



REPUBLIC OF KENYA



MINISTRY OF MINING



**MINING AND MINERALS POLICY  
SESSIONAL PAPER NO. 7 OF 2016**



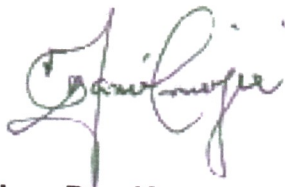
**Mining and Minerals Policy**  
**Sessional Paper No. 7 of 2016**

## FOREWORD

The Government recognizes that the mining sector has potential to contribute significantly to the country's economic development. Currently, the sector contributes 0.8 percent to gross domestic product (GDP) per annum. The contribution to GDP is expected to increase to three (3) percent by 2017 and ten (10) percent by 2030 according to the Medium Term Plan (MTP) II (2013-2017). This will contribute to the targeted ten (10) percent annual growth envisaged in the Vision 2030 that will propel the country into a newly industrializing nation.

Given the potential of the mining sector, the Ministry of Mining has prepared a comprehensive policy framework to strengthen the regulation and coordination of the sector. The Mining and Minerals Policy paves way for the preparation of a new Mining Bill that will repeal Mining Act Cap 306, The Diamond Industry Protection Act Cap 310 and The Trading in Unwrought Precious Metals Act Cap 309 and provide a more progressive and comprehensive Mining Act.

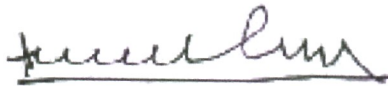
The development of this Policy was done in a consultative manner with input from the Kenya Chamber of Mines, mining companies, academic and research institutions, development partners, members of the Parliamentary Committee on Environment and Natural Resources, civil society, representatives of mining communities and the general public. The Policy therefore represents the aspirations of key stakeholders in the mining sector and full implementation of the Policy will enable the realization of sustainable mineral exploration and development.



**Hon. Dan Kazungu**  
**CABINET SECRETARY**

## **ACKNOWLEDGEMENT**

We wish to express our gratitude to all those who contributed to the development of the Mining and Minerals Policy. We are greatly indebted to the strategic direction provided by Hon. Dan Kazungu, Cabinet Secretary for Mining in the preparation of this policy document. We are also grateful to key stakeholders who provided invaluable comments and suggestions that shaped this Policy. Special thanks go to the Kenya Chamber of Mines, Civil Society Organizations, Mining Companies, Academic and Research Institutions, Development Partners, members of the Parliamentary Committee on Environment and Natural Resources and all those who submitted their views and comments to shape the policy. We also appreciate the ministerial team who provided the technical input.



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## TABLE OF CONTENTS

FOREWORD .....	i
ACKNOWLEDGEMENT .....	v
ABBREVIATIONS AND ACROYNMS .....	ix
CHAPTER ONE: INTRODUCTION .....	1
1.1    Background .....	1
1.2    Policy Context.....	1
1.3    Policy Rationale.....	2
CHAPTER TWO: SITUATIONAL ANALYSIS.....	3
2.1    Mining Act (CAP 306).....	3
2.2    Access to Land for Exploration and Mining .....	3
2.3    Inadequate Geological Data and Information .....	3
2.4    Mineral Marketing and Value Addition.....	3
2.5    Inadequate Funding.....	4
2.6    Environmental Degradation .....	4
2.7    Gender Issues and Child Labour.....	4
2.8    Inadequate Institutional and Human Capacity.....	5
2.9    Artisanal and Small-Scale Mining.....	5
2.10   Local Participation .....	6
2.11   Fiscal Regimes .....	6
CHAPTER THREE: POLICY GOAL, GUIDING PRINCIPLES, OBJECTIVES AND STRATEGIES.....	7
3.1    Policy Goal .....	7
3.2    Guiding Principles.....	7
3.3    Policy Objectives .....	7
3.4    Policy Strategies.....	8
3.4.1  Regulating the Mining Sector .....	8
3.4.2  Concession Management and Mineral Rights Allocation .....	8
3.4.3  Geological Data and Information .....	9
3.4.4  Access to Land for Mining Activities .....	9
3.4.5  Health, Safety and Environmental Regulation in Mining.....	9

3.4.6	The Fiscal Regime.....	10
3.4.7	Mineral Promotion and Value Addition .....	11
3.4.8	Maximising Benefits from Mining.....	11
3.4.9	Mineral Benefit Sharing .....	11
3.4.10	Local Equity Partipation.....	12
3.4.11	Artisanal and Small-Scale Mining.....	13
3.4.12	Gender, Youth and Inclusiveness in mining .....	14
	<b>CHAPTER FOUR: INSTITUTIONAL FRAMEWORK .....</b>	<b>15</b>
4.1	Introduction.....	15
4.2	Institutional Arrangements.....	15
4.3	Functions of the Directorates.....	16
4.3.1	Directorate of Mines .....	16
4.3.2	Directorate of Geological Surveys .....	16
4.3.3	Directorate of Mineral Promotion and Value Addition. ....	17
4.3.4	Directorate of Resource Surveys and Remote Sensing.....	17
4.4	Functions of Specialized Mining Agencies .....	17
4.4.1	Internationally accredited Mineral Certification Laboratory and Geo-Data Bank.....	17
4.4.2	Mineral Audit Agency.....	18
4.4.3	National Mining Corporation .....	18
4.4.4	National Mining Institute .....	18
	<b>CHAPTER FIVE: IMPLEMENTATION PLAN .....</b>	<b>20</b>
5.1	Implementation Arrangements .....	20
5.2	Financing of the Policy .....	20
5.3	Monitoring and Evaluation .....	20
5.4	Review of the Policy .....	20
	<b>ANNEX I: POLICY IMPLEMENTATION PLAN.....</b>	<b>21</b>

## **ABBREVIATIONS AND ACROYNMS**

ASM	:	Artisanal and Small-Scale Miners
DPSM	:	Directorate of Public Services Management
EIA	:	Environment Impact Assessment
EMCA	:	Environmental Management and Co-ordination Act
GDP	:	Gross Domestic Product
M and E	:	Monitoring and Evaluation
MoM	:	Ministry of Mining
MoLSSS	:	Ministry of Labour and Social Security Services
MoLHUD	:	Ministry of Lands, Housing and Urban Development
MTEF	:	Medium Term Expenditure Framework
MTP	:	Medium Term Plan
NEMA	:	National Environment Management Authority
NLC	:	National Land Commission
PPP	:	Public-Private Partnership
PSC	:	Public Service Commission
VAT	:	Value Adding Tax

## **CHAPTER ONE: INTRODUCTION**

### **1.1 Background**

Since independence, Kenya has pursued economic policies that promote agriculture and tourism for economic growth and development. As a result, the mining sector has received little attention leading to low investment in the sector. Currently, the sector contributes 0.8 percent to GDP and this is expected to increase to three (3) percent per annum by 2017 and ten (10) percent by 2030 as envisaged in the MTP II of the Vision 2030.

Kenya has a variety of known mineral resources that include soda ash, fluorspar, titanium minerals, rare earth elements, gold, coal, gemstones, manganese, iron ore, gypsum, carbon dioxide, diatomite, chromite, silica sand, limestone and dimension stone among others. There is also potential for discovery of other minerals as exploration is intensified. There is need therefore, to create a conducive environment in order to attract investment in the mining sector. This calls for an appropriate and comprehensive policy to guide the development of the sector and meet the challenges presented by both local and global economic dynamics.

### **1.2 Policy Context**

The mining industry is an international business involving complex global investments, financing mechanisms and mineral markets, hence the need for this policy to be put into a global, regional and local context. At the continental level, the African Heads of State and Government adopted the African Mining Vision in 2009, which is a continental blue print aimed at positioning mining as a key driver of Africa's socio-economic development.

The Constitution of Kenya, 2010 vests mineral resources in the National Government in trust for the people of Kenya. However, through the devolved system of government, the counties will play a key role in ensuring access to communal land for mining and management of construction minerals.

The Vision 2030 in its MTP II, recognizes the mining sector as one of the key drivers of economic growth expected to transform Kenya into a middle-income economy by 2030.



### **1.3 Policy Rationale**

The country's mining sector has been operating without an overarching policy leading to issues in the sector being addressed in an ad-hoc manner. This has led to the lack of predictability and certainty hence low investment in the mining sector. There is therefore need for policy framework to provide a clear guidance for sustainable mineral resources development.

The policy will address gaps that have existed in the mining sector, form the basis for review of the outdated Mining Act of 1940 and align the industry's strategic direction with African Mining Vision, Vision 2030 and Constitutional provisions. In addition, the Policy will strengthen institutional framework and address governance and operational issues, environmental protection, equity, mineral value addition, post-mine closure activities, capacity building and mainstream artisanal and small scale mining. The policy will promote the use of appropriate technology including Geo-spatial technology and airborne geophysical surveying in order to enhance information on the country's mineral potential and increase investment in the mining sector.

## **CHAPTER TWO: SITUATIONAL ANALYSIS**

### **2.1 Mining Act (CAP 306)**

The mining sector has been regulated through Mining Act Cap 306 enacted in 1940. The Act is outdated and does not address current industry needs, trends or conform to international best practices. Moreover, the Act is deficient in a number of ways including exclusion from jurisdiction under the Act of several minerals that are mined or quarried on commercial basis. Furthermore, it does not provide for consultation with stakeholders in the process of managing mineral resources as enshrined in the constitution.

Currently, the licensing process relies on *ad-hoc* administrative arrangements and discretionary powers of the licensing authority. As such, there have been no guidelines on licensing timelines, verification of technical and financial capabilities on the part of the applicants to undertake exploration and mining operations sought. This has led the process to be open to manipulation by speculators who either sell or hoard mineral rights for financial gains.

### **2.2 Access to Land for Exploration and Mining**

The Constitution of Kenya vests minerals on the National Government in trust for the people. At the same time, it sanctifies rights to property including land. Mineral operations are undertaken on, in and or under land surface. However, it is not clear between the Land Act and the Mining Act which one supersedes the other in case there is a dispute between mineral rights and surface rights. This hampers exploration and mineral development in some areas and discourages investments in mining.

### **2.3 Inadequate Geological Data and Information**

Although the country's mineral occurrence gives an indication of immense endowment, most of these remain underexplored and underexploited largely due to inadequate investment in acquisition, processing and dissemination of geological and mineral data of the country by the government. Inadequacy of geological data is one of the key hindrances in attracting investments to the sector.

### **2.4 Mineral Marketing and Value Addition**

Currently, the country has no strategy for marketing, promotion and value-addition of minerals. Most of the minerals mined are exported in raw form and as a result, the country does not harness maximum

returns for its mineral wealth. The low level of value addition of minerals is attributable to inadequate expertise, under development in the minerals processing industry, lack of appropriate technology and high energy costs. There has been limited initiatives towards branding, promotion and marketing the country locally, regionally and internationally as a preferred mining destination.

## **2.5 Inadequate Funding**

The mining sector has been under funded resulting in lack of comprehensive geological data, outdated infrastructure and low attraction and retention of technical expertise. Previously, mineral exploration has been driven by donors and private investors with the government investing very little in the industry. Despite recent discoveries of economic mineral deposits and increasing investor interest in the sector, the funding remains low.

## **2.6 Environmental Degradation**

Mining operations disturb environment; it is the manner in which the operations are carried out that determines their sustainability. Presently, there is an environmental law which provides for initial environmental assessment and subsequent environmental audits. The challenge is to harmonize the regulatory policies and practices in the mining sector into alignment with existing environmental legislations.

## **2.7 Gender Issues and Child Labour**

Women and children are increasingly getting involved in the extractive industry especially in artisanal and small-scale mining (ASM). They engage in labor-intensive mining activities using rudimentary processing methods including the hazardous amalgamation with mercury in the case of gold extraction.

Women are often overlooked by initiatives and development programs directed at transforming the mining sector while existing regulations do not favor them in relation to mining activities. Other challenges experienced by women in the sector are exacerbated by the gender inequalities in access and control over resources including productive assets, exclusion in decision making processes, limited access to information and technology, limited knowledge and capacity to engage in the sector and limited knowledge of enterprise development in the mining sector.

Child labour is prevalent in the mining industry and the appropriate child labor laws should be enforced. Together with the relevant institutions, the Ministry will monitor and report the levels of child labour in the mining sector to curtail the vice.

## **2.8 Inadequate Institutional and Human Capacity**

The mining sector is a highly technical field, which requires specialized skills and well-structured and equipped institutions. Currently, data acquisition and regulation of the industry are lumped under one department (Mines and Geology). This arrangement undermines efficiency and effectiveness since the two mandates experience different challenges. The existing arrangement also lacks relevant supporting institutions hence affecting enforcement, compliance and service delivery.

For a long time, the country has had no institutions for training in mining and related fields. This has resulted in capacity gap within the sector as the few trained abroad have often fallen victim to brain drain. This has further been exacerbated by the fact that the industry is poorly incentivized.

## **2.9 Artisanal and Small-Scale Mining**

ASM take place in many parts of the country though not at a level that the mineral endowment of the country may justify. The predominant artisanal and small-scale mining activities are panning for gold, gemstone mining, winning of sand, gravel, clay and quarrying.

Although ASM is an income generating activity for the vulnerable groups, its association with smuggling, tax evasion, health and safety risks, socio-cultural dislocation and a variety of illicit activities taints the sector. Indeed, the haphazard nature of ASM makes it difficult to regulate as it often takes place outside the mainstream industry (formal sector).

There are immense advantages to be gained by mainstreaming artisanal and small-scale mining sector, key among them being widening of the tax base, a likelihood of safer, healthier and more environmentally compliant operations and enhancement of investment environment for large scale mining through the elimination of some of the threats caused by the informal mining to formal mineral exploration and extraction operations.

## **2.10 Local Participation**

Foreign firms and individuals largely control large-scale mining operations in the country. This is mainly attributed to low understanding and complexities inherent in the industry. This situation is further compounded by inadequate financial, technical capacity and expertise, guidelines on local content and value chain participation in the sector within the country.

Additionally, there is lack of deliberate effort to promote preferential sourcing of goods and services by mining companies from localities of operations and local firms. This has led to low technology transfer and entrepreneurship.

## **2.11 Fiscal Regimes**

The fiscal regime for mining is a key element of the regulatory framework under which mining companies invest in exploration and exploitation projects. Mining is a global industry and to an investor, the fiscal regime must be internationally competitive and provide a basis for commercial viability of mining. Whereas from the perspective of the host country, the revenues that it hopes to obtain through the fiscal regime must be maximized for the economic benefits of the country.

Kenya has been operating without a well-structured and clear mining fiscal regime. A weak institutional linkage within the sector has further aggravated this situation leading to its slow growth. To balance the interest of mining investors with those of Kenya, there is need for transparent, accountable and predictable fiscal regime that takes into account the particular risks and economic characteristics associated with mineral operations.

## **CHAPTER THREE: POLICY GOAL, GUIDING PRINCIPLES, OBJECTIVES AND STRATEGIES**

### **3.1 Policy Goal**

The overall goal of the Mining and Minerals Policy is to set out frameworks, principles, and strategies to provide for exploration and exploitation of mineral resources for socio-economic development.

### **3.2 Guiding Principles**

The following have been identified as the guiding principles of the Mining and Minerals Policy:—

- (i) inter-generational equity and sustainable utilization of mineral resources;
- (ii) integrating sound environmental protection, safety and health considerations in mineral resources development;
- (iii) equitable access to mineral resources and benefit sharing;
- (iv) transparency, accountability and public participation;
- (v) international and regional cooperation in the management of mineral resources;
- (vi) respect of socio-cultural values, access to justice, gender equality and inclusiveness; and
- (vii) value addition and development of horizontal and vertical linkages to the local economy.

### **3.3 Policy Objectives**

The key objectives of the Policy is to:

- Provide long term policy direction and legal frameworks that conform to current industry needs, trends and international best practices.
- Provide a strategy for clear, simple, predictable, transparent and accountable licensing procedures including access to land.
- Provide a framework for a well-structured mining fiscal regime.
- Enhance acquisition, processing and dissemination of geological and mineral data.

- Provide a strategy for marketing, promotion and value-addition of minerals.
- Provide a framework for mobilizing resources and capacity building for the sector.
- Provide a framework for harmonizing mining, health and occupational safety and environmental legislations.
- Provide a framework for gender mainstreaming and eradication of child labour in mining industry.
- Provide a framework for mainstreaming activities of artisanal and small-scale miners.
- To provide a framework for local participation in the mining investment ventures.
- Provide a framework for equitable sharing of mineral benefits between the National Government, county governments and community where mining takes place.

### **3.4 Policy Strategies**

#### **3.4.1 Regulating the Mining Sector**

**Strategy 1: Put in place a simple, stable, predictable, transparent, efficient and unified regulatory framework for the mining sector.**

The Government is in the process of developing a new mining legislation to replace the Mining Act, Cap.306 of 1940, which is both outdated and ineffective. Under the new mining legislation, rights and interests in minerals of all kinds, including construction and industrial minerals will be regulated.

#### **3.4.2 Concession Management and Mineral Rights Allocation**

**Strategy 2: Develop a transparent licensing system which will enable the efficient management of concessions and allocation of mineral rights.**

This strategy shall be realized through the use of an Online Transactional Mining Cadastre Portal. This will be based on the new mining legislation and enabling regulations. The Online Cadastre will ensure efficient, effective and transparent concession and mineral rights issuance.

### **3.4.3 Geological Data and Information**

#### **Strategy 3: Enhance collection and access to geological data**

Due to increased interest in the mining sector, there is a need to provide accurate and timely geological data and information. A large part of the country has not been surveyed to determine the mineral potential, hence the need for an airborne geo-physical survey. The Government will conduct a nationwide airborne geophysical survey and also acquire spaceborne data. This will be followed up by ground surveys to identify potential mineralized zones. The information collected will be hosted in a Geo-Data Bank and will be available to different stakeholders depending on need and user access rights arrangements.

### **3.4.4 Access to Land for Mining Activities**

#### **Strategy 4: Develop legislative mechanisms for accessing land for mineral development.**

Currently there are three types of land ownership as enshrined in the constitution namely: Government or public, community and private lands. Mineral right holders are required to obtain consents from owner or lawful occupier of land in which their operations are to be undertaken. However, Government plays no role in the negotiations of these consents between land owners and exploration entities. Nonetheless, due to the high priority given to the mining and extractive industry as a whole, the government intends to deploy liaison officers to facilitate such negotiations and address other community related issues for purposes of achieving and maintaining harmony in the industry.

For mining purposes, access to land may entail compensation, relocation and resettlement of the affected land owners and occupiers. As a result, the government shall ensure prompt, just and adequate compensation to the affected. Where relocation and resettlement are unavoidable, they will be done with due regard to basic human rights, as enshrined in the constitution, international standards and best practices. These issues require multi-sectoral interventions and there shall be concerted efforts to involve relevant institutions and stakeholders.

### **3.4.5 Health, Safety and Environmental Regulation in Mining**

#### **Strategy 5: Achieve an acceptable balance between mining and environmental conservation and to ensure that the sector**



**operates within the approved (national and where necessary international) standards of health, safety, human rights and environmental protection.**

The environmental, health and safety standards under which economic activities should be conducted in Kenya are available through various legal and regulatory regimes. In addition, the Government will develop specific environmental, health and safety legislative, regulatory frameworks and standards for the mining sector.

Emphasis will be on environmental performance, ecological sensitivity and conformity with internationally accepted standards on mine health, safety and environment. The new mining legislation will establish a clear legal framework, procedures and obligations concerning rehabilitation at mine closure by mining licence and permit holders. The legislation will also require mining rights holders to set aside an environmental deposit bond to meet rehabilitation and mine closure obligations.

#### **3.4.6 The Fiscal Regime**

**Strategy 6: Develop and implement a stable, transparent, predictable and competitive fiscal regime.**

The Government recognizes that in exercising stewardship of the mineral endowment on behalf of the people of Kenya, it must maximize the fiscal benefits generated by the exploitation of the country's non-renewable resources. To this end, the Government seeks to strike a balance between generating short-term revenue and, attracting longer-term investment in the mining sector.

The fiscal regime for mining will be harmonized and transparent to enable investors to predict and plan for all fiscal obligations and enhance the ability of mining authorities to administer the regime efficiently and effectively. Key elements of the harmonized fiscal regime will include:

- (i) Royalties, rents, fees and levies at rates set out in the regulations.
- (ii) Corporate income tax as set out in the relevant tax legislation.
- (iii) Capital Gains Tax on transfer of or assignment of mineral rights as provided for in relevant legislation.

- (iv) Government dividends from participation in large scale mining operations and development of strategic minerals; and equal treatment of mining businesses regarding import duties and sales tax/ VAT as provided for in relevant legislation.

#### **3.4.7 Mineral Promotion and Value Addition**

##### **Strategy 7: Develop mechanisms for promotion of investments in mining and value addition.**

The Government will establish an institutional framework to facilitate marketing of mineral investment opportunities and promotion of value addition by encouraging the use of appropriate technology and enhancing capacity in relevant institutions. It will also endeavour to explore markets for finished mineral products thus, encouraging growth of industry.

#### **3.4.8 Maximising Benefits from Mining**

##### **Strategy 8: Pursue a responsive regulatory framework that ensures benefits accruing from the mining sector are maximised for greater socio-economic development.**

The Government wishes to foster development of a thriving mining sector that will contribute to sustainable economic development. In this respect, the Government has an important role to play in ensuring that the country secures the maximum benefits from mining.

In order to maximize benefits from mining sector, the legislation will provide guidelines requiring mining companies to meet obligations on the following:

- (i) Employment, training and skills transfer
- (ii) Use of local goods and services

#### **3.4.9 Mineral Benefit Sharing**

##### **Strategy 9: Design mechanisms for sharing benefits accruing from exploitation of minerals between the National Government, the County Governments and Communities where mining activities are being undertaken.**

The Government will develop and implement a framework which will ensure that revenues from mining are shared equitably between

National Government, county governments and the local community.

#### **3.4.10 Local Equity Participation**

**Strategy 10: Develop and implement mechanisms to enhance participation of Government (National and County), affected communities and other stakeholders in mining investments.**

The Government will develop a framework to guide its participation and that of the public through inter alia;

- a) The establishment of the National Mining Corporation
- b) Listing in local stock exchanges

### **3.4.11 Artisanal and Small-Scale Mining**

#### **Strategy 11: Develop a framework for mainstreaming and formalizing artisanal and small scale mining operations in order to support livelihoods and entrepreneurship.**

The Government will remove barriers that hinder artisanal and small-scale mining, particularly access to finance, recognized minerals rights, inadequate technical capacities and incentives to operate legally.

The Government will develop measures to improve access to finance for artisanal and small-scale miners, including—

- (i) Assistance to obtain fair market prices for minerals through the control of illicit dealings and trading of minerals through appropriate licensing and providing necessary market information and training;
- (ii) Establishing a range of measures to facilitate access to credit, which may include co-operative savings, pooled equipment leasing arrangements and Government supported concessional lending schemes; and, Assistance in obtaining access to finance and business skills training;
- (iii) Setting up minerals licensing system under the new mining legislation will offer specific mineral titles suited to small-scale mining expressly reserved for Kenyans that will be granted by the Ministry responsible for mining in accordance with simplified application procedures; and
- (iv) Facilitating access to land for small-scale mining through the development of standardized procedures for planning small-scale mining operations, including adequate advance notice and community representation in deliberations leading to the designation of areas suitable for small-scale mining operations and the award of mineral rights.

In order to encourage the use of appropriate, affordable and safe technology, the Government will give support for the collation and dissemination of information about appropriate technologies and provision of extension services and technology demonstrations.

In seeking to promote the interests of small-scale mining, the Government will provide advice and support to small-scale miners on forming representative associations.

The Government will limit the imposition of fiscal levies only to royalty and such general taxation of income (personal or company) as may be applicable. Support will also be offered to assist in tax compliance.

To mitigate negative impacts of small scale mining, the Government will disseminate information to raise awareness on health, safety and environmental risks. The Government is investigating the possibility of commissioning and supervising environmental impact assessments in areas that will be designated for intensive small-scale operations.

#### **3.4.12 Gender, Youth and Inclusiveness in mining**

##### **Strategy 12: Develop and implement Frameworks, Structures and mechanisms that ensure equitable participation, ownership and decision-making in mining value chains by women, youth, and disadvantaged groups**

The Government will implement a community liaison framework that ensures that women, youth and persons with disabilities are able to efficiently and effectively inform its decisions, policies and programmes in mining. The Government will ensure equitable access to the benefits of resource development, and that they are not unduly or unfairly placed at risk. In addition, it will facilitate dialogue and exchange between and among the various mining stakeholders to ensure informed negotiation of the various issues.

Through the implementation of its regulatory frameworks and programmes, the Government will ensure that communities, women, youth, persons with disabilities and marginalised groups have equitable access to ownership, technology, capital, local content and value addition opportunities, employment, training, knowledge and decisions in the mining value chains.

## **CHAPTER FOUR: INSTITUTIONAL FRAMEWORK**

### **4.1 Introduction**

A clear and well coordinated institutional and regulatory framework is crucial for the realization of the potential of the mining industry. Consequently, the Government shall put in place appropriate institutional arrangements to undertake the following—

- ✓ Formulate policies and create an enabling environment for investments;
- ✓ Provide the comprehensive primary geo-data and information to reduce exploration risks for investors;
- ✓ Automation of licensing and consessioning management;
- ✓ Govern, coordinate and regulate the mining industry;
- ✓ Monitor minerals production and earnings;
- ✓ Promote mineral value addition and beneficiation; and
- ✓ Provide an accredited certified laboratory services.

### **4.2 Institutional Arrangements**

The mining industry shall be managed through the following Directorates and specialized agencies;

- (i) Geological Surveys;
- (ii) Mines;
- (iii) Mineral Promotion and Value Addition;
- (iv) Internationally accredited Mineral Certification Laboratory and Geo-Data Bank;
- (v) Mineral Audit Agency;
- (vi) National Mining Corporation.
- (vii) National Mining Institute;
- (viii) Mineral and Metals Commodity Exchange;
- (ix) Minerals Rights Board; and
- (x) Resource Surveys and Remote Sensing.

### **4.3 Functions of the Directorates**

#### **4.3.1 Directorate of Mines**

The Directorate of Mines will be charged with—

- Formulation and administration of policies on management of minerals, mining and quarrying;
- Administration of mining and minerals development through administration of relevant mining laws;
- Licensing of exploration and mining concessions;
- Compilation and management of the mining and concessions data;
- Management of the mining cadaster system;
- Institutional liaison;
- Arbitration of mining disputes;
- Mine Health, Safety and Environment; and
- Provision of mining technical services.

#### **4.3.2 Directorate of Geological Surveys**

The Directorate, among other functions, will be charged with the responsibility of—

- Undertake systematic geological mapping and structural mapping of the whole country to describe the onshore and off shore geological conditions;
- Assess and provide information on mineral wealth of the country using detailed investigation;
- Evaluate and monitor hazards associated with earthquakes, landslides, toxic minerals, subsidence and other ground failures;
- Undertake research related to geological processes and tectonic activities;
- Compile geoscience data and database management;
- Produce and publish geological reports and maps as a frameworks for mineral, energy and water resource

assessment, research, planning, decision-making and other related undertakings;

- Provide quantitative and qualitative laboratory analyses of rocks, mineral ores, precious and semi-precious minerals, metals and assay for gold, etc; and
- Formulate policy on geology and mineral exploration.

#### **4.3.3 Directorate of Mineral Promotion and Value Addition**

The Directorate of Mineral Promotion and Value Addition will:

- Implement policies on mineral promotion and value addition;
- Promote mineral value addition within the country;
- Provide extension services to small scale and artisanal miners on mineral processing and value addition; and
- Market mineral investment opportunities in the country.

#### **4.3.4 Directorate of Resource Surveys and Remote Sensing**

This directorate is mandated with collection, storage, analysis, updating and dissemination of geo-spatial information on natural resources. Some of the functions include but not limited to:

- Land use land cover mapping;
- Develop early warning-system for crop forecasting;
- Data generation for sustainable conservation of Livestock/wildlife; and
- Mapping of water towers, land degradation etc..

### **4.4 Functions of Specialized Mining Agencies**

#### **4.4.1 Internationally accredited Mineral Certification Laboratory and Geo-Data Bank**

This Agency will be responsible for:

- Provision of qualitative mineral analytical services;
- Certification of minerals;
- Identification of precious and semi-precious minerals;
- Carry out research on mineral analytical techniques;
- Provision of geo-data and information; and



- Provision of assay and lapidary services.

#### **4.4.2 Mineral Audit Agency**

The Mineral Audit Agency will be charged with:

- Determining rightful royalties and taxes payable to Government from minerals produced;
- Counteract minerals smuggling and royalty evasion;
- Carrying out monitoring and audit of minerals produced and exported;
- Promotion and conducting research and development in the mining sector;
- Auditing capital investments and operating costs by mining companies and
- Advising on competitiveness of Kenya's mining environment versus the world and appropriate fiscal treatments.

#### **4.4.3 National Mining Corporation**

A National Mining Corporation will be established which shall:

- Be the investment arm of the national government in the mining industry;
- Be responsible for investing on behalf of the government the proposed 10% free carry interest in large scale mining operations or purchase of shares floated on the Nairobi Securities Exchange; and
- Carry on the business related to mining whether alone or in conjunction with any other persons, firms or bodies.

#### **4.4.4 National Mining Institute**

The skills gap being experienced in the mining sector has significantly led to the slow growth of the sector over the years. The limited number of specialized mining engineers, geologists, geophysics and metallurgist among others calls for immediate intervention to reverse the current adverse labor dynamics. Towards this end, a National Mining Institute will be established.

The Institute shall:

- Offer technical training in extractive industry related disciplines;
- Enhance sectoral capacity building; and
- Conduct innovative research on the extractive industry.

## **CHAPTER FIVE: IMPLEMENTATION PLAN**

### **5.1 Implementation Arrangements**

The Ministry of Mining shall take the main responsibility of overseeing the implementation of the Policy. However, the actual implementation will be the preserve of key sector stakeholders including private sector and the process shall be guided by the implementaion plan provided in the Annex I.

### **5.2 Financing of the Policy**

The implementation of the Policy shall require massive resources in terms of human, financial and materials. While the National Government will fund some of the activities through its annual Medium-Term Expenditure Framework (MTEF) budgeting process, additional resources will be mobilized from the private sector through Public-Private Partnership (PPP) arrangement. It is also expected that the Government will negotiate with Development Partners to fund other activities especially those that require massive resources such as carrying out nationwide airborne geophysical surveys.

### **5.3 Monitoring and Evaluation**

The implementation of the Policy will require continous monitoring and periodic evaluation to report on the progress made and ascertain whether the intended policy goal and objectives have been achieved. Key performance indicators will be developed to guide the M & E process of the Policy.

### **5.4 Review of the Policy**

With the dynamism in the mining sector, the Policy will require periodic reviews to conform to local, regional and international standards and best practices. It is proposed that such reviews be undertaken every five years.

**ANNEX I: POLICY IMPLEMENTATION PLAN**

<b>POLICY ISSUE</b>	<b>OBJECTIVES</b>	<b>ACTIVITIES</b>	<b>TIMEFRAME</b>	<b>RESPONSIBILITY</b>	<b>OUTPUT</b>
Regulation of Mining Sector	To strengthen regulations in the mining sector	<ul style="list-style-type: none"> <li>Collect and collate information</li> <li>Draft Mining Bill</li> <li>Hold stakeholders' consultation</li> <li>Seek Parliament approval</li> <li>Develop procedures and regulations</li> <li>Disseminate provisions of the new Act</li> </ul>	2016	MOM	Comprehensive legislative and regulatory framework
Concession Management and Mineral Rights Allocation	To provide clear, simple, predictable, transparent and accountable licensing procedures	<ul style="list-style-type: none"> <li>Create a Mineral Advisory Board</li> <li>Review the existing mining licensing procedures</li> <li>Upgrade the existing mining cadastre system</li> </ul>	2016 - 2017	MOM	An efficient Mining Licensing System
Institutional Framework	To provide framework for establishing enabling mining institutions	<ul style="list-style-type: none"> <li>Assess the current institutional framework</li> <li>Jointly with DPSM/PSC develop a new organizational structure and implement new structure</li> <li>Establish enabling institutions</li> </ul>	2013 -2018	MoM DPSM PSC	Directorates and agencies
Geological	To enhance	<ul style="list-style-type: none"> <li>Conduct nationwide</li> </ul>	2013-2020	MOM	Updated

Data and Information	acquisition, processing, and storage and dissemination of geological and mineral data	airborne geophysical survey <ul style="list-style-type: none"> <li>• Acquire remote sensing data</li> <li>• Carry out ground follow ups</li> <li>• Disseminate information</li> <li>• Establish Geo-Data Bank</li> </ul>			Geological and mineral database
Fiscal Regime	To provide a framework for a well structured mining fiscal regime	<ul style="list-style-type: none"> <li>• Collect and collate information on taxation in the mining sector</li> <li>• Develop a harmonized and competitive tax structure</li> <li>• Disseminate information on taxes</li> <li>• Implement taxation and investment incentives</li> <li>• Monitor implementation of the fiscal regime</li> </ul>	2014-2017	The National Treasury MOM	A single fiscal regime established
Health, Safety and Environmental Regulations in mining	To provide a framework for harmonizing mining and environmental legislations	<ul style="list-style-type: none"> <li>• Undertake harmonization of mining legislations and Occupational Health and Safety Act and environment legislations.</li> <li>• Develop Mine Health, Safety and Environment Guidelines</li> <li>• Disseminate the guidelines</li> <li>• Monitor compliance to the MHSE Guidelines</li> </ul>	2013- 2018	MOM MOLandSSS NEMA	<ul style="list-style-type: none"> <li>• Mine Health, Safety and Environment Guidelines</li> <li>• Compliance Reports</li> <li>• Reduced incidence of mine accidents, deaths and ailments</li> </ul>

Mineral Promotion and Value Addition	To provide strategy for marketing, promotion, and value addition for mineras	<ul style="list-style-type: none"> <li>Prepare a framework for the institutions (Minerals and Metals Exchange and Value Addition Centres)</li> <li>Prepare and submit Cabinet Memo</li> <li>Set up the institutions</li> <li>Develop promotional materials</li> <li>Create a robust website for marketing mining sector</li> <li>Organize mineral exhibitions</li> <li>Participate in international mining fora</li> <li>Train miners on value addition</li> </ul>	2013-onwards	MoM National Assembly	Minerals and Metals Commodity Exchange and Value Addition Centres established  Enlightened miners on value addition Website
Artisanal and Small-scale Mining	To provide framework for mainstreaming activities Artisanal and Small-scale mining into the economy	<ul style="list-style-type: none"> <li>Develop inventory of ASM</li> <li>Develop regulations governing ASM activities.</li> <li>Facilitate access to credit facilities to ASM</li> <li>Provide technical support to ASM</li> <li>Facilitate preparation of strategic EIAs for ASM operational zones.</li> <li>Monitor and evaluate operations of ASM</li> </ul>	2013 - 2018	MOM	Database Regulations.  Empowered ASM Artisanal and Small-scale mines' operations formalized
Mineral	To provide	Develop formular for	2013 - 2017	MOM	Mineral

Benefit sharing	framework for equitable sharing of mineral benefits	sharing mineral benefits <ul style="list-style-type: none"> <li>• Sensitize the community and county governments on benefit sharing</li> <li>• Disburse mineral benefits according to the formula</li> </ul>		The National Treasury County Governments Community	benefit sharing formula  Economically empowered community and county governments
Local Equity Participation	To provide framework for local participation in the mineral investment	<ul style="list-style-type: none"> <li>• Develop mechanisms for local participation in mining investments</li> <li>• Sensitize Kenyans on mining investments</li> </ul>	2013 onwards	MOM	Local equity Government equity
Access to land for mining activities	To provide a strategy for clear, simple, predictable, transparent and accountable licensing procedures including access to land.	<ul style="list-style-type: none"> <li>• Recruit /deploy liaison workers</li> <li>• Sensitize community</li> <li>• Compensate, relocate and resettle affected communities</li> </ul>	2013 – 0nwards	MOM MOLHUD NLC	Liaison Unit Informed communities Fair and human relocation and compensation
Funding and capacity building	To provide framework for mobilizing resources and capacity building for mining sector	<ul style="list-style-type: none"> <li>• Constitute a ministerial committee to lobby for resources.</li> <li>• Recruit staff</li> <li>• Train staff</li> <li>• Acquire equipment.</li> </ul>	2013 - onwards	MOM	Resource mobilization committee  Increased funding

Maximizing Benefits from Mining	To provide framework for local participation in the mining sector	<ul style="list-style-type: none"> <li>• Develop regulatory framework for local content</li> <li>• Sensitize miners, and Kenyan citizenry on local content</li> <li>• Monitoring of implementation of local content</li> </ul>	2013 onwards	MOM	Enhanced capacity Regulations Empowered citizens
Gender, Youth and Inclusivity in mining	To streamline gender issues in mining and ensure inclusive participation by women, youth and persons with disabilities to promote participation in the mining value chain	<ul style="list-style-type: none"> <li>• Conduct baseline to establish status of gender mainstreaming and inclusivity in mining.</li> <li>• Implement gender mainstreaming in the Ministry and mining sector</li> <li>• Institutionalize gender equality and inclusivity</li> </ul>	2014 onwards	MOM	A Gender mainstreamed Ministry



