

NEITI ACT: IMPLICATION FOR THE SOLID MINERALS SECTOR BY ENGR. GONI SHEIKH, DIRECTOR, MINES INSPECTORATE MMSD, ABUJA. BEING A KEYNOTE ADDRESS AT THE NEITI NORTH-EAST ROAD SHOW, HELD AT ZARANDA HOTEL, BAUCHI ON 29TH AUGUST, 2007

1.0 DEFINITION

Minerals are natural inorganic substances possessing definite chemical compositions and atomic structures. The term mineral is often used in a broad sense to include anything of economic value which is extracted from the earth. Coal, Clay and Granite are rocks, which are not homogenous in chemical and physical compositions such as minerals but generally consist of a variety of minerals. For example, Granite consists of three main mineral constituents: feldspar, quartz and mica, while Coals are a group of bedded rocks formed by the accumulation of mineral matter.

2.0 SOURCE OF MINERALS

Almost all minerals are obtained directly from the earth's crust, but a small steadily increasing proportion is obtained from secondary sources through a recycling mineral based materials.

Minerals are unevenly distributed and unlike agricultural or forest products cannot reproduce or be replaced. Minerals are therefore depleting assets whose production is restricted.

3.0 ROLE OF MINERALS

Minerals contribute an important segment of world trade. The industrially advanced Nations of Western Europe, North America and Emerging Markets in Asia are the main consumers of minerals in the world today. India and China are being rapidly industrialized and this is creating new demand for minerals. In fact the demand from China and Indian alone is largely responsible for the increase in world demand for minerals and price escalation.

The economies of several countries are dependent on their mineral resources: Eg Chile, Brazil, Zambia, Tanzania, Botswana, South Africa, Ghana, Mali, Madagascar, and Niger to mention a few.

4.0 CONTROL OF MINERALS

The Nigerian Minerals and Mining Act, 2007 Section 1(1) states that: **The entire property in and control of all Mineral Resources in, under or upon any land in Nigeria, its contiguous continental shelf and all rivers, streams and water courses through out Nigeria, any area covered by its territorial waters or constituency and the Exclusive Economic Zone is and shall be vested in the Government of the Federation for and on behalf of the people of Nigeria.**

Section 22(1) states that "The use of land for mining shall have a priority over other uses of land and be considered for the purposes of access, use and occupation of land for mining operations as constituting an overriding public interest within the meaning of the Land Use Act".

5.0 EXPLOITATION OF RESOURCES

Mineral exploration is carried through an Exploration Licence, while minerals are exploited through Quarry Licence, Small Scale Mining Lease and Mining Lease depending on its type, nature of formation and scale of operations.

6.0 MONITORING AND CONTROL

There are Control Departments in the Ministry that ensure compliance with the Minerals Act: Mines Inspectorate, Mines Environmental Compliance and Artesanal and Small Scale Mining.

The Functions of the Mines Inspectorate Department include the following:

- 17(a) Exercise general supervision over all reconnaissance, exploration and mining operations;
- (b) Supervise and enforce compliance by mineral title holders with all mine health and safety regulations prescribed under the Act and any other law in force;
- (c) Prepare and render records, reports and returns as required by the Minister or as prescribed by Regulations;
- (d) Take custody of mineral resources required by any Court to be forfeited to the Government;
- (e) With the prior approval of the Minister, dispose of any mineral resources forfeited to the Government.

An officer authorized in writing by the officer in charge of the Mines Inspectorate Department may enter any mineral title area where Mining Operations are being carried out, or which is within the general area of the mineral title for the purposes of inspecting such operations and he shall be provided by the mineral title holder with any information reasonably requested for the purpose of making a report.

The failure of the mineral title holder to provide access to an officer for the purpose of inspection shall constitute an offence.

7.0 OBLIGATIONS OF OPERATORS

The holders of Exploration Licenses, Quarry Leases, Small Scale Mining Leases and Mining Leases have rights and obligations under the law.

These obligations include:

- Adequate plans;
- Detailed work programmes;
- Submit information and such periodic reports as may be prescribed in the Regulations;
- Pay fees, annual rental, royalty and water usage charges if any and as prescribed in the regulations.
- Make Mineral Returns

7.1 ROYALTY AND OTHER FEES

Section 33(1) states that “Any mineral obtained in the course of exploration or mining operations shall be liable to pay royalty...”

Other Fees include:

10 (b) an annual service fees established at a fixed rate per square cadastre...”

17(e) dispose of any mineral resources forfeited to the Government.

33 (i) Any mineral obtained in the course of exploration.

102 (1) The Lessee of mining lease shall pay rent, in advance without demand... in connection with its mining operations.

The payment of service fees and and annual rentage which is made to the Mining Cadastre does not pose much of a challenge as these are time based and computer controlled.

However the payment of Royalty for Mineral production poses serious challenges as this is based on the production declared by the operators!

8.0 CHALLENGES

In determining the production of minerals, operators are allowed by law to disclose the volume and value of what they produced. Unfortunately not all operators report the actual production, and this is where questions are asked:

- What is the true volume of production?
- Are the reports right?
- How can we ascertain the true position?
- Are monies due to Government paid and if so do they actually go into the coffers of Government?
- Can the Inspectorate do it alone?
- How doe one access all the operations?
- Are there adequate policing?
- Is there a second opinion, are we doing it right?

While we develop an in-house mechanism for checking production records and royalty payments including:

- Surveying;
- Assessment of explosives consumption;
- Checking production records,

We lack the capacity to be thorough especially in checking historical data and sand recovered through dredging.

This function afforded us the opportunity to study the Nigeria Extractive Industries Transparency Initiative (NEITI) Act, 2007 and we quickly realized that Mining Inspection is further reinforced by the NEITI Act.

2(a) to ensure due process and transparency in the payments made by all extractive industry companies to the Federal Government;

2(b) to monitor and ensure accountability in the revenue receipts of the Federal Government from extractive industry companies;

2(c) to eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies;

While,

Section 3(e) request from any company in the extractive industry, or from any relevant organ of the Federal, State or Local Government, an accurate account of money paid by and received from the company at any period, as revenue accruing to the Federal Government from such company for that period;

(g) monitor and ensure that all payments due to the Federal Government from all extractive industry companies, including taxes, royalties, dividends, bonuses, penalties, levies and such like, are duly made;

9.0 CONCLUSION

We can conclude that effective implementation of NEITI Act:

Ensures that revenues from extractive industries shall be fully captured, such revenues shall be used for sustainable development and poverty reduction;

- Transparency will then be a real cure to resource curse. This will further reduce poverty, promote democracy and reduce risk of conflict;
- We now have extra legal teeth to ensure their Mining and Quarrying Companies comply with their statutory obligations.

LIST OF SOURCES OF REVENUE. RE: MINES INSPECTORATE

1. Royalties from Metallic, Non-Metallic and Industrial Minerals.
2. Permit to Export Mineral Sample for Analysis.
3. Export Clearance Permit.
4. Gold Licence Fees.
5. Licence to manufacture Explosives and Renewal.
6. Permit to Import Explosives and Renewal.
7. Permit to Import Ammonium Nitrate and Renewal.
8. Licence to Sell Explosive and Renewal.
9. Licence to Sell Anfo and Renewal.
10. Licence to Mix Anfo and Renewal.
11. Explosive Magazine Licence (Permanent) and Renewal.
12. Explosive Magazine Licence (Trailer/Floating) and Renewal
13. Explosive Store Licence and Renewal.
14. Explosive Box Licence and Renewal.
15. Permit to Buy Explosives.
16. Blasting Certificate and Renewal.