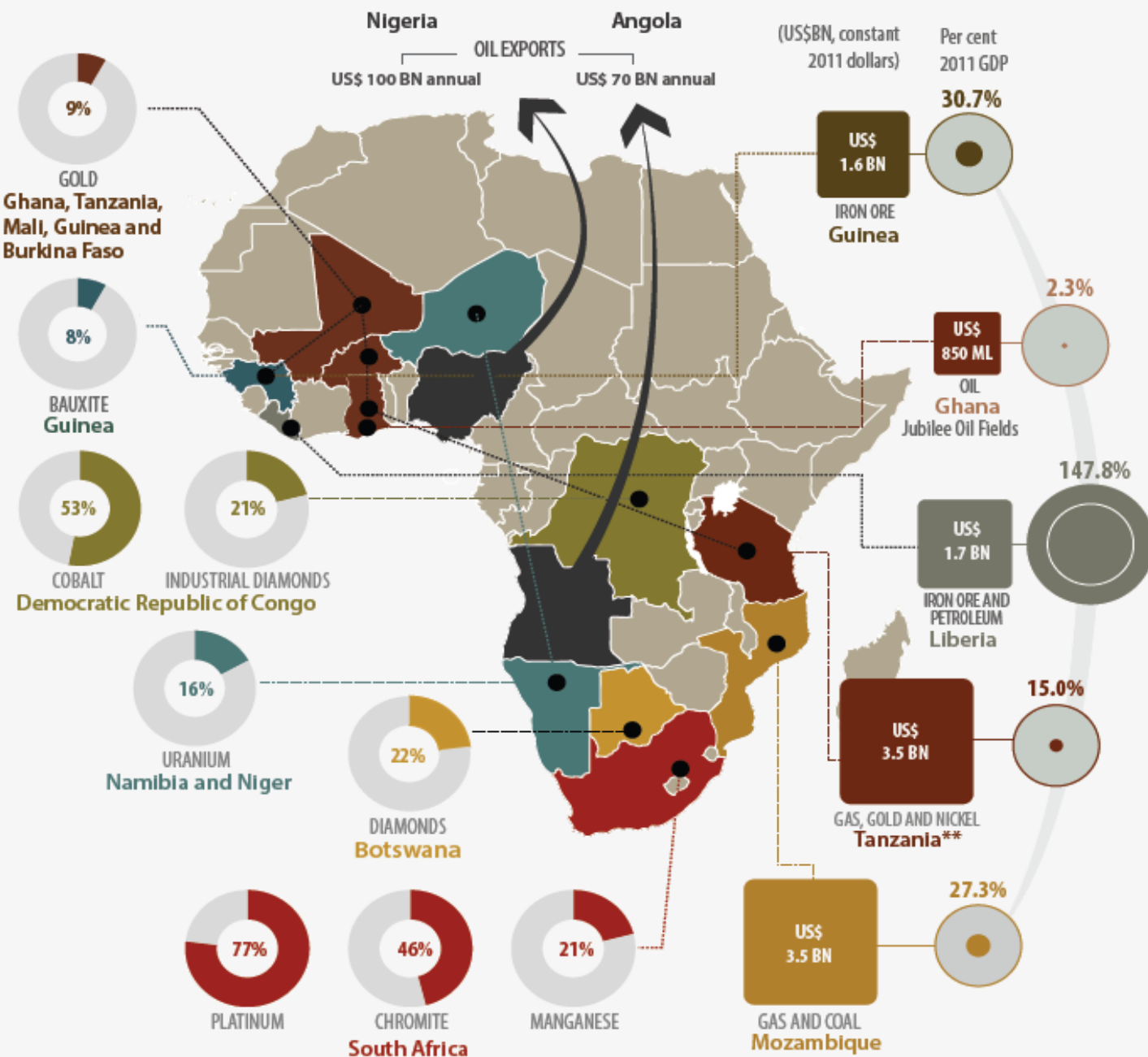
with & which will replace it:

- Investment injection → **{ATTRACTION & RETENTION}**
- Government Revenue Generation
- Employment & Personal Income Generation
 - **Human Resource Capacity Building**
- Foreign Exchange Earning Generation
- Infrastructure Development
- Technology transfer; &
- Indirect Impact: Linkages and Multiplier Effects

PERCENTAGE OF WORLD'S PRODUCTION

ESTIMATED ANNUAL EXPORT REVENUES

AVERAGE ANNUAL REVENUE POTENTIAL FROM NEW PROJECTS*



AFRICA'S MINERAL RESERVES: SOME SELECTED COUNTRIES

The continent hosts 30 per cent of the world's mineral reserves, and an even higher proportion of deposits of :

- Gold,
- Platinum,
- Bauxite,
- Diamonds and
- Manganese

SOURCE:
AFRICA PROGRESS PANEL REPORT, 2013

SOME GOVERNANCE CHALLENGES FACING AFRICA'S MINING COUNTRIES

- **Inadequate knowledge (data on mineral reserves)**
- **Balancing the provision of an attractive investment environment with securing adequate benefits for the host nation**
- **Inadequate capacity to negotiate appropriate Mining Development Agreements**
- **Inadequate capacity to monitor fiscal payments to Government: Resulting in Illicit Flows from the Continent**
- **Inadequate incorporation of Linkage Development and Diversification into mineral resource development planning and implementation**
- **Difficulty of Planning and forecasting due to Volatility of Commodity Prices**
- **Management of Artisanal and Small Scale Mining**
- **Ineffective management of the social and environmental impacts of natural resource exploitation.**

GOVERNANCE CHALLENGES

(1) GEOLOGICAL DATA/INFORMATION KNOWLEDGE GAP:

- The discovery of mineral resources is often an expensive, technically difficult, and risky process.
- Thus, without framework to provide ready access to good publicly available initial geological information generated by govt &/or private sector, two problems are likely to occur:
 - ➔ **Investment would not be attracted;**
 - ➔ **If investment occurs,** it would be at high risks that heavily discount the benefits prospectors would be willing to pass on to the host nation

GOVERNANCE CHALLENGES

(2) Balancing the provision of an attractive investment environment with securing adequate benefits for the host nation:

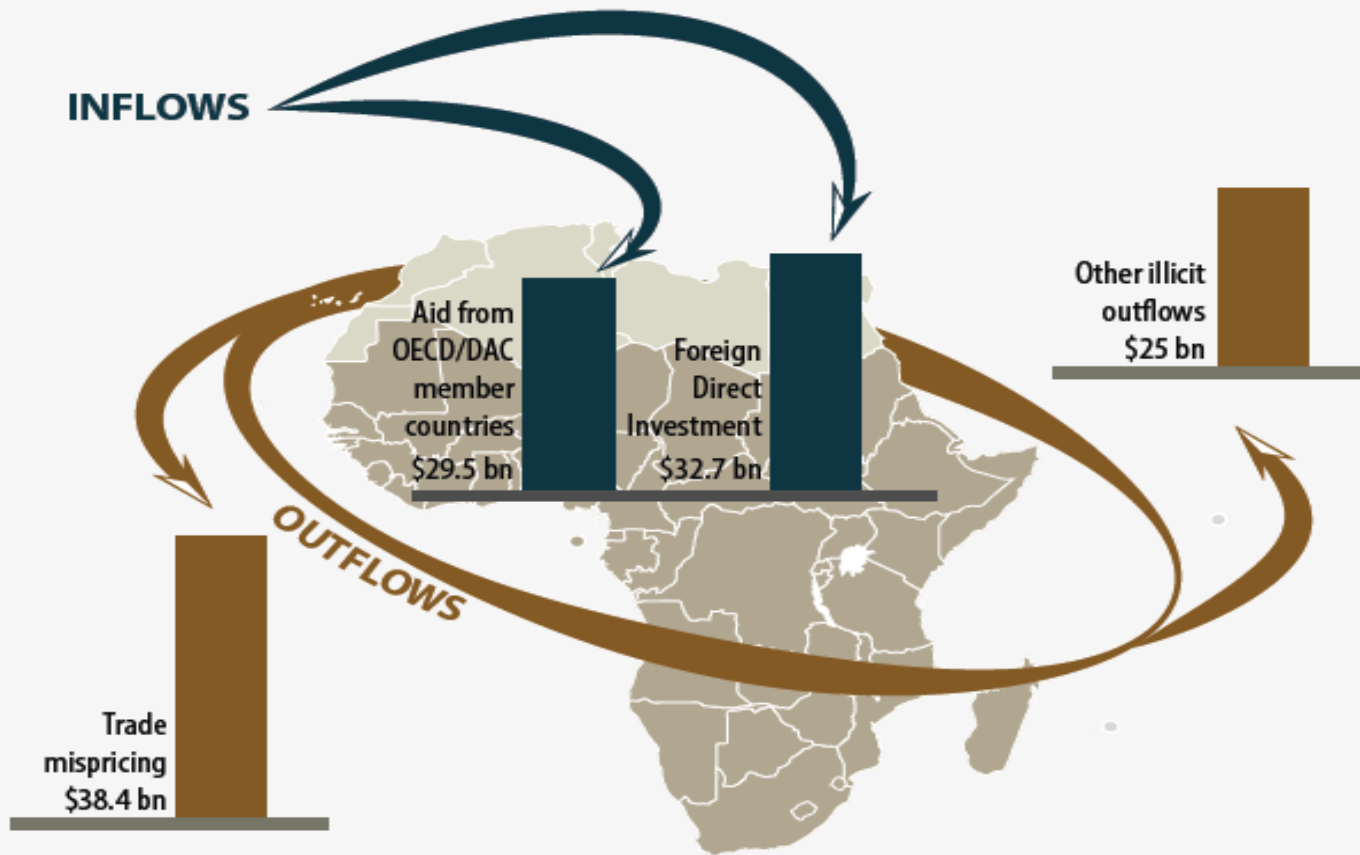
- If balance is not created, expectations will not be realised

(3) Inadequate capacity to negotiate appropriate Mining Development Agreements

- Leading to non-maximization of full benefits of the exploitation of the mineral resource

INADEQUATE CAPACITY TO MONITOR REVENUES: RESULTING IN ILLICIT OUTFLOWS FROM AFRICA

Africa loses more through illicit outflows than it gets in aid and foreign direct investment



Trade mispricing: Losses associated with misrepresentation of export and import values

Other illicit flows: Funds that are illegally earned, transferred or utilized and include all unrecorded private financial outflows

(All figures are average annual 2008-2010 for Sub-Saharan Africa)

Source: OECD & WORLD BANK

GOVERNANCE CHALLENGE:

(4) MOBILISING RESOURCE RENTS: AFRICA'S ILLICIT FLOWS

- The root cause is weak governance, particularly the lack of or ineffective appropriate institutions.
- This often impacts on the state's share of the resource rents to the extent that African states with weak governance generally fail to effectively implement resources tax regimes that will ensure an equitable sharing of the benefits generated

GOVERNANCE CHALLENGE:

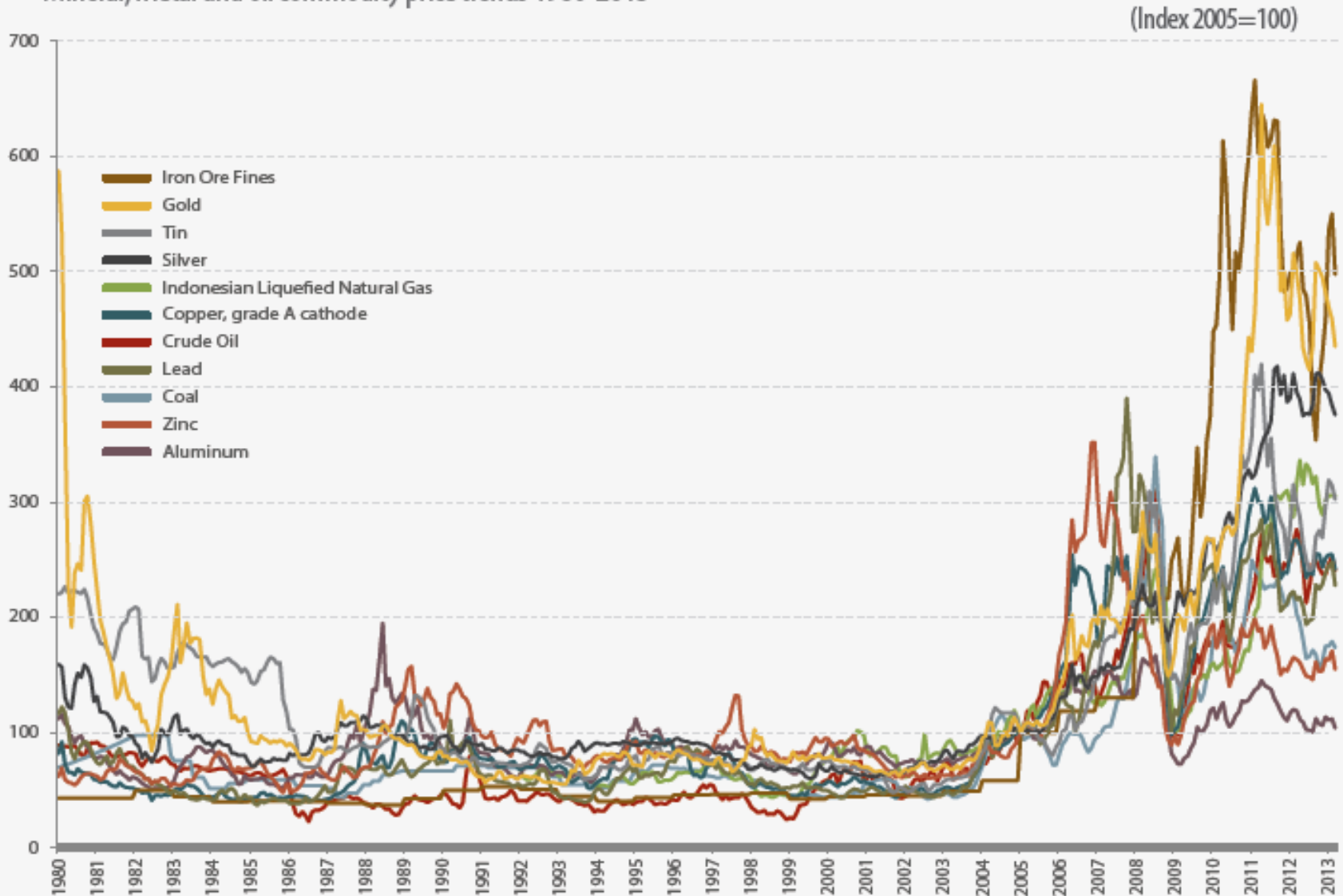
(5) Inadequate Linkage Development and Diversification

The main challenges here include:

- Inadequate policies to ensure appropriate local content in the resource contracts and investing in the appropriate HR and Technology development
- Lack of a domestic business sector with the requisite capacity and access to capital to take up these opportunities;

GOVERNANCE CHALLENGE: (6) DIFFICULTY IN PLANNING DUE TO VOLATILITY IN COMMODITY PRICES

Mineral, metal and oil commodity price trends 1980-2013



GOVERNANCE CHALLENGE: (7) MGT OF ASM

The ASM sector is beset with a number of challenges which prevent it from reaching its full developmental potential. These include:

- inadequate policy and regulatory frameworks;
- limited technical capacity of miners;
- Inadequately explored mineral bearing areas;
- lack of access to finance and appropriate technologies; and regrettably, child labour issues.

These challenges generally lock small-scale miners in a cycle of subsistence operations with significant negative consequences on the environment and human life.

GOVERNANCE CHALLENGE:

(8) MANAGEMENT OF SOCIAL AND ENVIRONMENTAL IMPACTS

- The poor management of the negative environmental and social impacts of mining have led to hostile attitudes towards the mining industry and governments from communities affected by mining and a range of CSOs.
- Additional efforts would need to be targeted at mitigation of these impacts, where they are unavoidable.

Can we improve management of our mineral resources for the benefit of society ?





“ Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development”.

Africa Mining Vision

February 2009



The Africa Mining Vision:

THE SHARED VISION INCLUDES:

- A knowledge-driven African mining sector that catalyses & contributes to the broad-based growth & development of, and is fully integrated into, a single African market through: **Development of Linkages and a knowledge of its mineral endowment.**
- A sustainable and well-governed mining sector that effectively garners and deploys **resource rents and that is safe, healthy, gender & ethnically inclusive, environmentally friendly, socially responsible** and appreciated by surrounding communities;
- A mining sector that harnesses the **potential of artisanal and small-scale mining to stimulate local/national entrepreneurship, improve livelihoods and advance integrated rural social and economic development ETC.**

The Africa Mining Vision:

- The Pillars of the AMV have been developed into 9 clusters aimed at addressing the Governance Challenges in the minerals sector. These are:
- **Mining revenues and mineral rents management**
 - **Goal:** To create a mining sector that generates adequate income and rents to eradicate poverty and finance African growth and development
- **Geological and mining information systems**
 - **Goal:** To develop a comprehensive knowledge of Africa's mineral endowment
- **Building human and institutional capacities**
 - **Goal:** To create a mining sector that is knowledge driven and is the engine of an internationally competitive African industrial economy

The Africa Mining Vision:

- The Pillars of the AMV have been developed into 9 clusters: **Contd.**
- **Artisanal and small scale mining**
 - **Goal:** To create a mining sector that harnesses the potential of artisanal and small scale mining to advance integrated and sustainable rural socioeconomic development
- **Mineral Resource Governance**
 - **Goal:** To create a sustainable and well governed mining sector that is inclusive and appreciated by all stakeholders including surrounding communities
- **Research and Development**
 - **Goal:** To create a knowledge driven mining sector that is a key component of a diversified, vibrant and globally competitive industrializing African economy

The Africa Mining Vision:

The Pillars of the AMV have been developed into 9 clusters: **Contd.**

- **Environment and Social Issues**

- **Goal:** To create a mining sector that is environmentally friendly, socially responsible and appreciated by all stakeholders and surrounding communities

- **Linkages and Diversification**

- **Goal:** To create a mining sector that catalyses and contributes to broad-based growth and development through upstream, downstream, sidestream and infrastructure linkages

- **Mobilizing Mining and Infrastructure Investment**

- **Goal:** To increase the level of investment flows into mining and infrastructure projects to support broad socio-economic development

Building on the Africa Mining Vision



Equity in Extractives

Stewarding Africa's natural resources for all



Africa
Progress
Report 2013

“Building on the Africa Mining Vision, African governments should adopt legislation that requires companies bidding for concessions and licenses to fully disclose their beneficial ownership....”

... Kofi Annan (2013)²³

Building on the Africa Mining Vision:

Recommendations of the Africa Progress Panel (APP) Report for
Immediate Action

Transparency and Accountability

- **Realize the Africa Mining Vision:** Equip the **African Minerals Development Centre (AMDC)** with the technical, human and financial resources it needs to help governments develop national strategies.

Building on the Africa Mining Vision:

Recommendations of the Africa Progress Panel (APP) Report for Immediate Action

DISTRIBUTION OF BENEFITS

- Build a multilateral regime for tax transparency: The G8 should establish the architecture for a multilateral regime that tackles unethical tax avoidance and closes down tax evasion.
- Companies registered in G8 countries should be required to publish a full list of their subsidiaries and information on global revenues, profits and taxes paid across different jurisdictions.

Building on the Africa Mining Vision:

Recommendations of the Africa Progress Panel (APP) Report for Immediate Action

ECONOMIC TRANSFORMATION

- Boost linkages, value addition and diversification:
 - Add value by processing natural resources before export.
 - Forge links between extractive industries and domestic suppliers and markets to contribute towards value addition.
 - Structure incentives to favour foreign investors who build links with domestic suppliers,
 - undertake local processing and support skills development.

SOCIAL AND ENVIRONMENTAL SUSTAINABILITY

- Support ASMs, which is labour-intensive and provides significant jobs.

**GHANA'S GOVERNANCE
FRAMEWORK FOR MINERALS
INVESTMENT CATALYSING
SUSTAINABLE DEVELOPMENT:**

1992 Constitution and Act 703

- All minerals Vested in the President in trust for the people of Ghana

THE POLICY FRAMEWORK

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- **ERP (1983)** - Mining sector policy objective: Revive Failed Mining Sector
 - Instituted economic and legal measures to attract investments into exploration for setting up new mining ventures, encourage expansion in existing mines and to privatise the state-owned mines.
- Subsequently, a mining policy with a guiding principle of “Sustainable Development through Mining”. High level declaration to give direction to mining related activities in Ghana.
- Ghana’s mining sector regulatory framework evolving over last three decades to ensure requisite legislation and guidelines in place.

INSTITUTIONAL FRAMEWORK

- Creation & strengthening of appropriate institutions to carry out their mandates, while attracting investment.
- MINES DEPT [1902]
- MINERALS COMMISSION [1984]
- ENVIRONMENTAL PROTECTION COUNCIL [1974]
- ENVIRONMENTAL PROTECTION AGENCY [1994]
 - [1994] – (now has powers to sue and be sued). Under the EPC, their functions were mainly advisory .
- WATER RESOURCES COMMISSION [1996]
- FORESTRY COMMISSION [1999]



2006



LEGAL & REGULATORY FRAMEWORK

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- Constitution of the Republic of Ghana
- PNDCL 153 – [1st wholistic legal framework]
- Act 703
- Other Legislation

Regime, fair, stable, transparent, based on good governance & attractive to investors (Sections 16, 25, 27,48, 49 etc):

The key requirements from and benefits for investors are documented.

Time frames (e.g. for processing applications) & transparency (e.g. explanation for rejecting application) stipulated

LEGAL & REGULATORY FRAMEWORK

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- **Fiscal regime incorporating both;**
 - a revenue tax (royalty on gross value of mineral won); and
 - a profit tax (income tax on profit), while making adequate allowance for the investor to recoup his investment.

LEGAL & REGULATORY FRAMEWORK

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- **Regime demanding Environmental Protection & Remediation (Section 18 of Act 703) & LI 1652:**
 - Environmental legislation requiring protection of sensitive areas while demanding reclamation and rehabilitation of other impacted areas.
 - Bonding provisions for cases where operators are unable to undertake remediation upon closure.
 - Water Resource Management (Act 522 & LI 1692)
 - Forest Resource Management (Act 571)

LEGAL & REGULATORY FRAMEWORK

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- **Regime recognizing community & indigenous interests (sections 81 to 99):**

- Recognition of Local communities' right to sustenance, through the use of their surface rights for various socio-economic activities.

or else

- adequate replacement or compensation, if absolutely necessary to “deprive” at the instance of mining activities.
- Part of MDF returned to mining communities to assist in the communities' development agenda.
- **ASM:** Adequate provision is made for indigenous participation in ASM activity within the legal framework.

LEGAL & REGULATORY FRAMEWORK

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- **Regime demanding integration with local economy (sections 50 & 105):**
 - It is legally required that, to the maximum extent possible, consistent with safety, efficiency and economy:
 - local human as well as other resources should be employed in the exploitation of the mineral resources.

INTERNATIONAL COOPERATION

- To facilitate the benefits from mining, Government, together with other stakeholders, subscribed to a number of initiatives, like the GHEITI & KPCS
- Ghana has been an active participant in other Regional and Global initiatives:
 - **African Mining Vision** through the AMP and the AU
 - **ECOWAS Directive** on the harmonisation of guiding principles and policies in the mining sector of West Africa.
 - **Inter-governmental Forum on Mining Metals and Sustainable Development**
- We also acknowledge the support of the Australian Government to the **AMDC** as well as Local Support to build capacity of Government mining institutions, Academia, CSOs etc.

CONCLUSION

FOR AFRICA TO UNLOCK HER MINING POTENTIAL AND ENSURE ITS CONTRIBUTION TO SUSTAINABLE DEVELOPMENT, THE FOLLOWING CONCLUSIONS ARE MADE:

- **Need to Strengthen Transparency and Accountability:** The twin pillars of good governance. Taken together, they are the foundation for trust in government and effective management of natural resources;
- **Need to implement strategies under the AMV to link extractive sectors to other sectors of national economies;**
- Also need to manage **the social and environmental impacts of mining** through effective and efficient institutions for the benefit of the current generation and posterity

THANK YOU