



APPROPRIATE LEGAL AND FISCAL FRAMEWORK FOR EXPLOIRATION AND MINIING

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ENVIRONMENTAL MATTERS

- Mining exploration and production activities inevitably cause material damage to the environment. It also brings the risk of major pollution hazards. Nigeria has established a policy and administrative structure defining the overall objectives of environmental obligations.
- Before exploration and mining, an Environmental Impact Assessment Report (EIA) is required.
- The EIA refers to the process by which changes in the environment as a result of development are assessed to measure how beneficial or deleterious these changes might be.
- The main governing law is the Environmental Impact Assessment Act No. 86 of 1992. The object of the Act was the need to restrict public and private projects carried out without proper assessment of the impact of such projects on the environment.
- The Act stipulates that environmental impact assessment shall be undertaken by any organization which purposes to carry out activities which are likely to have significant effects on the environment.



- The Act provides that no projects or activities can be embarked on without prior compliance of the EIA.
- The primary aim of EIA therefore is to ensure that as far as possible negative impacts of development projects are predicated and addressed before the project is commenced.
- The lessee is also expected to pay compensation for any disturbance of surface rights of the owner, provided the lessee does not pay surface rent in respect of the land.
- The law also requires all mining activities to bring direct benefit to local communities.
- Guidelines have also been put in place to protect society and environment from the adverse effect of mining practices and operations.
- On completion of prospecting operations the holder of a prospecting right or licence is expected to fill up all wells, shafts etc. made by him in the course of his work and restore the area or ground as far as possible to its original state.



SECURITY OF TENURE AND LICENSING SCHEME

- Before 1978, land tenure in Nigeria was based on the private ownership of land. Ownership could be by individuals, families or even through communal land ownership systems.
- However, after 1978, the Land Use Act became the regulatory legislation for all land transactions. Under the Land Use Act (Cap 220 LFN), all land in the states within the Nigerian Federation is held by the governors of the states in trust for the people of their states.
- The land occupier enjoys only surface rights in the land. These rights could be revoked by the government, if this is thought to be in the public interest, with compensation being paid if this occurs. In theory therefore, all land in the nation is available for mining purposes except those areas listed in the minerals legislation as excluded land.
- Another innovation under the Mineral and Mining Law is section 1(2) which states that our law is to the effect that all lands in which minerals have been found in commercial quantities shall be acquired by the government from the Government of this Act. The objective of this provision aimed at simplifying the procedure for the acquisition of land for exploration and mining. It stands to reason from the foregoing that the only obligation owed to the occupier of the land where minerals are found is compensation.
- To further encourage an active development, mining is to be developed mainly by corporations and duly registered companies as opposed to individual miners.
- Mining titles may be transferred or assigned to a third party, provided the Minister's consent is sought and obtained.



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