Promoting Sustainable Artisanal and Small-Scale Mining in Africa: The Case of Rwanda

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Artisanal Mining in Africa

• Initially isolated, yet prevalent
  – Lack of legal recognition
  – Little or no regulation and monitoring

• Enormous socio-environmental impacts
Overview of Mining Development in Rwanda

- Mining began in the early period of the Iron Age
- First official “geological observations” were made in 1909 (MINIRENA, 2009)
- Official mining activities began in the 1920s and 30s by the Belgians (MINIRENA, 2009)
- Up to 1968 (6 years after Rwanda’s independence), the contributions of mining to economic development were 42.5% of Rwanda’s foreign exchange earnings (Teeffelen, 2012)
– Plummeted to 10% by 1984 due to lack of investments in the sector

• Formed Société des Mines du Rwanda (SOMIRWA) in 1973 which government held 49% shares
  – Bankrupt in 1985 due to lack of funding et al

• Formation of an artisanal mining cooperative, Coopérative de Promotion de l’Industrie Minière Artisanale au Rwanda (COPIMAR) in 1988

• 1989, founded a new public company, Régie d'Exploitation et de Développement des Mines (REDEMI) to continue the work of SOMIRWA
• A policy shift from state-based to market-based economy occurred in the 1990s
  – Series of privatizations
• Steps to improve the legal and institutional environment for managing the mining sector
  – Establishment of a Public Sector Capacity Building Secretariat (2009)
– Establishment of the Rwanda Natural Resources Authority (2011)
– Enactment of a mining law in 2008 (to replace the 1971 law)
– Enactment of 2014 Mining and Quarry Law

• Country is best known for the 3T minerals: tin (cassiterite), tungsten (wolframite) and tantalum (coltan)
Sustainable Development and its Application to ASM

- Sustainable Development – “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” – Brundtland Report, 1987
  - Inter-generational equity – sustainable
  - Intra-generational equity – development
  - Consideration of the environmental, social and economic aspects of business (triple bottom line)
• ASM itself has been described as “inherently unsustainable” (Hayes, 2008:9)
• How to carry out sustainable ASM
  – Formalization
  – Transparency
  – Environmental considerations
Formalization

• The “process of registering and organizing unregulated mining” (Maconachie & Hilson, 2011:294)
  – Property rights

• Formalization’s link with sustainable development
  – “Improvements in the technical, environmental and socio-economic performance of the ASM sector hinge on the organization, formalization, and legalization of ASM activities” (Hinton, 2005:44)
  – Env’tal and social considerations to be integrated into formalization
Transparency

- “[T]he degree that information is made available about how and why decisions are produced within a certain institution” (Licht et al, 2014:112)
  - Lack of “transparency of the hard ware market” as a “[t]ypical problem of ASM in the technical environment” (IIED, 2002)
  - Where mineral trading is not transparent, smuggling is an easy option for miners.
Transparency can help build trust among ASM stakeholders. Transparency creates equal opportunity for all ASM stakeholders. Reduces “uncertainty” in mineral dealings and “suspicion” among ASM actors. Reduces “favoritism and corruption” by engendering public monitoring.

- Transparency’s links with SD
  - favoritism and corruption, for instance, can destroy the economic benefits of ASM
ASM under Rwanda’s 2014 Mining and Quarry Law

• Formalization of ASM
  – Ownership and control of minerals
  – Types of recognized mineral licences
    • an exploration licence;
    • a small-scale mining licence;
    • a large-scale mining licence;
    • an artisanal mining licence
  – Provisions for acquisition of ASM rights and obligations
– Rights of an artisanal mining licence differ from those of a small scale mining licence

– Artisanal mining rights holder
  • To carry out exploration and mining operations in the licenced area and to sell the minerals obtained

– Small Scale – right to
  • mine and process the minerals relating to the licence;
  • erect equipment and other machinery;
  • dispose of any mineral products and deal with any waste products in an approved manner
• Compared to large-scale mining licence holders
  – All the rights of small-scale miners
  – right to have any newly discovered mineral deposits to which the licence does not relate included in the existing mineral licence
    • Prioritization of large-scale mining
    • Shortage of lands for ASM
• The creation of ASM cooperatives
  – to motivate indigenous participation in the mining sector and enable them acquire relevant knowledge, skills and resources
  – Hampered by “financial constraints and legislative limitations” (Perks, 2012:15)
  – Formation of the Coopérative de Promotion de l’Industrie Minière Artisanale au Rwanda (COPIMAR) in 1988
• Reforms carried out in 2004 led to the formation of Fédération des Coopératives Minières au Rwanda (FECOMIRWA) in 2009 to replace COPIMAR.

• ASM carried out through cooperatives was less negatively viewed from ASM carried out in the ordinary way.

• The cooperative model has proved “a sound strategy to combat domestic mineral smuggling” (Perks, 2013:744).

• Bolsters the bargaining power ASM.

• Poor capitalization hinders the growth of the cooperative model.
Transparency

• The process of acquisition of ASM rights
• How the produced minerals are traded
• Acquisition of ASM rights
  – Modalities for applying for a mineral licence are not specified in the law
    • Power assigned to the responsible Minister
    • No obligation to subject the licensing process to competitive bidding – at the discretion of the Minister
      – Bad for transparency
• Trade in Minerals
  – Rwanda as a transit route for conflict minerals in Central Africa (UN Security Council Reports)
  – Rwanda is a member of the International Conference on the Great Lakes Region (ICGLR)
  – ICGLR Protocol Against the Illegal Exploitation of Natural Resources
  – Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) as a vehicle for implementing the Protocol
• Tools for implementing the initiative
  – the establishment of a regional mineral tracing and certification scheme;
  – the domestication of the Protocol and the harmonization of mining legislation;
  – the creation of a regional database to track the production of and trade in minerals;
  – the formalization of ASM;
  – the promotion of EITI within the region; and
  – the establishment of a mechanism to facilitate and protect whistleblowing
• Ministerial Regulations No 001/MINIFOM/2011 prohibiting the purchase or sale of minerals by any person without commercial registration
  – Permission from the Ministry of Commerce and Industry and the Rwanda Geology and Mines Authority
  – Forbids the importation of minerals without documents certifying the origin of the minerals and their weight at the point of origin
– Minerals to be exported from Rwanda must carry a certificate of origin and traceability documents and must be tagged
– Recognition of 8 mineral trading centres
– Mineral traders to submit monthly reports of their mineral purchases and sales to the Ministry of Commerce and the Rwanda Geology and Mines Authority
• New ministerial regulations in 2012
  – Ministerial Regulations No 002/2012/MINIRENA of 28/3/2012 on the Regional Certification Mechanism for Minerals
    • All mineral exploration and trading to be in compliance with the ICGLR (Regional Certification Mechanism) RCM Certification Manual
    • An RCM certificate must be obtained from the Government of Rwanda for all exports and imports
    • Minerals imported into Rwanda and subsequently exported are to be tagged as “re-exports”
• Status of these Ministerial regulations is unclear under the 2014 mining and quarry law.
  – Repeal of the 2008 mining law
Environmental Impacts of ASM

• All holders of mining license to comply with Rwanda’s environmental laws and regulations
• Organic Law No 04/2005 of 08/04/2005 Determining the modalities of Protection, Conservation and Promotion of Environment in Rwanda
• Environmental Impact Assessment
  – Public consultation
  – Public hearing “may” be held.
• “Stakeholders may comment” on the EIA report
• No right of appeal against an EIA decision
  – But a project developer can appeal against an adverse EIA decision