

Status of Domestication of Africa Mining Vision in Ghana's ASM Sub-Sector

POLICY BRIEF

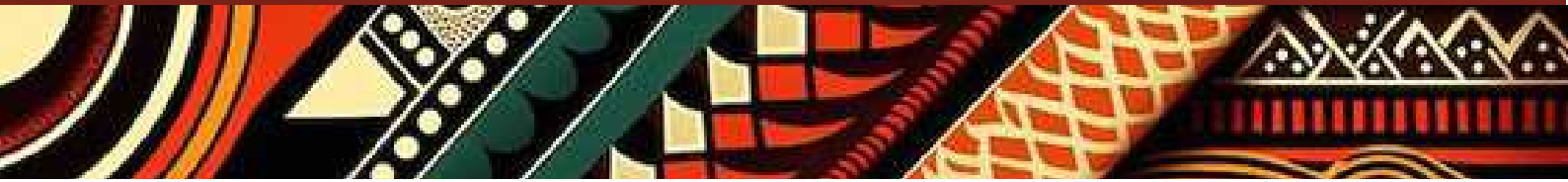


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INTRODUCTION



This policy brief discusses the implementation of the African Mining Vision (AMV) in Ghana's Artisanal and Small-scale Mining (ASM) sector. It highlights the interventions and challenges faced by stakeholders in the sector and assesses the AMV's implementation in Ghana's mining policies. The brief recommends policy advocacy and learning on using AMV in national policies to inform artisanal and small-scale mining and natural resource governance. The brief was created using a combination of secondary materials and semi-structured interviews with key stakeholders such as ASM operators, representatives of ASM associations, government policy and regulatory officials, civil society organisations, and academia.

The African Mineral Governance Framework (AMGF) was used as a toolkit for tracking and analysing the state of domesticating the AMV in Ghana, focusing on ASM. The AMGF is intended to deepen the commitment to implementing the Africa Mining Vision by serving as a monitoring tool to help African countries determine their progress in realising the transformative ambitions of the Vision.

BACKGROUND



Ghana has been at the forefront of the AMV agenda since its inception, hosting the first Inter-Ministerial Conference in 2008, preceding the adoption of the vision. It has since taken steps in domesticating policy and legal prescriptions of the AMV in its mining regime. With the support of UNDP Ghana, the country undertook a review of alignment between the AMV and Ghana's policy/legal frameworks in the solid minerals sector in 2015 and 2016, leading to the identification of critical issues that need to be addressed to achieve AMV-compliant status. The partnership (Ghana/UNDP) also undertook a social analysis of the ASM sector in Ghana, flagging critical issues of concern for the government to address.

Fourteen years after adopting the Africa Mining Vision (AMV), Ghana has established policy frameworks such as the 2014 Minerals and Mining Policy, 2015 ASM Framework, and 2017 Multi-sectoral Mining Integrated Project, which broadly align with the aspirations and guidelines of AMV. This demonstrates Ghana's commitment to adopting the AMV and its policy frameworks. However, the actual situation on the ground is far from ideal. There is a growing involvement of influential and politically connected individuals in ASM activities, an influx of foreigners in the sector contrary to the law, worsening environmental consequences of ASM activities, and frequent indiscriminate crackdowns on ASM activities by state security forces. These problems, particularly in the gold sector, have made it difficult for relevant government agencies to implement policies and enforce laws in the ASM sector. This has created a rift between the country's interests, which align with the AMV, and reality. As a result, Ghana needs to reevaluate its strategy and take concrete steps to implement the AMV if it wants to be taken seriously in its pursuit of the AMV.

ANALYSIS

Overview of Legal Frameworks Related to ASM Activities

The legal framework in Ghana comprises legal and regulatory instruments that apply to ASM activities. These instruments, among other things, make provision for laws and procedures for the award and management of exploration and production rights, as well as how ASM operators conduct themselves throughout the mining cycle. The 1992 Constitution aside, the 2006 Minerals and Mining Law (Act 703), which replaced the 1986 Minerals and Mining Law (PNDCL 153), is the parent law governing mining activities in Ghana. Sections 82 to 99 of the law apply strictly to ASM and provide licensing of ASM activities, application for a license, conditions for the grant of a license, areas covered by license and revocation of ASM license, among others. These sections of the law also deal with the transfer of licenses, designated areas for ASM activities, the establishment of district offices of Minerals Commission to supervise ASM activities, the establishment of Small-Scale Mining Committees, use of explosives, purchase of mercury, sale of minerals and jewellery among others.

The mining law has since been amended a couple of times¹, and in 2012, the government adopted six subsidiary legislative instruments to improve its enforcement. In 2020, a subsidiary legislation on tracking earthmoving and mining equipment (LI 2404) was adopted to enhance monitoring and supervision of ASM activities, especially in the gold sector. In collaboration with the University of Mines, Tarkwa, the Minerals Commission has commissioned a system at the Accra office that tracks explosive vehicles and excavators. The system can also generate data on mineral volumes passing through the scanners installed near quarry sites. Further to the core mining laws and regulations, some other laws and regulations have implications for mining activities in general and ASM, to be specific. These include laws and regulations on environmental protection, land, forestry, water resources, and taxation.

The Environmental Assessment Regulations, 1999 (LI 1652), for example, provides for the conduct of Environmental Impact Assessment for some categories of economic activities, including mining. For ASM activities, however, the regulations only require operators to provide a statement on how they will manage the negative impacts of their activities rather than a full-blown environmental impact statement, as is the case with large-scale mining activities. ASM operators are not required to post reclamation bonds, as with LSM operators. However, the Environmental Protection Agency (EPA) engaged stakeholders to demand reclamation bonds from ASM operators. Some international initiatives, such as the Kimberly Process Certification Scheme (KPCS), are signed on by the government of Ghana. Finally, a list of guidelines also contributes to regulating ASM activities. Appendix D provides a list of critical laws, regulations and guidelines that constitute the legal framework for the ASM sector.

1. The Minerals and Mining Act, 2006 (Act 703) has been amended by the Minerals and Mining (Amendment) Act, 2010 (Act 794), the Minerals and Mining (Amendment) Act, 2015 (Act 900) and the Minerals and Mining (Amendment) Act, 2019 (Act 995)

Contextual and Emerging Issues

The main contextual and emerging issues in the ASM sector in Ghana include the increasing involvement and role of influential and politically connected individuals in ASM activities, the influx of foreigners in the sector contrary to the law, the worsening environmental consequences of ASM activities, and perennial indiscriminate clamp down on ASM activities by state security. Difficulty on the part of the government to implement policies and enforce laws in the ASM sector is attributable in one way or another to these issues.

Increasing role and involvement of influential and politically connected individuals in ASM activities: The stakes are high in ASM activities, particularly in gold mining. Recently, many influential and politically connected individuals have been directly or indirectly involved in ASM activities in Ghana. However, the issue is that these individuals carry out their activities with impunity. For example, a former Minister of Environment, Science and Technology who chaired the Inter-Ministerial Committee on Illegal Mining once accused the current President of engaging in illegal mining activities in his hometown. There are also allegations that senior officials of the current government and ruling political party are directly or indirectly involved in illegal mining activities. The King of Ashanti, an influential traditional leader, has dethroned many of his chiefs for their involvement in illegal mining activities. Despite robust policies and legal frameworks, the governance of the mining sector could be much better, given the endless list of influential and politically connected individuals involved in mining activities, usually illegal.

The influx of foreigners: Over the past decade or two, there has been a rise in foreigners, mostly Chinese, who engage in illegal artisanal and small-scale mining (ASM) activities in Ghana despite it being prohibited by law. Some of these foreign nationals have become so powerful that they have been arrested numerous times for their illegal activities in the ASM sector. Yet, the Ghanaian authorities have failed to prosecute them. One such example is Aisha Huang, a Chinese national who has been arrested at least five times for her illegal ASM activities but has not faced any consequences for her actions. These foreigners often collude with influential and politically connected individuals to carry out their illicit mining activities.

Increasing resort to using security agencies: The government's response to the ensuing chaos has been the increasing resort to the indiscriminate use of the military. In 2017, following the imposition of a blind ban on all ASM activities, a large joint Police-Military operation was conducted to enforce the ban. This was only a continuation of a trend that has increasingly characterised ASM activities, especially over the past two decades ([Adogla-Bessa, 2020](#)). Save for the pause in activities, only a little is achieved with these expensive operations that punish legal and illegal ASM operators.

Growing environmental degradation associated with ASM activities, especially water pollution:

Over the past two decades, mining activities, particularly Artisanal and Small-scale Mining (ASM), have been causing severe environmental damage. As a result, many well-intentioned Ghanaians have started advocating for the cessation of ASM activities, especially in the gold sector. The Ghana Water Company Limited has witnessed a significant rise in water production costs over the past decade. If the trend of water pollution due to ASM activities continues, the country may face severe water scarcity issues. Additionally, the uncontrolled expansion of ASM activities has negatively impacted agricultural activities, leading to some European countries threatening to stop importing certain agricultural products from Ghana in protest.

Status of the country's domestication of AMV in the ASM sector

Ghana has been at the forefront of the AMV agenda since its inception, hosting the first Inter-Ministerial Conference in 2008, preceding the adoption of the vision. It has since taken steps in domesticating policy and legal prescriptions of the AMV in its mining regime. With the support of UNDP Ghana, the country undertook a review of alignment between the AMV and Ghana's policy/legal frameworks in the solid minerals sector in 2015 and 2016, leading to the identification of critical issues that need to be addressed to achieve AMV-compliant status. The partnership (Ghana/UNDP) also undertook a social analysis of the ASM sector in Ghana, flagging critical issues of concern for the government to address. Fourteen years down the line, there have been policy frameworks that align closely with the aspirations and prescriptions of AMV. This has demonstrated Ghana's sufficient interest in domesticating the AMV and its policy frameworks. However, the reality on the ground leaves a lot to be desired. The four key issues identified as contextual and emerging in the preceding section create a wedge between the country's interest and reality.

Some of the critical issues regarding Ghana's adoption of the AMV in ASM include:

Policy and Regulatory Frameworks: The existing policy documents, including the 2014 Minerals and Mining Policy, 2015 ASM Framework, and 2017 Multi-sectoral Mining Integrated Project, reflect the aspirations of the AMV. However, implementing these policies has been challenging due to the insufficient commitment from the government. On the other hand, the legal framework needs to be more stringent to tackle the numerous contextual and emerging issues outlined above.

Institutional Framework: The institutional framework in Ghana that applies to the ASM sector is relatively strong. However, it is not adequately equipped with resources to fulfil its provisions. The district offices of the Minerals Commission and the small-scale mining committees at the district level form the framework's core. Despite this, the institutional framework cannot fully regulate the ASM sector and enforce laws against erring ASM operators.

Financing and Taxation: The government's past attempts to support ASM operations financially and logistically were largely unsuccessful due to poor repayment by the beneficiaries. Furthermore, the ASM sector did not contribute its fair share of fiscal contributions to the government for an extended period. However, in recent times, finance houses and MIIF (Minerals Investment Fund) have made renewed efforts to provide financial and logistical support to ASM operators. Additionally, the ASM sector has started making significant fiscal contributions to the government, thanks to the recently introduced withholding tax on gold exports, in line with the objectives of the AMV.

Environmental Issues: The current environmental regulations must be revised to tackle the environmental obstacles in the mining sector. Although the government has repeatedly expressed its dedication to safeguarding the environment in mining communities through various policy documents, the situation is far from satisfactory. The implementation of the existing policy guidelines and the enforcement of legal measures seem to be significantly weak.

Occupational Health and Safety Issues: There are indications in various policy documents that the government is committed to ensuring high standards of occupational health and safety in the ASM sector. However, due mainly to decades of liberalisation, the legal regime is not strong enough to achieve policy prescriptions. Consequently, the ASM sector has observed relatively poor occupational health and safety standards. This is evident in regular mine collapses due to poor maintenance, and ASM workers often do not wear personal protective gear at worksites.

ASM and Sustainable Community Development: Over the past few decades, the government has recognised and provided minimal support to ASM operators due to their potential to foster sustainable development. However, the government has not clearly outlined the ASM sector's role in promoting sustainable development in communities where ASM activities occur. Therefore, it is crucial for both central and local governments to carefully design policies and strategies and implement them effectively to maximise the developmental impact of ASM activities. Additionally, the current conflictual relationship between ASM operators and mining communities exacerbates the situation.

ASM and Sustainable Livelihoods: Policy and regulatory frameworks are not well-aligned with the AMV's aspirations and policy prescriptions for sustainable livelihoods, similar to the role of ASM in sustainable community development. The ASM sector's livelihood sustainability is questionable, as most workers lack adequate protection.

Gaining Access to Information and Technology: The government has shown alignment with AMV's aspirations and policies regarding ASM operators' access to information and technology. They have also made reasonable efforts to enhance access. However, some issues remain regarding the efficiency and productivity of certain technologies (such as chemical-free gold processing equipment) and geological information (some areas have not yet been geologically investigated for ASM operators).






Performance ranking of Ghana as far as domesticating the AMV in the ASM sector

According to the assessment conducted in the study that led to this policy brief, Ghana is currently at a beginner level regarding environmental issues. Its average score in this area is relatively low, indicating significant room for improvement. Regarding occupational health and safety, Ghana is ranked moderate, meaning it has made fair progress. As for ASM and sustainable community development, as well as ASM and sustainable livelihoods, Ghana's rank is at an intermediate level. This means these areas have a mix of progression, regression, and neutrality. Lastly, Ghana has been ranked as advanced in Policy and Legal Framework, Institutional Framework, and Financing and Taxation. This indicates that it is making significant progress in implementing the Africa Mining Vision, with a high rate of progression in these elements.

Table: Ghana's AMV Performance Status

Sectors	Colour Coding
Policy and Legal Framework	
Institutional Framework	
Financing and Taxation	
Environmental Issues	
Occupational Health and Safety	
ASM and sustainable community development	
ASM and sustainable livelihoods	
Gaining Access to Information and Technology	

From the thematic-specific performance of Ghana's implementation of the AMV, as relates to the ASM sector, the country's overall performance status can be intermediate, attracting the grey colour coding.

Rank	Colour code	Country descriptor	Comments
V	Red 	Beginner	The country is at the early stages of Africa Mining Vision implementation, with low average progression in all Seven Framework Assessment Categories of ASM
IV	Orange 	Moderate	The country is at the middle stages of Africa Mining Vision implementation, with fair or moderate progression throughout the Seven Framework Assessment Categories of ASM
III	Grey 	Intermediate	The country is at an intermediate stage of Africa Mining Vision implementation, with a mix of progression, regression and neutrality throughout the Seven Framework Assessment Categories of ASM
II	Green 	Advanced	The country is at an advanced stage of Africa Mining Vision implementation, with a high rate of progression throughout the Seven Framework Assessment Categories of ASM
I	Gold 	Peak	This is the highest score on the Africa Mining Vision progress scale and shows that the country has attained, or is very close to attaining, full Africa Mining Vision implementation, with maximal progression throughout the Seven Framework Assessment Categories of ASM

RECOMMENDATIONS

The following policy and practice recommendations are proffered to bring the country's mining regime as applicable in the ASM sector to the aspirations and policy prescriptions of the AMV:

Policy and Regulatory Frameworks: It is recommended that the Ministry of Lands and Natural Resources and the Minerals Commission consider consolidating the existing frameworks that apply to the Artisanal and Small-scale Mining (ASM) sector. Additionally, they should lead in implementing the policy by reviewing the regulatory regime and considering current and emerging issues to provide adequate support for the policy recommendations. It is suggested that sufficient punitive measures be implemented for operators outside the regulated framework. Furthermore, the licensing regime for ASM should be re-categorized, as indicated by the Minerals and Mining Policy (MMIP).

Institutional Framework: It is recommended that the government, particularly the presidency, take steps to bolster the relevant institutions that regulate and govern Artisanal and Small-Scale Mining (ASM) activities. To this end, it is advisable to broaden the membership of ASM Committees to include non-state actors with increased roles and responsibilities. Additionally, the capacities of the district offices of the Minerals Commission should be enhanced to enable them to fulfil their mandates effectively.

Financing and Taxation: It is recommended that the ministries of finance and mines pay close attention to improving governance and engaging with stakeholders in the financial sector to provide more significant financial and logistical support to ASM operators. Additionally, it is suggested that all ASM operators be included in the recently introduced withholding tax to address concerns around taxation.

Environmental Issues: It is recommended that the legislature consider reviewing the existing legal instruments that deal with environmental protection in the mining sector as applicable to ASM to ensure that they are aligned with current best practices. Additionally, it is suggested that the government, particularly the office of the presidency, consider increasing the capabilities of relevant agencies responsible for enforcing environmental laws and regulations in the ASM sector. This could be achieved through targeted capacity-building efforts and the provision of necessary resources. Furthermore, it is recommended that the GNASSM consider instituting periodic training for its members to enhance their understanding of the regulatory landscape and promote compliance with relevant laws and regulations. These actions can help address the environmental consequences of ASM activities, promote sustainable mining practices, and support the long-term development of Ghana's mining sector operators alongside other stakeholders. Such an approach would help promote sustainable rural livelihoods and stimulate local entrepreneurship, thus contributing to the broader socio-economic development goals of the country.

Gaining Access to Information and Technology: Increase engagement with ASM operators in procuring and distributing information and technology to enhance the efficiency and productivity of ASM activities as critical stakeholders.

CONCLUSION



Implementing the Africa Mining Vision (AMV) in Ghana's Artisanal and Small-scale Mining (ASM) sector has been ongoing. Despite the progress made by Ghana in aligning its policies with the AMV's aspirations and guidelines, significant gaps and challenges still need to be addressed in the sector. These challenges include the involvement of influential and politically connected individuals in ASM activities, the influx of foreigners in the industry, worsening environmental consequences of ASM activities, and indiscriminate crackdowns on ASM activities by state security forces. To achieve the AMV-compliant status, Ghana needs to re-evaluate its strategy and take concrete steps to implement the AMV. It is recommended that stakeholders advocate for policy and learn how to use AMV in national policies to inform ASM and natural resource governance.

This brief aims to contribute to the ongoing discourse on the implementation of the AMV in Ghana and other African countries. The recommendations in this brief will provide valuable insights and guidance to policymakers and other stakeholders in addressing the challenges and gaps in the ASM sector and ultimately contribute to the realisation of the AMV's aspirations in the continent.



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