



OLANIWUN
AJAYI

Mining.

The New Nigerian Frontier.

FIRST THERE WAS OIL...



For many decades, crude oil has been the primary source of Nigeria's wealth and indeed the mainstay of the Nigerian economy. The inherent dependency risk in this trend has been heightened by the steady fall in demand and oil prices since June 2014. The reduced inflow of petrodollars into the economy coupled with the lack of diversification in Nigeria's economy, led to a significant economic decline, and the country's first economic recession for over two decades, in 2016. This downturn in fortunes provided the opportunity for Nigeria to begin to galvanise its oft-touted plans of economic diversification.

In the wake of the recession, the President Buhari-led administration – recognizing the need to revitalize the Nigerian economy, developed the Economic Recovery Growth Plan (ERGP) for the purpose of restoring economic growth. Prospectively, the ERGP aims to sustain growth from the low of -1.54% projected in 2016, to 4.6% in 2017 and to stabilise at 7.0% in 2020. In order to achieve this, the ERGP seeks to focus on six priority sectors, prime amongst which is the solid minerals sector.

FGN has identified solid minerals sector As A **Priority Sector** that will drive economic

GROWTH

**FROM -1.54%
IN 2016 TO 7%
BY 2020.**



Despite historically low GDP contribution of $\geq 1\%$, the Mining sector's contribution to the Nigeria's GDP is recently reported at **15.4%**, and the sector has been growing consistently at **2.24%**



The potential of the Mining sector to significantly contribute to Nigeria's economy cannot be over-emphasized. An attestation to this fact is the steady increase in the contribution of the sector to the nation's GDP (which historically remained below 1%), which has recently been reported by the National Bureau of Statistics to stand at 15.39% as at Q2 2017. Also, international investor interest in the sector continues to grow by the day, and the Federal Government of Nigeria (FGN) has come to recognize the sector as a prime income generator away from oil. Given the large mineral deposits in the country, the recent discovery of Nickel deposits in large volumes and the expected increase in exploration, Nigeria has the potential to be a market leader in the mining sector. Independently recognizing Nigeria's mining prospects, the Mining Journal - a globally recognized and reputable trade magazine that monitors and reports on mining activities, recently reported: *"...Nigeria has made remarkable progress and now constitutes a better investment risk profile than Russia, China or India as a mining destination..."*

LEGAL FRAMEWORK



The principal legislation regulating the Nigerian mining sector is the Nigerian Minerals and Mining Act 2007 (the **MMA** or **Mining Act**) which could be described as one of the best in the world, and is remarkable for being largely tailored to the peculiarities of the Nigerian system. Notably, the MMA is a culmination of nearly a decade of landmark reforms borne out of the shortcomings of the Minerals and Mining Act, No. 34 of 1999. The Mining Act thus sought to resolve previous challenges in relation to licensing, the ownership and control of minerals being vested in the Federal Government, and implementation, by the establishment of: (x) the Mining Cadaster office, to centralise mineral title administration and overcome the hitherto arduous licensing regime; (y) the framework for enhanced geoscience data collection across Nigeria; and the establishment of control departments for Mines Environmental Compliance, as well as the recognition and establishment of a regime for Artisanal and Small Scale Mining.

In addition to the Mining Act, other legislative and policy instruments for the mining sector provide a robust regulatory framework, including: (i) the Nigerian Extractive Industries Transparency Initiative Act 2007; (ii) the National Minerals and Metals Policy 2008; (iii) the Minerals and Mining Regulations 2011; and (iv) The Guidelines on Mineral Titles Application 2014 – each of which define various rules, processes, guidelines, and strategies in respect of matters provided under the Mining Act or pertaining thereto.

As part of its continued efforts to develop the mining sector, and reflective of its commitment to diversify the economy through Mining, the FGN commissioned the issuance of a Mining roadmap titled, ‘*Roadmap for the Growth and Development of the Nigerian Mining Industry- on the Road to Shared Mining Prosperity*’ (the **Roadmap**). The Roadmap is a comprehensive policy agenda for Nigeria’s mining and mineral sector, and articulates the FGN’s strategy to develop the mining sector – as a key frontier of the Nigerian economy. The current Minister of Mines and Steel Development, Dr. Kayode Fayemi has constantly echoed the commitment of the present administration to revitalize the mining industry by adhering to the tenets and guidelines in the Roadmap: a commitment that bodes well for investors.



By **2025**, Mining and its related sectors will make a direct and indirect contribution of **about US\$27 billion** to Nigeria’s GDP.



Some of the key objectives of the Roadmap are: to build a stronger and more aligned regulatory framework for the industry by resolving regulatory conflicts in the existing legal and regulatory framework of the industry; improving policy consistency and direction; improving the environmental sustainability of the industry; and improving enforcement of existing regulations. These objectives are geared toward the ultimate goal that by 2025, Mining and its related sectors will make a direct and indirect contribution of about US\$27 billion to Nigeria’s GDP. To ensure the success of the Roadmap, the FGN established the Mining Implementation and Strategy Team responsible for implementing the roadmap, in order for the Roadmap to survive the exigencies of government/administrative changes.

POLICY DIRECTION



In recognition of the need to continuously sensitize the general public of the developments in the Mining sector and more importantly, to ensure seamless connection between the FGN and Mining Stakeholders,;

- The FGN recently convened the inaugural meeting of the National Council on Mining and Mineral Resources Development between 12 September and 14 September 2017. The meeting was hosted by the Ministry of Mines and Steel Development, and brought together State commissioners of mining and mineral development, members of the Senate and House of Representatives Committees on solid minerals, as well as a myriad of other stakeholders in the sector. The Council is charged with the responsibility of convening stakeholders in the industry to periodically meet to brainstorm and provide inputs into the governance of the sector in order to achieve desired results in the diversification effort of the current administration; and
- The Miners Association of Nigeria sponsored the convening of the 2nd Annual Mining Week, held between 16 and 19 October 2017 in Abuja (the **Mining Week**), and which was well attended by about 630 delegates from 17 countries including relevant FGN agencies and officials. The Mining Week which will continue to feature as an annual event has so far remained steadfast to its commitment to serve as a platform for stakeholders across the mining value chain to exchange ideas and discuss issues affecting the sector, promote and facilitate investment, as well as distil solutions and ideas which are instrumental to policy formulation and change.

NOTABLE DEVELOPMENTS

Some of the key developments in the Mining sector, as articulated during the Mining Week, include:

- The unprecedented and consistent growth in the mining sector at 2.24% for the last two years, with the FGN recording a 300% increase in revenue (royalties and fees) between 2015 and 2016. Furthermore, as at July 2017, the sector had (as stated by the Hon. Minister for Mines and Steel Development) already surpassed the entire revenue of NGN2Billion generated for the whole of 2016;
- Nigeria's recognition as a key mining destination, by the Mining Journal (the prime trade magazine monitoring and reporting on global mining activities);
- Increased access to financing for small to medium scale mining operations, through the: (x) establishment of the Natural Resource Fund; (y) inauguration of a Board for the statutorily prescribed Nigerian Solid Minerals Development Fund in January 2017; (z) recent FGN approval of the NGN30billion Mining Intervention Fund; (xx) the US\$150m World Bank support facility for the Mineral Sector Support for Economic Diversification (**MinDiver**) Project; and (yy) prospects of a proposed US\$600million fund to be established with the collaboration of the Nigerian Sovereign Investment Authority and Nigeria Stock Exchange through the issuance of a Mining Bond;
- Improved institutional capacity, mining security; and safety standards. With these improvements stemming from the establishing of a Mining Police Division, a new partnership with the Nigerian Police Force, and State Security Service personnel that has resulted in the recent high profile arrest of foreigners engaged in illegal mining;
- Streamlined and optimized licensing processes that have ensured licenses are issued by the Mining Cadastre Office to applicants within the statutory window of 30 - 45days upon satisfactory compliance with documentary and procedural requirements;
- Structured expansion of IT infrastructure aimed at achieving full automation of geological data;
- Improved beneficial engagement of stakeholders at subnational levels/ host communities;
- Approvals secured at the Federal Executive Council for States to derive 13% of all revenue/royalties generated by mining operations within their States
- Inauguration in September 2017 of the National Council of Mining and Mineral Resources Development, constituted by representatives of all stakeholders across the mining value chain, with the objective of enhancing collaborative governance of the sector;
- The setting up of more zonal offices of the Mining Cadastre Office to improve grassroots penetration;
- The recent resolution of the imbroglio over the operations of the Ajaokuta Steel Company and the National Iron Ore Mining Company , bringing an end to eight (8)years of dormancy in both entities. Ownership of these entities has now reverted to the FGN, and a new Managing Director/Sole Administrator has been appointed for Ajaokuta with a turnaround mandate, and there are plans to recapitalise in the offing through investment by a strategic/core investor. It is expected that production from these plants would significantly boost local and export supply of steel which is required for infrastructure and economic development;



- **Improved Geological Data** - the FGN has invested heavily in the purchase of geological equipment required for the mapping of minerals, and it is expected that in the next six (6) to eight (8) months, mineral testing would be possible locally in fully ISO-certified laboratories established for this purpose – this would plug a significant gap for participants in the sector who have had to depend on the technical expertise of foreign technicians at increased costs;



- **Broadening Partnerships** – the FGN has entered into, and has made consistent efforts toward implementing signed Memoranda of Understanding with private sector participants that would in the main, broaden geoscience data generation, storage and dissemination – which is crucial in attracting mining investment into the country;



- **Improved Mines Security** – the FGN, has facilitated the effective operations of the Mines Surveillance Task Team, which is aimed at: (x) minimizing illegal mining operations, and (y) minimizing the negative impacts associated with such operations. This is exclusive of the FGN's drive to formalize, through the Artisanal and Small Scale Mining Department of the Ministry, the activities of artisanal operators.

MAJOR CHALLENGES

Despite the significant developments articulated above, the Nigerian mining sector is still faced with a number of identified challenges including:



Land Title & Ownership vs Mining Rights – there is a perception among industry stakeholders of a misalignment between the land tenure system under the Land Use Act, (which vests title to all land within a State in the State Governor on trust for the people) and the grant of mining licenses under the Mining Act (which vests title to all mineral resources and the authority to grant licenses with respect thereto, in the FGN). It is arguable whether there indeed exists a legal, as opposed to a practical concern, Either way, it would appear that there is need for better cohesion between State governments and the FGN to ensure that holders of mining licenses are able to exploit their mining rights, in order to avoid the current situation where States have been known to block investor access to land or deny licensees the ability to exploit and operate mining licenses. Notably, the regime for the establishment in every State of the Federation of a Minerals Resources and Environmental Management Committee (**MIREMCO**) under Section 19 of the Mining Act, provides a veritable platform for continuous and coordinated exchange of ideas and information amongst Federal, State and Local governments; which if properly implemented and rejuvenated would go a long way to addressing a lot of the concerns raised by the States of non-inclusion in the grant of mining rights;



Illegal Artisanal Mining – regardless of government efforts in this regard, illegal mining activities by artisanal and small scale miners continue to be on the rise, with devastating impact on: (i) economic returns for the FGN and licensed operators due to capital flight ; and (ii) the environment;



Access to Finance for Exploration/Junior Mining Activities – this continues to be a problem regardless of the recent efforts in improving access to finance for small scale miners. Inadequate access to credit has been attributed to the highly risky nature of exploration operations, which makes it very challenging for junior mining companies to meet minimum bankability standards. It would appear that these ventures would either have to be funded by equity investments, or through development funding from the FGN or DFIs. Given the difficulties with bankability for exploration activities, it is advisable that the FGN urgently takes steps to ensure that the Solid Minerals Fund established by the Mining Act is utilised for the myriad developmental purposes in order for the Fund to serve as a much-needed pre-feasibility financing option;



Collation of Reliable Geological Data & Expert Accreditation – an ancillary issue to the lack of readily available financing for exploration activities is the absence of current and reliable geological data. This is compounded by the lack of local geological standards and an accrediting body which exposes institutional participants to the expense of procuring accreditation from established professional bodies in South Africa, Canada and Australia;



Lack of Adequate Infrastructure – the development of an active and viable mining sector is dependent on a comprehensive network of infrastructure such as stable and affordable power supply, roads, railways, ports, hospitals, which is currently not available to support any meaningful investments in the mining sector or in the economy at large. Infrastructure development is also needed to serve as a ready market of processed minerals such as steel, iron ore, bitumen, sand, cement and granite;



Need for Enhanced Scale Categorisation– Some industry stakeholders have touted the need for an amendment of the Mining Act to more comprehensively reflect differing regulatory regimes for the various scales of mining operations, as the current framework is believed not to be adequately tailored to address for instance, the peculiarities of artisanal and small scale mining, thereby inadvertently increasing operational and compliance costs for small scale miners;



Community Development Initiatives – In view of the debilitating effect of mining activities on host communities, there is the need for miners to carry along and support host communities, and this calls for significant investment in community development initiatives.

AN UNTAPPED OPPORTUNITY

Undoubtedly, the Nigerian mining sector is still evolving and there are many areas of intervention required of the FGN, (with the co-operation of State and other private sector stakeholders), in order to address the operational and legal hurdles to boosting investor confidence, and increasing investment towards promoting Nigeria as a preferred mining destination.

However the nascent state of the Nigerian mining sector belies its vast prospects, when due cognizance is had to the fact that Nigeria is a country endowed with an abundance, variety and quality of solid mineral deposits, which if properly harnessed, could phenomenally transform the economic landscape. Regrettably, growth in the sector has been stymied by over three decades of dormancy arising from an overdependence on crude oil. Nevertheless, the recent landmark steps by the FGN are a laudable step in the right direction in addressing the current challenges. The Mining Roadmap provides a clear blueprint which if carefully adhered to and implemented would establish Nigeria as a global mining destination, go a long way to actualising the policy objectives of economic diversification and optimising the opportunities for the exploration, development, mining, processing and export of solid minerals which abound, and remain largely untapped.

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