



Mining Projects, Law and Regulation in West Africa

Overcoming Risks, Securing Mining Rights and Maximising Investment Returns in West African Mining Projects

12th & 13th March, 2014 | The Sheraton Park Lane Hotel, London, UK



Practical Tips and Strategies from Leading In-house Counsel of Mining Companies:

Ike Adeyemi
Manager, Group Legal Corporate, BHP Billiton (UK)

Mariama Barry
Legal Counsel Simandou Project, Rio Tinto (France)

Robina Kaye
General Counsel, Core Mining Limited (UK)

Jasmina Finelli
Regional General Counsel, Boart Longyear (Switzerland)

Francis O'Neil
General Counsel and Company Secretary,
African Minerals (UK)

Anne van Ysendyck
VP, Head of Legal, Risk & Compliance, ArcelorMittal

Valuable insights from Government Departments, International Associations and Regulators:

Rt. Hon Clare Short
President, EITI

Rosemarie Cadogan
Legal Counsel, Commonwealth Secretariat (UK)

Harry A. Greaves, Jr., CPA
Senior Member of the Chamber of Commerce
of Liberia (Liberia)

Top Reasons to Attend:

- 1 Receive expert advice and guidance on Stability Agreements and Resource Nationalism in order to safeguard your company's rights in the West African region
- 2 Gain practical tips on how mining companies select and evaluate their outside counsel and how they formulate their legal strategies
- 3 Safeguard your legal rights and financial investments by ensuring you are up to date with the latest cases and developments regarding the rapidly evolving area of infrastructure projects in West Africa
- 4 Ensure your investments are fully protected by enhancing your knowledge of the different methods of raising capital and other finance related matters

Add further value to your conference experience by attending our expert led pre-conference workshop:

Part **A** In Depth Understanding of the Fundamentals of Mining Development Agreements

Part **B** Legal and Regulatory Challenges of Financing Mining Projects in West Africa

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The African continent as a whole is believed to contain roughly 30% of the world's mineral reserves, much of it unexplored. Rising resource prices coupled with large profits made by multinational mining companies have put pressure on governments to renegotiate contracts and revise mining codes to include more favourable terms for host countries. With major mining companies expected to invest around 25 billion in infrastructure across West Africa in the next few years, obtaining certainty around the financial, infrastructure, legal and regulatory framework in these countries is of paramount importance for mining companies as they make further strategic decisions.

This conference will bring together finance, infrastructure, legal and regulatory affairs personnel from mining companies operating in the West Africa Region. Over two packed days you will receive valuable insights on the current challenges facing companies in this region enabling you to benchmark your experiences and strategies with other mining companies and maximise the huge business opportunities.

By attending this event and hearing from top experts in this field, you will also:

- 1 Understand how mining companies are adapting to the constantly changing mining law regime and how they can ensure contractual certainty and, financial and legal stability
- 2 Be able to navigate your way through the complexities of local governmental policies and tax amendments saving your company time and money
- 3 Guarantee compliance and transparency with all of the recent reforms on anti-corruption and compare and contrast anti-corruption legislation and experiences across the region
- 4 Develop your legal strategies on Alternative Dispute Resolution and keep up to date with the latest local and international arbitration cases to ensure you have the tools at your disposal to enforce your legal rights
- 5 Avoid costly sanctions imposed for environmental and employment law violations by keeping up-to-date with these challenging aspects of the mining industry

Plus, enhance your experience by attending the in-depth pre-conference workshop on 11 March, 2014:

Workshop: 1.00 pm – 4.30 pm:

Part A In Depth Understanding of the Fundamentals of Mining Development Agreements

Part B Legal and Regulatory Challenges of Financing Mining Projects in West Africa

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For more information about this program or our global portfolio, please contact: Evi Kartsouni on +44 (0)20 7878 6955 or email e.kartsouni@C5-Online.com

WHO SHOULD ATTEND?

C5's Mining Projects, Law and Regulation Forum will provide valuable insights for:

Mining Companies Senior Counsel

- Managing Directors
- CEO
- Consultants
- Development Executives
- Operation Managers
- Environmental Officers
- Chief Executive Officers

Private Practice Lawyers specialising in:

- Mining Law
- Energy and Natural Resources
- Tax Law
- Environmental Law
- Infrastructure
- Alternative Dispute Resolution
- Finance and Corporate Law
- Anti-Corruption

Government Bodies

- Ministers
- Trade Commissioners
- Law Enforcement Officials
- Regulators
- Legal Advisors

Infrastructure Companies

- CEO
- Managing Directors
- Consultants

Financial and Tax Institutions

- CEO
- Managing Directors
- Consultants
- Fund Managers
- Tax Partners
- Capital Analysts
- Investment Bankers

Pre-Conference Workshop
11 March, 2014

**In Depth Understanding of the Fundamentals
of Mining Development Agreements**

Part A **1:00-2:30**

Salimatou Diallo, SD Avocats, Managing Partner (Guinea)

The session will examine the main aspects of negotiating and drafting a mine development agreement. The expert panel will share its expertise on what are the best practices and discuss issues like an effective legal and regulatory framework, security of tenure, objective criteria for the grant of exploration and mining licences, limited administrative discretion, a defined role for government, efficient mining sector institutions and administrative capacity, physical and infrastructure services, competitive fiscal and taxation conditions and effective investment protection.

2:30-3:00 **Workshop Refreshments**

**Legal and Regulatory Challenges of Financing
Mining Projects in West Africa**

Part B **3:00-4:30**

Michael Gaveh, Partner, Oxford and Beaumont (Ghana)

- The nature and extent of a legal due diligence exercise in respect of a mining company and the challenges associated with the exercise. Discussion will include*
 - information gathering;*
 - permits and authorizations;*
 - litigation related challenges*
- The powers and role of regulatory agencies under the legal regime and their effect on project implementation.*
 - The kinds of consents that may be required from regulatory agencies.*
 - Challenges with absence or interpretation of legislation by regulators.*
- Taking security to secure obligations of borrowers. Discussion will include:*
 - the kinds of security that can be taken;*
 - what is involved in taking and perfecting security; and*
 - its financial implications for borrowers/mining companies.*

**Main Conference Day One:
Wednesday 12 March, 2014**

8:00 **Coffee and Registration**

9:00 **Chair's Opening Remarks**

Poupak Bahamin, Partner, Norton Rose Fulbright (France)

9:05 **Keynote/Opening Address: The Importance
of Transparency in West Africa Mining**

Rt.Hon. Clare Short, Chair of the EITI

9:15 **Understanding the Key Drivers to Obtaining
and Maintaining Stable Long Term Mining
Rights**

Akshai Fofaria, Partner, Pinsent Masons (UK)

Robina Kaye, General Counsel, Core Mining Limited (UK)

Tom Wilson, Head of Intelligence and Analysis, Africa Practice (UK)

- In the light of the Historical context, from the Declaration of Sovereignty over natural resources through to the present day: What are the current trends in taxation and regulation?
- Are CSR, community development arrangements and mineral linkages evolving as a key tenets of sustainability of mining projects? What level of social engagement and local integration is acceptable?
- What are the various mineral revenue sharing models and which models generate lesser or greater political risk?
- What the components of legal and fiscal stability agreements and what negotiating positions can be adopted to optimise a profitable and bankable regulatory environment for the mineral investor, whilst persuading the State that it retains its sovereign prerogatives?
- What roles are external institutions playing in ensuring that mining arrangements are stable and sustainable?
- What is the legal basis of contract revisitation in Guinea and is this likely to intensify in other parts of West Africa? Is the lack of transparency at the core of contract revisitation and contractual instability?

10:20 **Morning Networking Break**

10:50 **Industry Roundtable: How Mining
Companies Select and Evaluate Their
Outside Counsel, Manage Costs and
Formulate their Litigation Strategies**

Ike Adeyemi, Manager, Group Legal Corporate, BHP Billiton (UK)

Anne van Ysendyck, VP, Head of Legal, Risk & Compliance, ArcelorMittal

Moderator:

Khawar Qureshi QC, Serle Court London and McNair Chambers Qatar

- What do mining companies really want to know before engaging outside counsel?
- The ways in which outside and in house counsel can better interact
- How legal fees are being regulated in the region and how they are being structured into law firm selection and evaluation
- Containing costs and managing the rising amount of litigation
- How mining companies deal with case settlement without affecting the mining company's targets
- How has the economic crisis forced the contracting parties to avoid costly litigation and either to settle or proceed with ADR?

11:50 **Mining Legislation, Regulations and Codes:
Business and Strategy Considerations in
Response to the Recent Law Amendments
in West Africa**

Stephane Brabant, Partner, Herbert Smith Freehills (France)

- Overview of West African countries currently reforming their mining codes, or about to enact a reform
- What are the main drivers governing these reforms?
- Harmonization of mining legislation with regional legislation
- What are the main tendencies of these reforms (in civil law and in common law countries)?
 - Reallocation of mining profits between the State and the private sector
 - Provisions on transparency
 - Infrastructure and financing constraints
 - Positive impact of mining projects on local communities
 - Local content and SHEC (Safety, Health, Environment and Community) provisions

- What are the risks arising from these reforms - what renegotiation processes are currently taking place across West Africa?
- How are foreign investors reacting?

1:00 **Networking Lunch**

2:30 **Enhancing Your Understanding of National Government Policies and the Practical Implications for the Mining Industry**

Rosemarie Cadogan, Legal Counsel, Commonwealth Secretariat (UK)

Harry A. Greaves, Jr., CPA, Senior Member of the Chamber of Commerce of Liberia (Liberia)

- How the lack of capacity of West African states to monitor and enforce natural resource management regulations can impact upon the benefits for local employment and economic growth
- How the lack of transparency in resource revenue management policies is driving the need for stronger natural resource governance strategies
- Why it is critical that national governments avoid mistakes of the past by offering mining companies a coherent set of stable fundamental rights
- How the differing interpretations of mining codes and regulations by government officials creates difficulties for the everyday running of mining projects in West Africa
- How can these problems be overcome?
- The means in which national governments can develop a standard framework for the various types of compensation
- How national governments can create a more business-friendly environment and regulatory framework to attract more funding for mining projects in West Africa
- The extent to which mining companies can appease the demands of local governments to produce more social and logistical infrastructure, community developments and local hiring
- What are the risks and practical problems for mining companies if the local community's needs and interests are not met?
- How political uncertainty in local governments can translate into legal uncertainty for mining companies
- Will the ECOWAS Directive ensure free access to information and balance the interests of local government and mining companies?
- Factors for mining companies to consider when negotiating with local government
- Whether initiatives such as the National Minerals Agency of Sierra Leone are the answer to regulating the mining industry

3:45 **Networking Break**

4:15 **Raising Funds and Investment in West African Mining: How to Maximise the Opportunities Whilst Minimising Risk**

- How unstable tax regimes and national governments deter financial institutions from providing funds to mining companies
- What is the best way to raise funds for mining projects and how can national governments be of practical and monetary assistance to mining companies?
- Developments in royalties and taxes and their long term impact on mining investments
- Are investment funds the future source of funding for mining projects in West Africa?
- Methods for mining companies to source partners for regional expansion in West Africa
- How junior mining companies can make themselves more attractive to the investment community

- Attracting investment in underexplored West African regions
- Best methods to manage the legal risks of mining projects in West Africa
- What are the main considerations when a mining company revisits their capital expenditure plans?
- Are industry consolidations, automation technology, owner-operated mines and investment in energy assets the answers to rising mining costs?

5:15 **Environmental Liability: Practical Tips for Evolving Your Strategy on Core Issues**

Simon Aldrich, Leader of Urban Development and Infrastructure Capability, Golder Associates (UK)

- How environmental destruction from illegal mining can be combated and how illegal mining creates a burden for established mining companies
- Are national laws on environmental liability outdated and in need of urgent amendment to protect the environment and adhere to the international environmental standards?
- How national governments deal with environmental destruction and how mining companies can ensure this is minimised
- How mining companies can avoid being criminally prosecuted for environmental violations - implementing internal policies that meet international standards
- Should mining companies refer to mining laws or environmental laws regarding environmental protection in mining sites?
- The extent to which the African Convention on the Conservation of Nature and Natural Resources needs revision to provide mining companies with a more detailed framework
- Best practices for remedial environmental work by mining companies
- Environmental issues for closure and post closure plans for a mining company
- Should lawyers and mining companies have a better fundamental understanding of the science involved in the EIA's?
- Whether mining companies are competent to advise on the form and content of environmental regulations

6:00 **Chairman's Closing Remarks and End of Day 1**

**Main Conference Day Two:
Thursday, 13 March 2014**

8:30 **Coffee and Registration**

9:00 **Chairs Opening Remarks**

Glen Ireland, Partner and Co-Chair of Mining and Metals Group, Latham & Watkins LLP (UK)

9:05 **Evaluating and Analysing Infrastructure Challenges and Avoiding the Pitfalls**

Sarah Thomas, Partner, Pinsent Masons (UK)

Mark Wainwright, Global Head of Mining, Turner & Townsend (South Africa)

Mr Francis O'Neil, General Counsel and Company Secretary, African Minerals (UK)

- What is the status of the current market and what are the ways to finance mining and related infrastructure in West Africa?
- Comparing and contrasting the level of adequate infrastructure in different countries in West Africa

- Key issues to anticipate when funding and building infrastructure in West Africa and ways for mining companies to deal with them?
- Will a well-established regime manage to align the interests of mining companies with the concept of an investment grade anchor?
- Is funding from institutional investors like sovereign wealth and infrastructure funds the answer to the infrastructure funding challenges?
- Impact of commodity prices and increased shareholder pressures to restrict new capital expenditure; will shareholders allow mining companies to build larger than needed infrastructure so as to accommodate the local community's needs?
- How can smaller mining companies compete on an equal level when they lack the required financial strength when it comes to infrastructure? To what extent is Asian investment an answer?
- Key challenges in the areas of procurement and risk allocation between government, users, developers and funders for infrastructure projects
- Main issues when it comes to infrastructure ownership and security of assets – shared ownership issues in relation to road, rail and deep water port assets (that may have a wider community benefit)
- Procuring infrastructure - what should mining companies keep in mind when drafting or negotiating agreements for early studies, pre feasibility, feasibility and infrastructure agreements? To what extent can risk be transferred to contractors and equipment suppliers in the current market and key market trends in contracting?
- How can mining companies organise and supplement the Owner's team to closely monitor, audit and control infrastructure costs? What cost control mechanisms are effective?

10:30 Morning Refreshments

11:00 Developing Your Legal Strategies for Alternative Dispute Resolution

Mark McNeill, Partner, Shearman and Sterling LLP (UK)

- How can ADR benefit the mining industry in the region?
- The local enforcement of arbitration awards
- Avoiding costly litigation without jeopardising your rights to arbitration
- How can mining companies benefit from bilateral investment treaties?
- The recent cases of Wadi Al Rawda and Burkina Faso, and Senegal v Arcelor Mittal

12:00 Taxation and Mining: Identifying and Resolving Tax Challenges in West Africa

- What challenges arise when local taxes and VAT are interpreted in a different light by the local authorities and national government?
- Negotiation tactics which mining companies can use to reach equilibrium with the tax authorities
- Whether double tax treaties are required in order to advance investment in Africa and how mining companies can benefit from them
- How a framework for the strengthening of the mineral tax administration can benefit both the mining companies and local governments
- Assessing the impact of recent tax regimes on the West African mining world – What uncertainties remain?
- How mining companies can negotiate the discretionary penalties and possible interest payments that are being imposed by government officials

1:00 Networking Lunch

2:30 How Mining Companies Enforce and Comply with National and International Anti-Corruption Laws

Jasmina Finelli, Regional General Counsel, Boart Longyear (Switzerland)

Mungo Soggot, Managing Director, K2 Intelligence Limited (UK)

- The importance of compliance monitoring and due diligence in West African mining
- What anti-corruption provisions can mining companies include in mining contracts to protect themselves from third party risks?
- How to create the appropriate compliance policies, procedures and internal controls for mining companies
- Do the current transparency measures, government initiatives and EITI suffice and what are the next steps to resolve this on-going problem?
- How FCPA/UKBA investigations will impact upon US and UK mining companies with a West African presence
- Best practice procedures for mining companies to follow in order to avoid breach, detection, prosecution and sanction under the FCPA/UKBA
- How proceedings under FCPA/UKBA can be enforced in Africa

3:30 Tackling the Problems of Illegal Mining in West Africa

- How can West African countries combat the increasing concentration of illegal mining workers in the region in order to protect foreign mining investment and properties?
- How illegal mining workers have affected local communities
- What steps local governments are taking to resolve these issues
- How these problems are affecting mining companies and their investments
- Ways in which illegal mining is compromising the West African environment
- If illegal workers are prosecuted in national courts, how can mining companies legally enforce their rights against those individuals?

4:15 Refreshments Break

4:30 Employment Liability and Mining: Overcoming Critical Challenges and Gaining Essential Information

N.O.Odotei, Partner, Fugar and Company (Ghana)

- How the increasing requests for better salaries and working conditions for mining workers impact upon the viability of mining operations
- Does the lack of experts in West African countries force the mining companies to have increased operational costs and how can the companies minimise them?
- How mining companies can identify and attract employees from other labour pools and sectors
- How can national governments and mining companies ensure that there is sufficient training for local mining workers?
- How mining companies can offer the same benefits provided to expats to local mining engineers

5:15 Chairman's Closing Remarks and End of Conference



Business Information
In A Global Context

C5's Forum on

Mining Projects, Law and Regulation in West Africa

Overcoming Risks, Securing Mining Rights and Maximising Investment Returns in West African Mining Projects

12th & 13th March, 2014 | The Sheraton Park Lane Hotel, London, UK

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ADMINISTRATIVE DETAILS

Date: 12 & 13 March 2014

Time: 8:45 - 17:15

Venue: The Sheraton Park Lane Hotel

Address: Piccadilly, London, W1J 7BX

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