Overview of Sierra Leone's mining sector

Sierra Leone is a resource-rich country, unfortunately known for its 'conflict' or 'blood' diamonds used by the rebellion during the 1991-2002 civil war. However, its fertile soil also contains iron ore, rutile, bauxite and gold and its mining sector was relatively advanced and mechanised before industrial large-scale mining ceased in 1995 due to the civil war.

Sierra Leone is in the heart of West Africa and has borders with the Republic of Guinea and Liberia, also resource-rich countries. It benefits from a large Atlantic coastline and natural ports and is roughly circular in shape, with no great distances to cover for project infrastructure, nowhere in the country is more than 300 kilometres from the coast.

Gold and iron ore were discovered in the late 1920s, diamonds in the early 1930s and bauxite and rutile in the 1960s. When, in 1934, Consolidated African Selection Trust was initially granted a 99-year concession for prospecting and mining diamonds, it was considered one of the largest mining companies in the world.

Sierra Leone is a member of the Economic Community of West African States (ECOWAS), the Mano River Union and the African Union. It has entered into bilateral investment treaties with the United Kingdom and Germany and, while it is not a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, it is a party to the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

The economy of Sierra Leone is primarily based on agriculture and mining. Despite a number of issues (such as the lack of infrastructure and skilled workforce) that Sierra Leone shares with many emerging economies, historically the mining sector has accounted for the majority of its export revenues, foreign exchange earnings and government's resources and the sector has been the second largest employer in the country.

Although Sierra Leone was ranked as the poorest and least developed country in the world by the World Bank at the end of the civil war, it has undergone a period of steady growth until the Ebola outbreak in 2014. According to World Bank estimates, Sierra Leone is the country that has suffered the greatest economic losses due to the Ebola crisis.

Overview of Sierra Leone's key mining laws and regulations

The Sierra Leonean mining sector has undergone a number of reforms over the past decades and last few years.

Sierra Leone was under British administration between 1787 and 1896 and was a British Protectorate until 1961, when it became independent. The first piece of mining legislation enacted in Sierra Leone was the Minerals Act 1927, which was amended as the Revised Minerals Act in 1960.

The 1960 Revised Minerals Act was replaced by the 1994 Mines and Minerals Decree, which was enacted as law in 1996 (1994 Act).

(Code) adopted in Africa in the wake of the 1992 World Bank paper 'Strategy for Mining in Africa', which promoted foreign direct investments as well as the establishment of a clear legal framework for mining activities.

As in the case of these laws, the 1994 Act was criticised for not being sufficiently detailed on environmental, social development, health, safety and community issues.

Sierra Leone has adopted a number of laws and regulations over the past twelve years to tackle these criticisms and promote transparency, local content and stronger governance, while also encouraging foreign investments:

1. In 2003, with the support of the UK Department for International Development and the World Bank, the Sierra Leonean government issued a 'Core Minerals Policy' with 10 'strategic objectives', including 'attract[ing] private investments' and 'ensur[ing] that Sierra Leone's wealth supports national economic and social development' and Sierra Leone has been a founder member of the Kimberley Process, a multi-party initiative that has developed a system of rough-diamond certification aimed at assuring buyers that they are purchasing legitimate diamonds.

2. In 2004, the Sierra Leonean legislature passed the Investment Promotion Act, which aims at giving foreign investors a number of guarantees in terms of expropriations, transfer of funds and dispute resolution and, in 2006, it joined the Extractive Industries Transparency Initiative.

3. In 2008, the Sierra Leonean legislature adopted the Environment Protection Agency Act 2008 (EPA Act), which provides that mining projects can only be undertaken following the preparation and approval of an environmental impact assessment and the issuance of an environmental impact assessment licence.

4. In 2009, a new Mineral and Mines Act (2009 Act) replaced the 1994 Act. It has brought about the following major changes:

   - it clearly sets out that applications for mineral rights will be considered on a 'first come first served' basis and enables the government to award mineral rights on a public tender basis;
   - it states that: (i) exploration licences and large scale mining licences can only be granted to companies registered in Sierra Leone; (ii) an exploration licence can only be granted for an initial period of a maximum of four years over a maximum area of 250 square kilometres, and (iii) a large scale mining licence is granted for an initial period that cannot exceed 25 years and the state can acquire an interest in large-scale mining operations on the basis of terms to be agreed with the licence holder in a mining agreement,
   - it provides for the establishment of a register of mineral rights recording all "grants, renewals, area enlargements and relinquishments, transfers, surrenders, revocations, forfeitures, attachments, pledges, encumbrances, fees paid, discoveries, reports submitted, changes of address, changes of name or any other matter materially affecting the status of or any interest" in any licence,
   - it provides for a new detailed royalties regime, the requirement to hold a dredging permit for any dredging activities, detailed reporting requirements, detailed application processes, specific deadlines to commence exploration and development works and an express right for the Minister of Mines and Mineral Resources to suspend or cancel a licence if the holder fails to meet any prescribed minimum annual programme of work or work expenditure, with the aim to favour a 'use it or lose it' approach,
   - finally, it provides for new specific obligations on title holders, including obligations on:
      - holders of large-scale mining licences to:
         - enter into a community development agreement with the primary host local community if certain production thresholds are met, in which case the licence holder is required to expend no less than one per cent of one per cent of the gross revenue amount earned in the previous year for the implementation of such agreement,
         - deliver to tax authorities certified copies of all "sales, management, commercial and other financial agreements in excess of fifty thousand United States Dollars or equivalent concluded with any other person, including affiliates"; and
         - provide financial assurance (in the form of surety bonds, trust fund with pay-in period, insurance policy, cash deposit or annuities) for environmental liabilities and file regular environmental management plans, and
all holders of mining licences to give preference to materials and products made in Sierra Leone and services provided by companies located in Sierra Leone and employ in priority Sierra Leonean workers possessing the necessary qualifications and experience.

The 2009 Act has been described by Alhaji Alpha Kanu, then Minister of Mines and Mineral Resources as "more comprehensive with respect to the issues it addresses, more balanced between the interests of the sector and those of communities and more rigorous in terms of governance and oversight".

However, it has been criticised by (i) certain investors for the lack of clarity of certain provisions (e.g. the state’s potential participation in large-scale operations) and the difficulty in implementing others (e.g. those regarding community development agreements), and (ii) certain non-governmental organisations for not containing detailed provisions on the practice of entering into mining agreements with investors in relation to certain projects.

In an effort to promote governance in the mining sector, the National Minerals Agency (NMA), a new semi-autonomous government agency, was established in April 2012 by the National Minerals Agency Act 2012. Its mandate is to "administer and enforce the [2009 Act], any other acts related to the trade in minerals and related regulations and make recommendations to the Minister for amendment and other improvements in [these] laws and regulations", it is inter alia in charge of managing the Sierra Leone Online Repository System, an online database created in January 2012, with the support of the European Union, the United Nations Development Programme and the German Society for International Cooperation, to provide information on revenue data in relation to the country’s extractive industry.

More generally, since the early 2000s, Sierra Leone has passed a number of laws aimed at providing investors with a more detailed legal framework. These laws include:

• the Income Tax Act 2000,\(^{10}\) the Sierra Leone Maritime Administration Act 2000, the Bank of Sierra Leone Act 2000, the Banking Act 2000, the Insurance Act 2000, the Anti-Corruption Act 2000, the State Proceedings Act 2000 and the Registration of Instruments (Amendment) Act 2000,
• the Sierra Leone Water Company Act 2001 and the Town and Country Planning (Amendment) Act’2001,
• the National Revenue Authority Act 2002,
• the Road Transport Authority (Amendment) Act 2003,
• the Local Government Act 2004, the Public Procurement Act 2004 and the Human Rights Commission of Sierra Leone Act 2004,
• the Anti-Money Laundering Act 2005,
• the Telecommunications Act 2006, the National Power Authority (Amendment) Act 2006 and the Courts (Amendment) Act 2006,
• the Diamond Cutting and Polishing Act 2007, the Registration of Business Act 2007, the General Law (Business Start-up) Act 2007, the Sierra Leone Investment and Export Promotion Agency Act 2007, the Road Traffic Act 2007 and the Sierra Leone Maritime Administration (Amendment) Act 2007,
• the Anti-Corruption Act 2008,
• the Companies Act 2009,\(^ {11}\) the Bankruptcy Act 2009, the Good and Services Act 2009 and the Telecommunications (Amendment) Act 2009,
• the Public-Private Partnership Act 2010 and the Sierra Leone Roads Authority (Amendment) Act 2010,
• the Customs Act 2011, the Bank of Sierra Leone Act 2011, the National Electricity Act 2011, the Sierra Leone Electricity and Water Regulatory Commission Act 2011, the Local Courts Act 2011 and the Anti-Money Laundering Act & Combating of Financing Terrorism Act 2011, and
• the Patents and Industrial design Act 2012 and the National Protected Area Authority and Conservation Trust Fund Act 2012,\(^ {12}\)

Recently, in an effort to promote local content and the interests of the Sierra Leone National Shipping Company (SLNSC), the Sierra Leonean legislature adopted a controversial act (the Sierra Leone National Carrier Ratification Agreement Act (SLNC Act) of 2012, as amended in 2014), which: (i) requires shippers that load or clear cargo for either export or import to obtain a ‘Certificate of Compliance’ from the Sierra Leone National Carrier (SLNC), a joint venture set up between SLNSC and Premuda, the Italian shipping company, and (ii) provides that SLNC has the right to ship at least
40% of all inbound and outbound cargo at ‘prevailing market rates’, it remains to be seen if the SLNC Act will be further amended in the coming years, given the objections to certain provisions of the SLNC Act amongst various private sector stakeholders, and

Finally, a number of the laws referred to above have been supplemented by regulations. In particular, the 2009 Act has recently been supplemented by the following detailed regulations, which contain key provisions for mining projects:

- the Mines and Minerals Operational Regulations of 11 July 2013, which provide for requirements in relation to surface, open pit and underground mining operations, reporting of mineral resources, health and safety standards, waste disposal, as well as explosives and blasting,

- the Environment Protection (Mines and Minerals) Regulations of 4 July 2013, which provide for a number of obligations in relation to the environmental permitting process, environmental standards, grievance mechanisms and mine closure, as well as guidance on the contents of the environmental impact assessment reports and the environmental management plans.

The volume of laws and regulations adopted by Sierra Leone over the past few years in relation to its mining sector is fairly extensive. This reflects a trend of governments in emerging economies to develop a more detailed and comprehensive legal framework for their extractive industries, often on the basis of laws and regulations adopted in more developed economies. The upside of such policies is to provide investors with more clarity and certainty in relation to the legal framework applicable to their investments, but it also requires investors to conduct a more detailed due diligence process before making investment decisions. Going forward, investor appetite will tell whether the latest changes in the legal framework applicable to mining projects in Sierra Leone have achieved the appropriate balance between social development and investment promotion.

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End notes

1. Note that the treaty with Germany does not contain a mechanism for investors to bring claims against Sierra Leone.


4. It was accepted as a candidate in 2008 and was designated ‘compliant’ in 2014.

5. An environmental impact assessment licence is valid for 12 months, is renewable and may impose specific conditions in relation to the conduct of the project. The EPA Act has, since its adoption, been supplemented by the Environmental Protection Agency (Environment Impact Assessment License) Regulations and the Prohibition of Ozone Depleting Substances Regulations in 2010.

6. Note that it can be renewed in respect an area of no more than 125 square kilometres for a first period not exceeding three years and a second period not exceeding two years.

7. Note that it can be renewed for 15 year periods.

8. The NMA also intended to undertake a review of mining agreements entered into by Sierra Leone before the Ebola outbreak.

9. Copies of large-scale mining license agreements entered into by the Government of Sierra Leone have also been published on the website of the Ministry of Mines and Mineral Resources, Mining Agreements and on the website of the National Minerals Agency, Mining Agreements, in line with the requirement of the 2009 Act that the government shall “disseminate by way of publication or otherwise, records, reports or any information concerning the revenue of the Government from the extractive industry, at least annually”. The websites of the Ministry of Mines and Mineral Resources and of the National Minerals Agency also contain a number of helpful forms and guidelines (Schedules and Mining Regulations). This is in line with commitments taken by Sierra Leone under the Extractive Industries Transparency Initiative.

10. Note that it has been amended by a number of Finance Acts and Income Tax (Amendment) Act(s) since its adoption.

11. Note that it has recently been amended in 2014.


13. The 2012 version of the Act referred to ‘prevailing market rates together with a
surcharge of ten per cent’ but the ten per cent surcharge has been taken out in 2014. The SLNC Act provides that SNLC can enforce this right by “requesting that it is offered [a] forty per cent shareholding of the equity of any company providing [cargo services] or by requesting that [it] is paid a commission by that company equal to four per cent of the estimated total consideration paid to that company for the provision of [these] services”.

14. Including the requirement to hold a blasting licence to use explosives.

More information
For information regarding possible implications for your business, contact Yann Alix.

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