Guinea’s New Mining Code and Policy

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Ministry of Mines & Geology;
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## Promoting Transparency and Win-Win Partnerships

<table>
<thead>
<tr>
<th>Context</th>
<th>Ambitions &amp; Vision</th>
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<tbody>
<tr>
<td>- In 2010, President Alpha Condé became the first democratically elected president of Guinea</td>
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<td>- Guinea has undertaken a democratic transition after more than 50 years of authoritarian regimes, corruption and bad governance</td>
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<tr>
<td>- Bad governance and corruption inherited from the past have prevented Guinea from unlocking its mining and natural resource potential: Guinea remains one of the poorest countries in the world, although it is rich in natural resources</td>
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<td>- Guinea has one of the largest deposit in the world of untapped iron ore, two-thirds of the global bauxite resources, and more than 6 million hectares of arable lands that are 70% unexploited</td>
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<tr>
<td>- Many existing mining agreements are not sustainable</td>
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<tr>
<td>➔ The development of Guinea’s mining potential requires substantial and long-term investment from private partners</td>
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<td>➔ Adequate mining regulation is the cornerstone of attractive and sustainable investment</td>
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<td>- Since 2011, Guinea has seen its economy stabilize, the country open up to the world and strengthened the rule of Law</td>
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<td>- Guinea’s future rests on sustainable mining sector development which should act as catalyst for economic growth</td>
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<td>- The Government is taking a new approach to business partnership</td>
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<td>- Looking to build mutually beneficial partnerships with reputable investors, taking a long term approach</td>
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<td>- Promoting transparency, to improve the business climate and benefits to the population</td>
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<tr>
<td>- Advancing well-designed infrastructure development through fair conditions for investors, careful involvement of the State and a consistent infrastructure policy</td>
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History of the Guinean Mining Legislation

CHRONOLOGY OF EVENTS

1st Guinean Mining Code

1986

- Not well known and did not achieve its objectives

Adoption of a new Mining Code more attractive to investors

- Encouraged large mining companies to invest in the country
- Few new projects advanced to operation due to weak governance and bad project management in the mining sector

Profound institutional, structural and legal reforms were undertaken to:

- Adapt to current international best practice and other regulations
- Ensure both benefits for the country and international competitiveness
- Put emphasis on governance and social responsibility

The 2011 Mining Code was adopted by law on 9 September 2011 and promulgated by the President the same day

Decision to amend the 2011 Mining Code in order to improve financial incentives to invest (further to consultations with the business community, development partners, and various organisations, to increase competitiveness and promote investment in the mining sector)

The amendments were adopted by law on 8 April 2013 and promulgated on 17 April 2013
Why a New Code?

1. Promoting long-term, win-win partnerships: optimizing benefits for the country and its people while reinforcing attractiveness for investors.

2. Implementing an ambitious transparency and anti-corruption agenda: fair and transparent deals.

3. Promoting international best practices in terms of governance as well as environmental and social corporate responsibility.

4. Out-dated mining regulations.

5. Harmonizing with other regulations and correct inconsistencies.

- The 2013 amendment reinforces Guinea’s attractiveness for investors.
- The amendments were drafted after the Government undertook lengthy consultation with the industry and other stakeholders: development partners, civil society.
  - Reduction of royalties, custom duties and corporate income tax.
  - Clearer rules on transfers of interests.
  - Longer fiscal stabilization period.
  - Other improvements and clarifications to ease investors implementation of the regulation.
Key Elements of the New Mining Code

1. New Mining Code
2. Mining Rights
3. Governance, Transparency and Fight against Corruption
4. Community Development and Local Content
5. Fiscal Regime
6. State Participation
7. Infrastructure and Local Processing
8. Protection of the Environment
New Mining Code Principles

- Fair Share of Economic Returns
- CATALYST FOR LOCAL AND NATIONAL DEVELOPMENT
- Clear Rules, Transparent Framework
- Environmental & Social Best Practices
- New Mining Code
- Promote Infrastructure Development
- Stimulate Investment and Prevent Freezing of Assets
- Accountability to Guinea's Citizens
- State Participation in Mining Projects
# Mining Rights

## Exploration Licenses
- First-come, first-served basis
- Non-transferable but holder can enter into technical partnerships

## Exploration Areas
- Revised upwards in the amendment to the code to incentivize exploration:
  - Maximum of 3 permits of 500 km² each for bauxite and iron ore (from 350 km²)
  - Maximum of 5 permits of 100 km² each for other minerals (from 50 km²)

## Exploitation Licenses/Concessions
- As for exploration licenses, competitive bidding wherever feasible (known deposits, competing interests)
- Awarded upon agreed clear, well-defined work schedules and feasibility studies
- Regulation and gradual formalisation of artisanal mining

## Investment Requirements
- Minimum investment to obtain a mining concession reduced to USD 500 millions (from USD 1 billion) for minerals other than iron ore and bauxite
- Stricter rules and conditions relating to the renewal of rights
- Projects which include local processing are entitled to an additional year to start operations

## Prevent Asset Freezing

## Increase Accountability and Security of Mining Rights
- A multi-stakeholder independent national mining commission to validate decisions on rights
Governance, Transparency and Fight against Corruption

- Stronger governance lowers the cost of doing business, increases returns for investors and for Guinea.

- Public disclosure of contracts, titles and related official decisions
  

- Full chapter dedicated to transparency, the fight against corruption and the prevention of conflicts of interests.
  
  - Transparent management of mining rights carried out by a new entity (National Commission of Mines).
  
  - Code of Good Conduct and Surveillance Plan against corruption.
  
  - Obligation to respect the twelve principles of the Extractive Industries Transparency Initiative (EITI).

- Government looking to work with companies on the regulation and implementation of these provisions.
Community Development and Local Content

- Populations to benefit from mining activities (« social license to operate »)
- Local development convention: multi-stakeholder, collaborative approach
- 3 types of measures to encourage the development of local communities through investment in revenue-generating activities and local development priorities:
  - Annual surface taxes to be entirely directed towards the respective local communities
  - Local development tax: 0.5% of sales for bulk commodities (iron ore and bauxite), 1% for gold mining
  - 15% of royalties to be transferred to local government’s budget, country-wide
- More local content is good for business and good for Guinea
  - Progressive employment quotas at different stages of mining activity, for different qualification levels, with a view to develop national expertise and optimize labor cost
  - Promotion of on-the-job training
  - Favorable provisions for the creation of SME and SMI’s at every stage of mining activities, to develop local services at competitive prices and ultimately reduce sub-contracting costs
  - Local content provisions for suppliers
- Government looking to work collaboratively with companies for a smooth and more efficient implementation of mining activities
### Fiscal Regime

<table>
<thead>
<tr>
<th>CORPORATE INCOME TAX</th>
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<tbody>
<tr>
<td><strong>CORPORATE INCOME TAX</strong></td>
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<tr>
<td>VAT</td>
<td></td>
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<tr>
<td><strong>VAT</strong></td>
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<tr>
<td>The income tax was reduced from 35% (general scheme) to 30% to align the Guinean tax system with other countries in the region</td>
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<tr>
<td>VAT is exempt on all imported goods on the Mining List for phases of research, construction and operation</td>
<td></td>
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<tr>
<td>In the operating phase, the VAT is due but neutral (reimbursed to exporters)</td>
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<tr>
<td>Customs duties applicable on material and equipment related to the processing of ore during the operating phase has been reduced from 6% to 5%</td>
<td></td>
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<tr>
<td>Exemption from customs duties for all companies during the operating phase (aligned with international best practices)</td>
<td></td>
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<tr>
<td>Customs duties applicable to material and equipment related to the extraction of ore during the operating phase has been reduced from 8% to 6.5%</td>
<td></td>
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<tr>
<td>Heavy fuel oil for the extraction, concentration and processing of the ore, is exempt from VAT and customs duties for all phases of activity</td>
<td></td>
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<tr>
<td><strong>BUSINESS LICENSE FEE</strong></td>
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<tr>
<td>Mining companies are no longer subject to a business license fee</td>
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Fiscal Regime – Royalties

- Based on international indexes and aligned with international standards
- Two-step royalty on extraction and export, to encourage in country processing of bulk commodities
- **Royalties on bauxite** exports have been reduced to 0.15% (from 0.55%). This royalty comprises 0.075% of extraction tax and 0.075% of export tax (not due on locally transformed bauxite)

<table>
<thead>
<tr>
<th>MINING CODE</th>
<th>RATE</th>
<th>BASE</th>
<th>EX: 1 TON, 45% AL2O3 BAUXITE, LME PRICE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extraction tax</td>
<td>0.075%</td>
<td>LME Alumuninium price (3 months-seller) x Al2O3 content/40%</td>
<td>$1,6</td>
</tr>
<tr>
<td>Export tax</td>
<td>0.075%</td>
<td></td>
<td>$1,6</td>
</tr>
<tr>
<td>Total</td>
<td>0.15%</td>
<td></td>
<td>$3,2</td>
</tr>
</tbody>
</table>

- **Royalties on iron ore** have been set at 5%. This royalty comprises an extraction tax of 3% and an export tax of 2%
- **LME reference for iron ore** replaced by recognized index on the mineral itself (Platt’s)

<table>
<thead>
<tr>
<th>EX: 1 TON, 62% FE CONTENT, MINING CODE</th>
<th>RATE</th>
<th>BASE</th>
<th>PLATT’S: $120, BALTEX: $17/T</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extraction tax</td>
<td>3%</td>
<td>(Platt’s index for iron ore fines 62% - Baltic Capesize Index Route C3) x Fe content / 62%</td>
<td>$3,09</td>
</tr>
<tr>
<td>Export tax</td>
<td>2%</td>
<td></td>
<td>$2,06</td>
</tr>
<tr>
<td>Total</td>
<td>5%</td>
<td></td>
<td>$5,15</td>
</tr>
</tbody>
</table>
Fiscal Regime

**STABILIZATION OF THE FISCAL REGIME**
- The stabilization period has been extended from 10 to 15 years
- Only rates are stabilized, not the fiscal base (except the one used for royalties) to allow for application of future General Tax Code revisions

**OPERATING RING-FACING**
- Provisions to prevent the abuse of exemptions granted to companies in the research phase and the construction phase. A company cannot benefit from the tax exemptions of a research permit for imports related to operating activities and/or non-mining activities
- State approval for long-term pricing of mineral sales or possible pre-emption right on quantities sold below market price
- Further regulation relating to taxation in Guinea can be found in the General Tax Code

**SUB-CONTRACTORS REGIME**
- Direct sub-contractors benefit from the same fiscal and custom exemptions for imports only (VAT and customs)
- The definition of sub-contractor has been specified, and the system of direct sub-contractors precisely defined in order to facilitate the application for operators, while limiting the potential for abuse
State Participation

- Aim: promote investment, support project development and build capacity
- 15% free equity in Guinean entity, non-transferable
- Much lower stakes for projects engaged in processing (i.e. alumina 5%, aluminum 2.5%)
- Option to purchase 20% additional stake at market price
- State national mining company to manage state equity
- State’s optional rights to the marketing of minerals at market rates

<table>
<thead>
<tr>
<th>SUBSTANCE</th>
<th>FREE CARRY INTEREST</th>
<th>OPTIONAL CONTRIBUTIVE INTEREST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bauxite</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>Intergrated Bauxite-Alumina Project</td>
<td>5%</td>
<td>30%</td>
</tr>
<tr>
<td>Alumina</td>
<td>7.5%</td>
<td>27.5%</td>
</tr>
<tr>
<td>Aluminum</td>
<td>2.5%</td>
<td>32.5%</td>
</tr>
<tr>
<td>Iron Ore</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>Steel</td>
<td>5%</td>
<td>30%</td>
</tr>
<tr>
<td>Gold and Diamonds</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>Uranium</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>Other</td>
<td>15%</td>
<td>20%</td>
</tr>
</tbody>
</table>
Infrastructure and Local Processing

- Central role of infrastructure development costs for bulk commodity exports
- Promotion of a mining infrastructure master plan, with the support of the World Bank
- Shared or independent ownership to be considered to maximize projects value
- State control optional, if sensible and after full recovery of capital costs by private partners
- Guinea aims to promote in-country processing of minerals and industrialization
- Processing is now encouraged by positive incentives (lower royalties and state equity), but not imposed on companies
- Better infrastructure and a trained labor force will in time create a more favorable environment for in-country processing
Protection of the Environment

Under the new Mining Code, holders of authorizations and mining titles must:

- Prevent or minimize any negative impact of their activities on the environment
- Prevent and/or reprocess any discharge in order to neutralize the impact on nature
- Promote or maintain the living environment and good health of local population
- Manage waste materials through minimizing their production and ensuring they are not dangerous

Mining rights holders must also meet obligations relating to the closure and rehabilitation of their sites, including the opening of a rehabilitation account.
Guinea is fully committed to transparency in the contract review process being conducted by the Comité Technique de Revue des Titres et Conventions Miniers.

Progressive implementation of the new Mining Code to existing contracts, to promote harmonization of good practices while sustaining activity and investment.

3 categories of amendments to be agreed on:

- Non-negotiable: governance, local development, environmental provisions
- Progressive application: local content
- Negotiable: fiscal regime and state participation

The license-holder has rights to present its own case and evidence, and be formally heard before any recommendation is made. The license-holder also has the right to make its case to the Comité Technique, to the Comité Stratélique and to the government. The license-holder can appeal any adverse, ultimate decision in the Guinean courts, and may pursue any other dispute resolution rights it may have.
Conclusion: Fair and Transparent Deals for Mutual Benefits

- The new Mining Code provides strong emphasis on good governance and a fair treatment of investors in the mining sector in Guinea for mutual benefits.

- The new Mining Code promotes the fight against the freezing of assets.

- The new Mining Code encourages clear, fair and transparent deals.

- The new Mining Code encourages mining development and better management of the mining sector.

- The new Mining Code protects the rights of investors by providing them with clearer and more transparent procedures for a better business climate.

- The new mining code guarantees the country and its people fair revenues from the exploitation of its mineral resources.
Thank you for your consideration