

Modern Mining Law and Policy: Global Trends

Panel Moderator's Overview

Kojo Busia, Ph.D.

Head, Natural Resources Management Section
Climate Change, Environment and Natural Resources Division
United Nations Economic Commission for Africa (UNECA)
Addis Ababa, Ethiopia

Outline of Presentation

- I. Introduction: Evolution of Modern Mining Law and Policy
- II. Trends in Mining Sector Policy across the Globe
- III. Transformation in the Mining Industry and Implications for Mining Policy and Law
- IV. Opportunities and Challenges

I. Introduction: Evolution of Modern Mining Law and Policy

Modern Mining Law and Policy evolve in responses to:

- a. Geological Resource
- b. Politics, Economics, Social and Environmental pressures
- c. Advancements in Technology (efficiency, productivity, and competitiveness)
- d. Industry standards and Self-regulation
- e. International standards and norm setting such as sustainable development goals (SDGs)

II. Trends in Modern Mining Law and Policy Across the Globe

a. Mineral-producing developed countries jurisdictions (Australia, Canada, US)

1. Public lands transferred to private holdings for mining
2. Mining policy and law mostly under state, territorial and provincial Acts
3. Increased federal legislative control over environmentally sensitive lands for mining
4. Environmental policies leading to sound technologies that significantly lower costs to industry
5. Environmental awareness, indigenous community rights, and shared benefits all impact on mining law and regulations

b. Mineral-producing developing countries jurisdictions (Africa, Latin America, Asia)

1. Mining companies operated under colonial charters on a semi-exclusive concessional basis
2. Mining was largely an enclaved operation with little or no benefit to local community, economy and society
3. Post-independence governments enacted legislation precluding foreign investment in mining; state taking controlling interest in mining
4. Privatization of state mining assets due to fiscal crisis of the state; promotion of FDI through IFIs; rewriting of mining laws and policies in Africa; AMV in 2009.

c. Mineral producing transition countries jurisdictions (post-communist countries e.g. Mongolia, Kazakhstan, Russia)

1. A gradual movement from state-controlled mineral sector towards a more market oriented policies
1. Variation in legal and regulatory systems between Eastern European countries; and Russia and the Asian Republics
1. Perceived high risks by mining investors due to overall regulatory system not matured or modern enough
1. Significant political, economic, technological and social challenges remain to creating modern mining policies and laws regulatory system

III. Transformation in Mining Industry and Implications for Mining Policy and Law

Transformation in Mining Industry and Implications for Mining Policy and Law

- a. Innovation and technology in the mining industry:**
advances in technology and innovation have the potential to deliver a quantum leap in the value across the value chain, improving safety, productivity and sustainability in production processes.

- b. Fundamental transformation in demand for labor, skills and procurement opportunities for local suppliers** (large service contracts with OEMs due to high tech machines, automation of industry).

Transformation in Mining Industry and Implications for Mining Policy and Law (contd.)

c. **Fourth industrial revolution and low-carbon economy**

The mining sector will play a key role in the transition toward a low-carbon future. The technologies required to facilitate require significant mineral and metal inputs.

d. **Increased FDI due to greenfield projects to meet demand for low-carbon economy**

but technology intensive mining means less socio-economic benefits in the short to medium term.

e. Implications for “**resource nationalism**” as governments loose shared-benefits of mining; resorting to fiscal balance to reduce social pressures.

IV. Challenges and Opportunities

Challenges and Opportunities

- a. **Mining industry will have to redefine its partnership with governments** and change their corporate cultures, to remain appealing and maintain their social license to operate.

- b. **Create a new social contract with communities:** To prevent potential backlash, it is important for mining companies to work with key stakeholders to develop a shared vision for the future of work. With regards to employment, it is essential to work together with national education institutions to prepare the labor force for future challenges and opportunities.

Challenges and Opportunities (contd.)

- c. **There must be more efforts to integrate mining into the broader economy:** procurement opportunities from the mining sector can also serve other economic sectors, in particular in the manufacturing sector; or services sector.

- d. The above trends will **fundamentally shift the power relations between the resource owners and licence owners.** Changes this time is driven by industries, not by governments so industry must act proactively and aligned its interest with government and look beyond compliance.

Thank You!