The Status of Domestication of the Africa Mining Vision in Uganda:
The Case of Artisanal and Small-scale Mining

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Table of Contents

Acronyms and Abbreviations

ACODE	Advocates Coalition for Development and Environment
AMV	Africa Mining Vision
ASM	Artisanal and small-scale mining
ASME	Artisanal and small-scale mining enterprise
BRASM	Biometric Registration of Artisanal and Small-scale Mining
DTAAs	Double taxation avoidance agreements
DGSM	Directorate of Geological Survey and Mines
DRM	Domestic revenue mobilization
DRMS	Domestic revenue mobilization strategy
EIAs	Environmental impact assessments
EITI	Extractives Industry Transparency Initiative
FY	Financial year
GDP	Gross domestic product
ICGLR	International Conference on the Great Lakes Region
IFFs	Illicit financial flows
IMF	International Monetary Fund
MEMD	Ministryof Energy and Mineral Development
MoFPED	Ministry of Finance, Planning and Economic Development
MNCs	Multinational corporations
NDP	National Development Plan
NDP III	The Third National Development Plan
NEMA	National Environmental Management Authority
NMC	National Mining Company
NPA	National Planning Authority
OCED	Organisation for Economic Co-operation and Development
RGI	Resource Governance Index
RINR	Regional Initiative Against the Illegal Exploitation of Natural Resources
SMMRP	Sustainable Management of Mineral Resources Project
UBOS	Uganda Bureau of Statistics
UN	United Nations
UNFCCC	UN Framework Convention on Climate Change

Executive summary

There is a growing global appreciation that sustainable development of mineral resources could spur economic development. As a result, mineral-rich countries have embraced international and regional frameworks that aim to develop mineral resources.

The AMV is a continental policy framework adopted by all 54 African Union (AU) member countries in 2009. The Vision advocates for “Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development". The AMV provides a policy framework and an opportunity to ensure that Africa utilises its mineral resources strategically for broad-based and inclusive development, addressing issues of unfair value distribution and unsustainable artisanal and small-scale mining (ASM) practices and addressing rights violations and unsafe labour practices in the ASM sector. The 54 African countries have pledged to incorporate the AMV framework into their mining policies.

Uganda is endowed with over 50 different types of minerals (including copper, nickel, gold, chromite, and iron ores) and ranks among African countries with the most significant number of minerals, which presents an excellent opportunity for benefits that can contribute significantly to the country's economic growth.

This study aimed to assess the extent to which Uganda has been able to domesticate the AMV in the country's mining policies, and to highlight gaps and provide policy recommendations for strengthening ASM and ensuring sustainable mineral resource governance. The report covers key aspects of the implementation of the AMV, such as a country overview of the ASM gold sector, policy and legal frameworks for ASM, the institutional framework and capacity, financing and taxation, environmental issues in ASM, occupational health and safety, ASM and livelihoods, access to information and technology, and recommendations.

The study was conducted in line with ethical research practices and draws its analytical depth from qualitative research approaches, including an extensive literature (desk) review. To enrich the findings of the desk review, in-depth interviews were conducted with selected informants, mainly from government and private sector players in the mining sector. An exploratory reference to examples where the policies and laws have met implementation challenges was made. The study also involved consultations with key government agencies that participate in the regulation, oversight and management of the mining sector in Uganda, as well as other ministries and agencies, civil society organisations (CSOs), and media.

For decades, Uganda's mining sector has seen both progress and obstacles, reflecting a complex interplay of factors, including regulatory frameworks, infrastructure, investment climate, environmental concerns, and global market trends. The sector has continued to face challenges of low funding, limited institutional capacity to manage the mineral resources, value addition to minerals, the complex nature of ASM, conflicts, and environmental degradation (Saferworld, 2017).

Significant transformations in recent years have been driven by domestic and international factors. Uganda has established a rich policy and legal framework for managing mineral resources, based on the 1995 Constitution, which vests the ownership and control of natural resources in the hands of the people. The third National Development Plan (NDP III) highlights mineral development as one of the critical programme areas to increase mineral exploitation and value addition in selected resources for quality jobs in industrialisation. NDP III separated mining from oil and gas, giving the mining sector special attention and projecting its contribution to GDP to surpass 10 per cent (NPA, 2020). Chapter 6 of NDP III provides a planning framework for the Mineral Development Programme. The focus of mineral development over the NDP III period (2021-2025) is to build on existing investments along the value chains and address the challenges limiting the realisation of the full potential of minerals. It highlights the following programme objectives: (a) increase exploration and quantification of priority minerals and geothermal resources across the country; (b) Increase adoption and use of appropriate and affordable technology along the value chain; (c) strengthen the legal and regulatory framework as well as human and institutional capacity; (d) increase investment in mining and value addition; and (e) expand mineral-based processing and marketing.

These national objectives aim at fulfilling significant tenets of the AMV, which include the following: (a) a knowledge-driven African mining sector that catalyses and contributes to broad-based growth and development of, and is fully integrated into, a single African market (b) a sustainable and well-governed mining sector that effectively garners and deploys resource rents and that is safe, healthy, inclusive (in terms of gender and ethnically), environmentally friendly, socially responsible and appreciated by surrounding communities; (c) a mining sector that has become a vital component of a diversified, vibrant and globally competitive industrialising African economy; (d) a mining sector that has helped establish a competitive African infrastructure platform, through the maximisation of its propulsive local and regional economic linkages; (e) a mining sector that optimises Africa's finite mineral resource endowments and that is diversified, incorporating both high-value metals and lower-value industrial minerals at both commercial and small-scale levels; (f) a mining sector that harnesses the potential of artisanal and small-scale mining to stimulate local and national entrepreneurship, improves livelihoods and advances integrated rural social and economic development; and finally (g) a mining sector that is a significant player in vibrant and competitive national, continental and international capital and commodity markets.

Uganda's participation in international initiatives and compliance with standards such as the Extractive Industries Transparency Initiative (EITI) demonstrates its commitment to aligning with global industry best practices (EITI, 2020). The enactment of the International Conference on the Great Lakes Region (ICGLR) Act 2018 represents a pivotal moment in the country's efforts to harness its mineral wealth while ensuring sustainable and responsible extraction practices.[2] Uganda has also implemented initiatives to recognise ASM in its mining sector. In 2021, the government, through the Directorate of Geological Survey and Mines, commenced formalizing artisanal and small-scale miners through the National Biometric Registration of Artisanal and Small-scale Mining (BRASM). The BRASM aimed at keeping an updated register of all ASMs, service providers, dealers and agents, creating a database with the bio-data of all miners, including names, sex, age, location, affiliations to registered ASM associations and National Identification Numbers (NIN) to establish numbers and categories of people involved in ASM operations, particularly in Busia, Namayingo, Buhweju, Kasanda, and Mubende districts.

1 According to Article 244 of the 1995 Constitution of Uganda, the government of Uganda holds in trust for the people of Uganda all the natural resources, such as minerals and petroleum.

Under the Development Minerals Programme, the government of Uganda is working with the European Union (EU) and the countries of the African, Caribbean and Pacific (ACP) group of states to support efforts to formalise operations in the mining sector. The programme has helped develop and implement an ASM strategy to enable artisanal and small-scale mining enterprises (ASMEs) to achieve better livelihoods through higher employment and incomes from their mining operations. The Ministry of Energy and Mineral Development (MEMD) has supported the mobilisation of ASMEs for training in various aspects of responsible and sustainable mining and identifying multiple ASMEs that need further support to formalise their operations. To date, 350 ASMEs with 3 932 miners have been trained and sensitised in 25 districts of Uganda. Efforts are underway for the MEMD to formally launch the Formalisation and Business Development Strategy for the Development Minerals sector in Uganda.

Whereas the government has attempted to develop the mining sector, gaps still need to be addressed if the country is to fulfil the ambitions of the AMV regarding ASM. Although a new legal framework has been implemented, this is just recent.[3] The sector still faces several challenges, which include illegal mining activities, inadequate infrastructure, environmental degradation, and issues related to transparency and accountability. Illegal mining operations in some areas continue to affect the environment and revenues generated from mining operations. The assessment of Uganda's mining sector against the seven framework assessment categories of ASM[4] puts Uganda at "Grey" or "Intermediate" stage because the country has a mix of progression, regression and neutrality throughout the framework assessment categories. The enactment of the Mining and Minerals Act in 2022 represents a pivotal moment in the country's efforts to harness its mineral wealth while ensuring sustainable and responsible extraction practices.[5] It marks a critical step towards addressing past challenges and realising the sector's full economic potential.

Key recommendations include;- (I) fast-track the development of regulations to guide the implementation of the new mining and minerals law and provide for solid enforcement in the sector; (2) establish and equip mineral beneficiation centres for enhanced recovery and capacity development of local artisanal miners; (3) expedite the enactment of regulations for prescription procedures and conditions for establishing, gazetting and de-gazetting areas for artisanal mining; (4) provide extension services and support through training and capacity building (which should be mandatory); (5) support the acquisition of environmentally friendly mining technology by artisanal and small-scale miners (6) strengthen the online portal with up-to-date information on the licensing process for the public and potential investors and also disclose information on royalties extended to district local government (7) put in place a government mechanism to increase access to finance among ASMEs.

2 https://egiuganda.org/wp-content/uploads/2021/08/Mining-Amendment-Act-2021.pdf

3 Uganda's Mining and Minerals Act, was passed in 2022. The mining and licensing regulations were finalised in 2023. The Ugandan government has since embarked on the development of another seven pieces of legislation to operationialise the Mining and Minerals Act of 2022.

4 (1) Policy and Legal Framework for artisanal and small-scale mining, (2) Institutional framework and capacity, (3) Financing and taxation of artisanal and small-scale mining, (4) Occupational health and safety (5) Artisanal and small-scale mining and communities (6)Artisanal and small-scale mining and sustainable livelihoods (7) Access to Information and technology.

5 https://egiuganda.org/wp-content/uploads/2021/08/Mining-Amendment-Act-2021.pdf

1. Introduction

There is a growing global appreciation that sustainable development of mineral resources could spur economic development. As a result, mineral-rich countries have embraced international and regional frameworks that aim to develop mineral resources. For example, all 54 African Union (AU) member countries have adopted the Africa Mining Vision (AMV) in 2009. The AMV is a continental policy framework that advocates for "Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development". The Vision provides an opportunity to ensure that Africa utilises its mineral resources strategically for broad-based and inclusive development, addressing issues of unfair value distribution and unsustainable artisanal and small-scale mining (ASM) practices, human rights violations and unsafe labour practices in the ASM sector. All 54 African countries have pledged to incorporate the AMV framework into their domestic mining policies.

The AMV recognises the contribution of ASM in mineral development, although it is still tainted as the dark side of mining. Making ASM one of its main work-streams, the AMV recognises the contribution of ASM to local economic development. ASM in sub-Saharan Africa is often believed to be a "rush-type" activity, characterised as chaotic and entrepreneur-driven, where miners are "fortune-seekers".[6] It is also often seen as a "distress-push" type of activity where miners seek to alleviate their poverty and work in ASM to complement revenues from farming.[7] Despite ASM having the potential to improve the livelihoods of host communities, it is associated with challenges in productivity and environmental and social performance. Miners in this sector continue to live in a cycle of poverty with little or no improvement in their quality of life.[8] Key reforms have taken place that have focused on analysing and suggesting dynamic policy change to avert the challenges outlined above in the extractives sector. One of the initiatives resulting from this shared vision is the African Minerals Governance Framework (AMGF), introduced in 2016 to develop sustainable, safe, environmentally and socially responsible mining practices that engage the mining community directly. As a result, the African Minerals Development Centre was created and tasked with implementing the AMV in member countries.

This report assesses how much Uganda has been able to domesticate the AMV in the country's mining policies. It highlights gaps and provides policy recommendations for strengthening artisanal and small-scale mining and ensuring sustainable mineral resource governance. The report covers key aspects of the implementation of the AMV, such as a country overview of the ASM gold sector, policy and legal frameworks for ASM, institutional framework and capacity, financing and taxation, environmental issues in ASM, occupational health and safety, ASM and livelihoods, access to information and technology, and other contextual and emerging issues and recommendations.

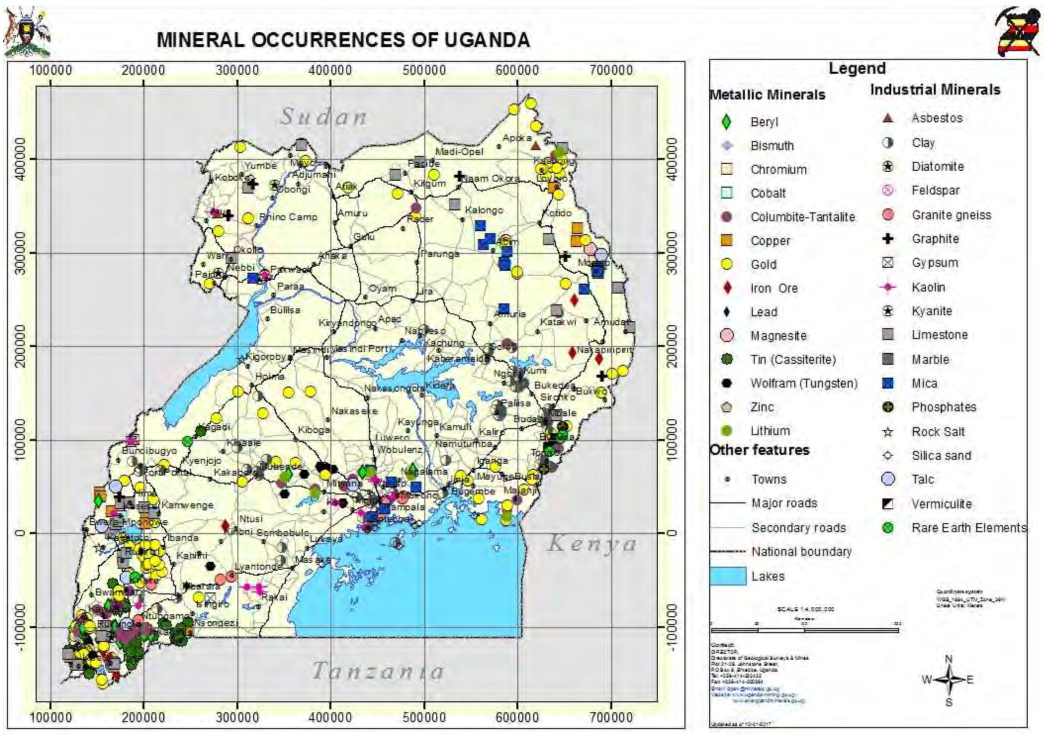
1.1 Background

Endowed with over 50 different types of minerals, Uganda ranks among African countries with the most significant number of minerals. This diverse range of mineral resources presents an excellent opportunity for benefits that can contribute significantly to the country's economic growth. However, the exact potential for viable exploitation has not yet been established for most of them (UNECA, 2023).

In Uganda, mining has a deep-rooted history, dating back to pre-colonial times when various indigenous communities engaged in artisanal mining activities. In the colonial era, formal mining operations began with the discovery of valuable minerals such as copper and cobalt. After gaining independence in 1962, Uganda witnessed fluctuations in mining activities, partly driven by shifts in government policies and global market trends. At its peak in the 1960s and early '70s, mining was the number three contributor to Uganda's GDP after coffee and cotton, making up 35 per cent of foreign export earnings (Crawford et al., 2015).

According to the 2018 Mining and Minerals Policy for Uganda, more discoveries of copper, nickel, gold, chromite, iron ores, tin, tantalite, tungsten, limestone, marble, graphite and gemstones have since been made. The exploitation of gold has primarily been concentrated in areas of Mubende and Kitumbi in central Uganda; Karamoja in the northeast; Kigezi, Buhweju and Ibanda in the west; and Namayingo and Busia in the east. Other mining resources such as sand, clay and rock have also become significant in Uganda's economic growth. The envisioned development of upcoming projects such as the Sukulu phosphate project, the Kilembe copper mines, the iron and steel industry, the Alupe gold project, and marble resources in Karamoja necessitates a more strategic management framework for minerals in Uganda (MEMD, 2018).

Figure : Map showing mineral occurrences in Uganda



Source: Directorate of Geological Surveys and Mines, 2022

6 G. Hilson. "Small-scale mining, poverty and economic development in sub-Saharan Africa: an overview." Resources Policy, vol. 34 (1–2), pp. 1–5. 2009.
7 Ibid 8 Ibid

For decades, the mining sector has seen both progress and obstacles, reflecting a complex interplay of factors, including regulatory frameworks, infrastructure, investment climate, environmental concerns, and global market trends. The sector has continued to face challenges of low funding, limited institutional capacity to manage the mineral resources, local value addition to minerals, the complex nature of artisanal and small-scale mining, conflicts, and environmental degradation (Saferworld, 2017).

The sector has undergone significant transformations in recent years, driven by domestic and international factors. New issues like mineral certification requirements and regional and international commitments have emerged. Uganda is not alone in its efforts to reform the mining sector. Globally, there is a growing recognition of the need for responsible and sustainable mining practices. Uganda's participation in international initiatives and compliance with standards such as the Extractive Industries Transparency Initiative (EITI) demonstrates its commitment to aligning with global industry best practices (EITI, 2020). The enactment of the Mining and Mineral Act in 2022 represents a pivotal moment in the country's efforts to harness its mineral wealth while ensuring sustainable and responsible extraction practices.[9] To effectively monitor and assess the implementation of this new legislation, it is essential to understand the historical, economic, and environmental context in which the mining sector operates in Uganda.

The government of Uganda, through various policy documents, has identified the development of the country's mineral resources as a significant economic priority and has put in place an extensive plan to achieve this goal. The Uganda Vision 2040 underscores the mining sector's importance as an essential driver of employment, revenues, GDP growth, and economic line[10] industries. The development of the mining sector is provided for in the third national development plan (NDP III) for 2020-2025. The mineral sub-programme objective for the financial year 2021/22 (FY 2025/26), in line with the intermediate outcomes and outcome indicators aligned to the NDP III, is "To establish, promote and regulate the development of mineral and geothermal resources for job creation for female and male actors in the value chain for sustainable development[11]". As Uganda continues to make a rigorous effort to develop its mining sector, the government is bound by several international conventions requiring that its economic development ambitions be achieved without preceding its commitments to sustainable development principles.[12] The government of Uganda has therefore sought a prudent fiscal policy that attracts investment, ensures that the government retains an equitable share of mining revenue on behalf of its people, and achieves sustainable development.

To achieve this, Uganda has established a rich policy and legal framework for managing mineral resources. The policy and legal regime stems from the Constitution of the Republic of Uganda, 1995 (as amended), which vests the ownership and control of natural resources in the hands of the people.[13] The NDP III highlights mineral development as one of the critical programme areas to increase mineral exploitation and value addition in selected resources for quality and gainful jobs in industrialisation. NDP III separated mining from oil and gas, giving the sector special attention and projecting its contribution to the GDP to surpass 10 per cent (NPA, 2020). Key expected results include reducing the volume and value of imported iron and steel and inorganic fertilisers, increasing

the volume and value of refined gold exports and copper, increasing investment in the exploration and processing of selected minerals, and creating more jobs in the mining sector.
Chapter 6 of NDP III provides a planning framework for the mineral development programme. The focus of mineral development over the NDP III period (2021-2025) is to build on existing investments along the value chains and address the challenges limiting the realisation of the full potential of minerals. It highlights the following programme objectives:

1. Increase exploration and quantification of priority minerals and geothermal resources across the country.
2. Increase adoption and use of appropriate and affordable technology along the value chain.
3. Strengthen the legal and regulatory framework as well as the human and institutional capacity.
4. Increase investment in mining and value addition.
5. Expand mineral-based processing and marketing

These national objectives aim at fulfilling the significant tenets of the AMV, which include the following: (a) a knowledge-driven African mining sector that catalyses and contributes to the broad-based growth and development of, and is fully integrated into, a single African market (b) a sustainable and well-governed mining sector that effectively garners and deploys resource rents and that is safe, healthy, gender and ethnically inclusive, environmentally friendly, socially responsible and appreciated by surrounding communities; (c) a mining sector that has become a vital component of a diversified, vibrant and globally competitive industrialising African economy; (d) a mining sector that has helped establish a competitive African infrastructure platform, through the maximisation of its propulsive local and regional economic linkages; (e) a mining sector that optimises Africa's finite mineral resource endowments and that is diversified, incorporating both high-value metals and lower-value industrial minerals at both commercial and small-scale levels; (f) a mining sector that harnesses the potential of artisanal and small-scale mining to stimulate local and national entrepreneurship, improve livelihoods, and advance integrated rural social and economic development; and finally (g) a mining sector that is a significant player in vibrant and competitive national, continental and international capital and commodity markets.

The government of Uganda has put in place a robust legal framework. The Minerals and Mining Act of 2022, which repealed the Mining Act 2003, controls the mining sector. The Mining and Minerals Act 2022 seeks to consolidate and reform the law relating to mineral resources to give effect to Article 244 of the constitution. In line with Vision 2040, the Act aims to develop a mining sector that can catalyse agriculture and broad-based growth and development of the downstream linkages into value addition and manufacturing. "The upstream linkages will spur mining capital goods, consumables and service industries, while the side-stream linkages will mainly enhance infrastructure such as power, logistics, communications, water, skills and technology development." The Public Finance Management Act 2015 (as amended) is another crucial law supporting the mining sector. This instrument defines the scope of revenues and how these revenues will be collected, reported, managed, and accounted for.

9 https://egiuganda.org/wp-content/uploads/2021/08/Mining-Amendment-Act-2021.pdf
10 GOU (2010). Uganda vision 2020. Available on https://consultations.worldbank.org/sites/default/files/materials/consultation-template/materials/vision20204011.pdf.
11 National Budget Framework Paper, FY 2021/22 – FY 2025/26
12 Uganda has a number of commitments under the Sustainable Development Goals .
13 Under Article 244 of the 1995 Constitution of Uganda, the Government of Uganda holds in trust for the people of Uganda all the natural resources, such as minerals and petroleum.

1.2. Objectives

This study's overall objective is to analyse the extent of implementation of the AMV in Uganda's policies and develop policy recommendations for advocacy and learning on using AMV in national policies to inform artisanal and small-scale mining (ASM) and natural resource governance.
The following specific objectives guided the study;-

1. to assess the status of the Africa Mining Vision's domestication into national mining policy development and implementation in Uganda;
2. to identify gaps within the country's policies regarding existing mining principles and regulations for ASM and generate recommendations.

1.3. Methodology and scope

1.3.1. Assignment design

The study was conducted in line with ethical research practices and draws its analytical depth from qualitative research approaches, including an extensive literature review. To enrich the findings of the desk review, in-depth interviews were conducted with selected vital informants, mainly government and private sector players in the mining sector. An exploratory reference to examples where the policies and laws have met implementation challenges was also made. The study involved consultations with key government agencies that participate in the regulation, oversight and management of the mining sector in Uganda, as well as other ministries and agencies, civil society organisations (CSOs), and media. Consultations were mainly conducted in Kampala because the key informants are based in offices located there.

1.3.2. Desk review

The study benefited from an extensive review of the literature. Specific reference was made to the Ugandan legal and policy framework for mining. Although there is a wide range of legal and policy frameworks that have a bearing on mining, the analysis in the report was limited to the following;-

- Uganda's Vision 2040
- National Development Plan III
- Constitution of the Republic of Uganda 1995 and its amendments
- Mining and Minerals Policy 2018
- Mining and Minerals Act 2022
- Public Finance Management Act (PFMA) 2015
- Mining and Minerals (Licensing) Regulations 2023
- International Conference on the Great Lakes Region (ICGLR) Act, 2018
- The ICGLR Regulations, 2023.

1.3.3. Key informant semi-structured interviews

A total of 30 interviews were conducted with key informants, including government representatives, opinion leaders, nationally mandated line agencies, local government leaders, individual participants, and NGO representatives. This generated information on their experiences implementing the laws and policies, and social aspects, and desired reforms in the policy, legal and institutional framework. A list of agencies consulted is annexed.

1.3.4. Data analysis

The study used the Africa Mining Governance Framework (AMGF) as a toolkit for tracking and analysing the state of domesticating the AMV. This tool was developed primarily to deepen the commitment to implementing the AMV by serving as a monitoring tool to help African countries determine their progress in realising the transformative ambitions of the Vision. Beyond serving as a monitoring and accountability tool for the Vision's implementation, the Framework is a home-grown, holistic and comprehensive instrument that responds to the specific challenges facing Africa's mineral sector. The AMGF provides an integrated framework to monitor national-level processes for country mining visions. The Framework components (or "pillars") are consistent with the policy structure in the action plan for implementing the AMV.

The AMGF contains a progress scale, which determines countries' progress vis-à-vis realising the Vision. The assessment methodology is qualitative and comprehensive, cuts across the minerals value chain, and reflects the breadth of the Vision while accounting for national political economy factors that affect mineral sector governance.

By aligning the AMGF with the most relevant clusters of the AMV, the Framework can holistically cover the entire minerals value chain while reflecting the transformative and inclusive ethos. The Framework is structured around the following six thematic pillars: (a) legal and institutional framework (for contracts and licensing); (b) geological and mineral information system; (c) fiscal regime and revenue management; (d) linkages, investment and diversification; (e) artisanal and small-scale mining; and (f) environmental and social issues. Gender, young people, human resource capacity development, and technology are cross-cutting issues considered critical to the success of the AMV, and are therefore integrated into each of the AMGF pillars.

This assessment covered only one pillar: artisanal and small–scale mining (ASM). The assessment findings also follow a progress scale provided by the AMGF. It is colour-coded, with various colours assigned to show where a country's framework assessment places them along the scale towards the entire achievement of the Vision. Appropriate colour-coded scores (all in a diamond shape) are assigned based on the overall findings of the country assessment. It should be noted that this scale was customised and applied to assess only the ASM cluster.

1.3.5. Limitations

It is important to acknowledge certain limitations in the methodology. The report primarily relies on the accuracy and completeness of government documents and the willingness of stakeholders to provide accurate information during interviews. Additionally, although the government has published the mining (licensing) regulations, several regulations, including the ASM regulations, are still under development. This constraint may have limited the depth of analysis in certain areas.

2. Findings

2.1. Country overview of the ASM sector

Artisanal and small-scale mining (ASM) is a largely informal economic sector that includes workers who use rudimentary tools to extract minerals from the earth. The Mining and Minerals Act 2022 defines artisanal mining operations as those that do not exceed ten (10) meters in depth and are conducted in an artisanal mining licence area.

ASM is an important socio-economic sector for rural communities in many developing nations. Many artisanal miners have few other options for supporting their families. ASM has become a major contributor to Uganda's mining industry and is vital in local development and job creation. In 2008, the ASM sector was responsible for over 90 per cent of the total minerals produced, and the industry employed an estimated 190 000 people, significantly more than number of people employed in the formal mining sector at the time (i.e., about 2 000).[14] A study which focused on the contribution of artisanal and small-scale miners for gold and clay has placed their number at 300 000, of whom 40 per cent are women.[15] It also estimated that ASM offered over 1 million direct and indirect jobs, benefiting approximately 10 per cent of the country's population.[16] Although ASM represents the mainly informal sector and is not adequately accounted for in the country's GDP calculation the same study put the potential value of artisanal gold and clay mining (brick making) at US$585 million, which, if formally included in the country's GDP, would contribute 2 per cent.[17] These estimates notwithstanding, the study concluded that *"The ASM sector's economic contributions are inadequately quantified, poorly understood and, due to high rates of informality, typically excluded from official mineral sector statistics."*[18]

Artisanal and small-scale miners in Uganda produce most of the gemstones and more than 90 per cent of metallic minerals, industrial minerals (e.g., gypsum, limestone, pozzolanic material), and building minerals (e.g., clay, sand, aggregate). Besides building minerals extracted in most districts, mining other commodities is primarily restricted to the country's southwest, central and eastern regions. Over 80 per cent of Uganda's mining workforce are involved in ASM, commonly in the villages of Tiira, Busitema, Mawero, Amonikakinei, Syanyonja and Namungodi in Busia District; Sigulu Island, Bujwanga, Bukaana and Butebeyi in Namayingo District; Chepkarate and Komerimeri in Amudat District; and Lolachat, Kakomongole and Moruita in Nakapiripirit District. Other districts where ASM is important include Moroto, Kaboong, Mubende, Kassanda, Mityana, Kiboga, Rubanda, Kisoro, Isingiro and Buhweju. In these areas, artisanal mining includes activities such as the development of underground workings, small-scale processing plants, quarrying, and alluvial mining in river banks and beds.

14 Extracts of Key Findings of the Auditor General's Report to Parliament, 2017. Available on http://www.oag.go.ug/wp-content/uploads/2018/01/Extracts-of-Key-Findings-of-the-Auditor-Generals-Report_2017.pdf.
15 Maria Lawa Barreto, Patrick Schun, Jennifer Hinton & Felix Hruschka, Understanding the Economic Contribution of Small-Scale Mining in Uganda: Clay and Gold, Alliance for Responsible Mining, 2018. Available at https://www. responsiblemines.org/wp-content/uploads/2018/03/Uganda_case_study.pdf
16 Ibid
17 Ibid
18 Ibid

The gold industry in Uganda is also comprised of mainly artisanal and small-scale miners (ASMs) who are distributed in the following regions of the country:

-Karamoja region (Amudat, Abim, Nakapiripirit, Napak, Kaabong, Moroto, Nabilatuk and Kotido);
-Eastern region (Busia, Bugiri and Namayingo districts);
-Central region (Kyegegwa, Mubende and Kassanda districts);
-Kigezi region (Kisoro and Kabale districts); and
-Ankole region (Bushenyi and Buhweju districts).

The map below shows the currently active ASM areas in Uganda.

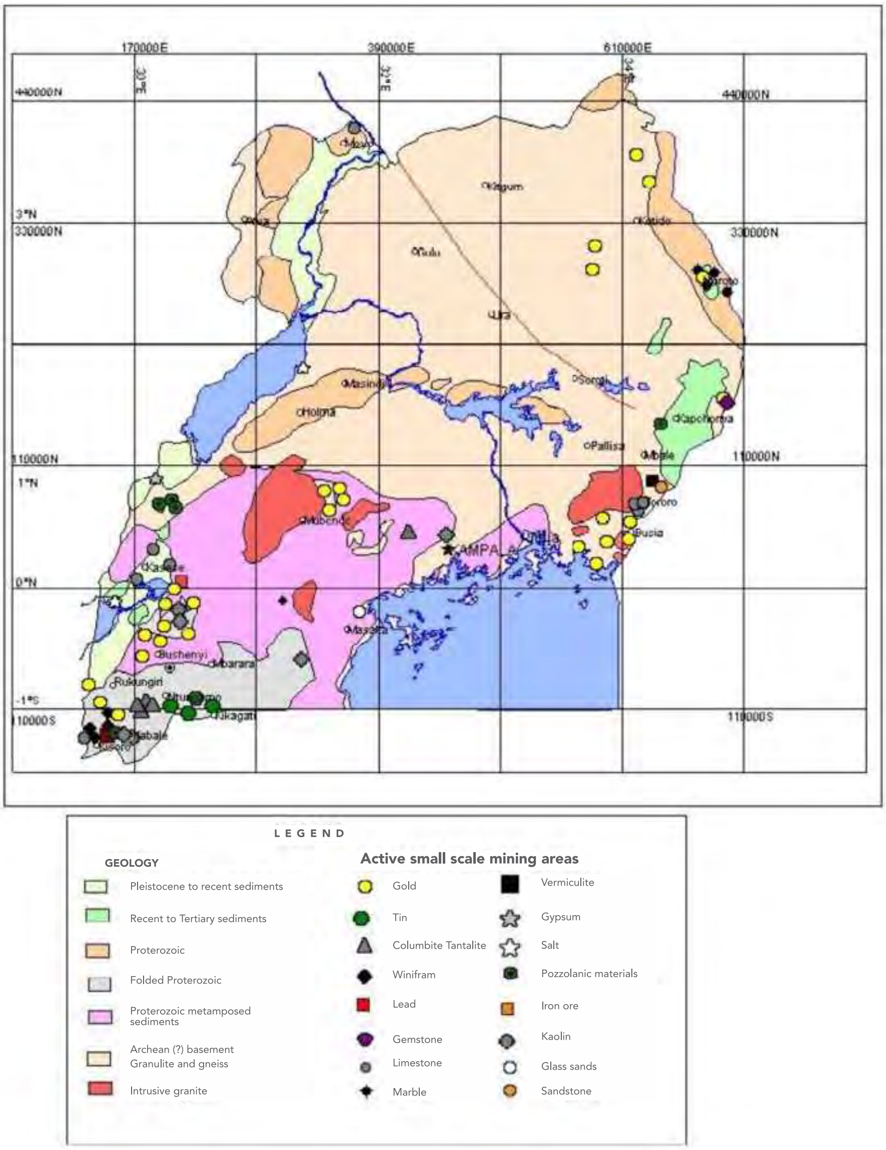


Figure 1. Map showing the active ASM areas in Uganda

Source: Final Consultancy report on Artisanal and Small-Scale Mining Stakeholder Mapping in Uganda –UGEITI, July 2021.

1 In the Implementation Plan of the policy framework, a sixth policy objective of discouraging all forms of gender biases was included.
2 Out of this total budget, the government of Ghana was to provide GHC 6 093 680 (24.24 per cent), development partners through the Natural Resources and Environment Governance (NREG) Programme were to provide GHC19 037 760 (75.72 per cent), while the Minerals Commission was to contribute GHC10 000 (0.04 per cent) from its Internally Generated Fund (IGF). These values were reported (apparently in error) to be in thousands of Ghana Cedis.

The ASM sector in Uganda has several challenges, affecting both artisanal and small-scale miners.[19]

a)Artisanal miners face the following challenges:

- illegal mining facilitated by the use of mercury that harms the environment and people;
- widespread use of inefficient and labour-intensive mining methods leading to low economic returns, environmental degradation, accidents and other occupational health and safety risks;
- child labour and child exploitation;
- poor sanitation and hygiene conditions increasing the risk of infectious diseases in ASM communities;
- HIV/AIDS in ASM communities; and
- lack of access to fair markets and financing mechanisms.

a) Small-scale miners (who are registered and licensed miners) face additional unique challenges, which include:
- exploitation of miners by mineral buyers;
- tensions between legal and illegal miners concerning overlapping interests in land allocated under concession whilst ongoing operations are underway on the land;
- exclusion of "building minerals" from the jurisdiction of authorities who are best equipped to support and monitor these activities;
- resource limitations of government authorities to monitor and enforce ASM-related legislation;
- the exclusion of ASM from local, regional and national economic development and poverty alleviation strategies and of ASM from the development partner agenda.[20]

2.2. Policy and legal frameworks for artisanal and small-scale mining

The government of Uganda recognises the importance of regulation, organisation, and formalisation of the ASM sector, not only to improve the working conditions of miners but also to minimise the loss of government revenue. The mineral sector's policy, legal, and regulatory framework is governed by the 1995 Constitution (as amended in 2005), the International Conference on the Great Lakes Region (ICGLR) Act (2018), the Mining and Minerals Policy (2018), the Mining and Minerals Act (2022), and the attendant mining (licensing regulations 2023). Other laws on the environment, taxation and land ownership and land-use affect the management of mining resources. The conducive, stable, predictable framework provides fiscal environments to attract foreign and local investment for exploration and mineral development. The AMGF recognises the legal and institutional framework (for contracts and licensing) as a critical pillar because of its strategic importance in sustainable mineral development.

20 Uganda's EITI Report 2020/2021

2.2.1. The Constitution 1995 (as amended)

The constitution enacts the public trust doctrine in the context of natural resource ownership. It should be noted that in 2005, the Constitution of Uganda was amended to vest ownership of all resources, including minerals, in the government on behalf of the Republic of Uganda. This was a complete departure from the public trust doctrine, which dictates that governments should hold all natural resources on behalf of and for the benefit of their citizens. However, the Mining and Minerals Act 2022 vests ownership of mineral resources in the government of Uganda but on behalf of and for the benefit of citizens, which has firmly cemented the public trust doctrine in Uganda's mineral sector ownership.

2.2.2. The ICGLR Act, 2018

Another step taken by the Ugandan government towards the formalisation of ASM is to embrace the Regional Certification Mechanism of the International Conference on the Great Lakes Region (ICGLR) by passing the Pact on Security, Stability and Development in the Great Lakes Region into law, Act No.11 of 2018.[21]

Under Article 9 of this regional legislation, Uganda must join the other 11 member states of the ICGLR by the Protocol against the Illegal Exploitation of Natural Resources (RINR). The government of Uganda is thus putting in place regional rules and mechanisms for combating the illegal exploitation of natural resources, which constitute a violation of the state's right of permanent sovereignty over their natural resources and which represents a severe source of insecurity, Instability, tension and conflicts, and in particular:

a) to ensure that any activity bearing on natural resources must scrupulously respect the permanent sovereignty of each state over its natural resources and comply with the harmonised national legislation as well as the principles of transparency, responsibility, equity, and respect for the environment and human settlements;
b) to put an end, through national and international legal means, to impunity in the illegal exploitation of natural resources by natural persons and legal entities;
c) to implement a regional certification mechanism for exploiting, monitoring and verifying natural resources within the Great Lakes Region.

Notably, the Regional Certification is activated by six tools. Tool number 4 focuses on each member state's formalisation of artisanal and small-scale mining. Further still, the RINR recognises gold as a conflict mineral alongside tin, tungsten and tantalum (3Ts) as one of the minerals justifying the formalisation and regulation of ASM sectors. The government of Uganda developed the ICGLR regulations, and these have since been launched.

21 The Uganda Gazette No. 51, Volume CXI, dated 5th October, 2018: Printed by UPPC, Entebbe, by Order of the Government: International Conference on the Great Lakes Region (Implementation of the Pact on Security, Stability and Development in the Great Lakes Region) Act,11 of 2018.

2.2.3. Mining and Minerals Policy 2018

The Mining and Minerals Policy of 2018 seeks to organise and legislate artisanal and small-scale mining in Uganda. It intends to increase the development of Uganda's minerals and mining industry cost-effectively and efficiently "through increased investment, value addition, national participation and revenue generation to contribute significantly to socio-economic transformation and poverty eradication". This is in line with the tenets of Uganda's Vision 2040 and the Africa Mining Vision. The policy seeks to promote the regulation of substances excluded from the definition of the word "mineral" in Article 244 of the Constitution, promote the use of appropriate technology with the most negligible impacts on the environment, provide for a transparent and accountable licensing regime, comprehensively evaluate the country's mineral potential, increase investment and revenue generation in the mining sector, promote infrastructure development in the mining sector, provide for traceability of conflict minerals, promote in-country value addition, ensure equity in the mining sector, and safeguard the provision of affordable inputs for rural agro-processing industries such as phosphate fertilisers. The policy also aims to strengthen the institutional framework and address governance and operational issues, environmental protection, gender and equity, mineral value addition, mine closure and post-mining transition, and formalising artisanal and small-scale mining.

Above all, the policy is intended to address gaps that have existed in the mining sector and, more importantly, has formed a basis for the enactment of the Mining Act of 2022, as well as aligning the industry's strategic direction with the Constitution of the Republic of Uganda 1995 (as amended in 2005), the African Mining Vision 2009, the National Development Strategy under the National Development Plan III (2020/21 - 2024/25) and Uganda Vision 2040. The government recognises that the mining industry faces some of the most difficult challenges, but based on the many expectations of the industry's potential contributions, the government expects that the development of the minerals sector will be an engine of sustained economic growth. Local communities expect that the industry will provide employment, infrastructure, and other advantages that counter the dangers and impacts they experience, and that it will leave them better off than when the project started. The industry's personnel expect safer and healthier working conditions, improved livelihoods, and c onsideration when their employment ends. Local citizens and human rights activists expect companies to prevent and address the risk of human rights abuses.

This policy seeks to provide an overall conducive environment that enables maximising mining's contribution to sustainable development in Uganda. This dramatically aligns with the AMV's overall ambition: a "Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development". It defines sector organisations' and institutions' responsibilities, accountability, and linkages to national development plans. It promotes generation and access to geological information; the review and update of mining codes, regulations and standards; and proper licensing or permitting process that include, for example, consultations with communities, integrated economic environmental and social assessments, identifying risks, impacts, opportunities, mitigation or management plans (including social investments), closure plans and full transparency of the process.

Under Objective 5, the 2018 Minerals Policy seeks to "Develop a framework for mainstreaming and formalising artisanal and small-scale mining operations to support livelihoods and entrepreneurship", a policy objective highly relevant to the tenets of the Africa Mining Vision. In this policy, the critical proposed interventions include;-

i) establishing legislation for licensing, regulation and monitoring of ASM activities;
i) registering and encouraging ASM miners to form associations for their operations;
ii) mapping and demarcating areas for ASM;
iii) ensuring that artisanal mining is a preserve for Ugandan citizens and encouraging joint ventures for small-scale mining operations;
iv) providing extension services and technical assistance to ASM in adopting safe, environmentally and socially acceptable mining and processing practices;
v) promoting the establishment of buying centres for mineral commodities for ASM and encouraging them to participate in supply chain initiatives;
vi) promoting technological transfer and the use of appropriate equipment;
vii) establishing mechanisms for ASM to access financing; and
viii) collaborating with development partners and civil society to promote best practices in the ASM sector.

In 2021, the government of Uganda, through the Directorate of Geological Survey and Mines, commenced formalising artisanal and small-scale miners through the National Biometric Registration of Artisanal and Small-scale Mining (BRASM). BRASM aimed at keeping an updated register of all ASM operations, service providers, dealers and agents, creating a database with all the bio-data of all miners, including names, sex, age, location, affiliations to registered ASM associations, and National Identification Numbers (NIN) to establish numbers and categories of people involved in ASM operations. The BRASM project has registered 6 211 artisanal miners within Busia, Namayingo, Buhweju, Kasanda, and Mubende districts.

Under the ACP-EU Development Minerals Programme, the government is working with the European Union (EU) and the countries of the African, Caribbean and Pacific (ACP) group of states to support efforts to formalise operations in the mining sector. The programme has helped develop and implement an ASM strategy to enable artisanal and small-scale mining enterprises (ASMEs) to achieve better livelihoods through higher employment and incomes from their mining operations. The critical interventions under the programme include;-

(i) formalising artisanal and small-scale mining;
(ii) increasing incomes of ASMEs and enhancing business development (entrepreneurial skills, access to finance, technology, markets, and market information);
(iii) strengthening environmental and social safeguards in and around mining operations;
(iv) supporting women-owned and run ASMEs along the value chain;
(v) facilitating inter-ACP knowledge exchanges.

The Ministry of Energy and Mineral Development (MEMD) has supported the mobilisation of ASMEs for training in various aspects of responsible and sustainable mining and identied multiple ASMEs that need further support to formalise their operations. To date, 350 ASMEs with 3 932 miners have been trained and sensitised in 25 districts of Uganda. Efforts are underway for the MEMD to formally launch the Formalisation and Business Development Strategy for the Development Minerals sector in Uganda.

2.2.4. Mining and Minerals Act 2022

The 2018 Mining and Minerals Policy envisaged the design of appropriate legislation to implement the principles contained therein. To fulfil this policy aspiration, the government of Uganda has enacted the Mining and Minerals Act 2022 as a new piece of legislation. The development of this law took into consideration the current developments in the sector at the national and global levels, the challenges faced, and the defects and inadequacies of the Mining Act of 2003. The law enactment process started in 2019 and underwent several changes over the next three years. The ASM sector in Uganda is currently regulated under the 2022 Mining and Minerals Act, which replaced the Mining Act of 2003.

The objective of the Act is to implement the tenets of the 2018 Mining and Mineral Policy by, among other things, reforming and strengthening the legal, regulatory and institutional framework.[22] The law also addresses numerous emerging issues in the minerals sector.[23] These include mineral certification, value addition, mineral revenue management and the formalisation of ASM.[24] Notably, the law attempts to address the defects and fill gaps within the Mining Act 2003. The law intends to "*provide a robust, predictable and transparent legal regime, improve mining and mineral administration and business processes, ensure efficient collection and management of mineral revenues, promote value addition to minerals and increase mineral trade.*"[25]

22 See Policy and Principles, Memorandum to the Mining and Minerals Bill, 2021

23 The Act consists of twenty parts. Part 1 deals with Preliminary matters, Part II is on Mineral Rights, Part III addresses Administrative aspects, Part IV Mineral Agreements and Applications for Mineral Rights, Part V Exploitation, Extraction and use of Geothermal Resources, Part VI Value Addition and Beneficiation, Part VII Minerals Buying, Selling and Dealing, Part VIII General Licensing ,Part IX Surface Rights, Part X Certification of Mineral Products, Part XI Financial provisions, Part XII National Content, Part XIII Registration, Information and Records, Part XIV Geological, Geo-scientific and Mineral Information, Part XV Protection of the Environment, Part XVI Community Engagement, Part XVII Occupational Safety and Health, Part XVIII Inspection, Monitoring and Enforcement, Part XIX Offences and Penalties and, Part XX Miscellaneous matters.

24 Ibid

25 Mining and Minerals Act 2022

Table 1: Summary of Key Objectives of the Mining and Minerals Act 2022

No.	Objective	Summary	Ref.
1	Administrative Strengthening for Effective Management	The Act aims to strengthen the administrative structures responsible for the management of the mineral sector, ensuring more effective oversight and regulation. The purpose is to strengthen and set up institutional structures for effective management of the minerals sector including enhancing the capacity of the Directorate of Geological Surveys and Mines for the effective governance of the sector.	Sec.16 – 20
2	Geological Information and Data Management	The Act established systems for the acquisition, management, and dissemination of geological information to support informed decision-making in the mining sector.	Sec.200– 212
3	Licensing Transparency and Participation	The Act creates an open, transparent, and competitive process for licensing commercial entities involved in mining operations and outlines their participation in the industry. It ensures fair access to mineral resources and encourages responsible practices.	Sec.28 – 104
4	Government Participation in Mining Operations	The Act addresses the participation of the government in mining operations, aiming to strike a balance between public and private interests and ensure optimal resource management. It establishes provisions for government participation, outlining the extent and manner in which the government can be involved.	Sec.21 – 27
5	Value Addition and Local Growth	The Act promotes value addition in the mining sector, with the goal of enhancing local economic growth by reaping benefits throughout the value chain. By promoting local processing and benefiting the entire value chain, the Act aims to foster economic growth and job creation.	Sec.121– 139
6	Transparency in Licensing	It establishes an open, transparent, and competitive process for licensing, ensuring fairness and accountability.	Sec.34
7	Exploitation of Mineral Potential	The Act creates an enabling environment for the exploration and exploitation of Uganda's mineral potential. It encourages responsible investment and development in the sector.	Sec.28 – 83 -104
8	Sustainable Mineral Marketing	The Act establishes strategies for sustainable mineral marketing, including the setup of buying and auctioning centres. This promotes fair trade and benefits from mineral sales.	Sec.140– 154
9	Artisanal and Small-Scale Mining Formalisation	The Act seeks to organise, licence, regulate and transform ASM in Uganda. It provides for the formalisation of ASM mining operations, recognising their importance and regulating their activities.	Sec.194

No.	Objective	Summary	Ref.
10	National Content Development and Community Engagement	The Act promotes the development of national content in mining operations, ensuring that local communities and businesses benefit from the sector. Involving local communities and businesses ensures that mining activities benefit the broader population and support local economic development.	Sec.195–199 and 228 – 230
11	Geothermal Resource Regulation	The Act addresses the regulation and management of geothermal resources, recognising their significance in Uganda's energy landscape. Regulating geothermal resources supports sustainable energy generation and diversification, contributing to Uganda's energy needs and environmental goals.	Sec.105–120
12	Environmental and Safety Measures	The Act established provisions for efficient and safe mining operations, including adherence to environmental and safety standards. The law prioritises safety and efficiency to minimise environmental damage and human risks associated with mining, while also improving productivity.	Sec.4, 213 – 227 Sec.231–240
13	Infrastructure Decommissioning	The Act provides guidelines for the decommissioning of mining infrastructure to ensure that environmental, social and economic impacts of decommissioning are planned, financed and implemented in a manner that meets the interests and needs of the community.	Sec.219–220
14	Payments Arising from Mining Operations	The Act addresses the financial aspects related to mining operations. Managing payments from mining operations ensures transparency and revenue collection, contributing to national finances and resource governance.	Sec.179–194

The new law has introduced reforms to organise, register, license, and regulate the ASM sector. It also provides for a progressive ASM licensing scheme, which includes an artisanal mining license and a small-scale mining license, differentiating between the different players in the sector. The African Minerals Governance Framework (AMGF) recognises the importance of legal and institutional issues throughout the value chain as a significant pillar. The pillar focuses on contracts and licensing because of their strategic importance. The AMGF presents the legal and institutional framework as a critical outcome under Section 6 Part 6.1; the Ugandan government has contributed to intervention area 6.1 under the AMGF to "Develop a comprehensive and transparent licensing and mineral rights management system". The government of Uganda developed the licensing regulations in 2023

2.3. Formalisation and regulation of artisanal miners

The formalisation of artisanal and small-scale mining was one of the primary objectives behind passing the 2022 Mining and Minerals Act. It is recognised that artisanal mining operations may be seasonal or continuous and may be carried out at single or multiple sites.[26] More critically, the law provides for the issuance of artisanal mining licenses. However, Such licenses may only be issued to individual Ugandan citizens or cooperative societies, trustees or associations incorporated under the laws of Uganda, provided that they are exclusively comprised of Ugandan citizens and their membership includes women and other marginalised groups where applicable.[27] Upon issuance, an artisanal mining licence is valid for three years, subject to renewal for periods not exceeding two years at a time.

The formal recognition of artisanal miners in the law is a step in the right direction. It should be noted that after the[4] collapse of large-scale mining in the 1960s, artisanal mining emerged as the most dominant sector to the extent that there are presently more than 300 000 artisanal and small-scale miners. The industry is directly or indirectly responsible for the employment of over 26.5 per cent of the Ugandan population. Despite this, Ugandan law did not recognise artisanal and other small-scale miners for a long time, although the 2003 Mining Act provided for the issuance of location licenses where the nature of mining operations did not involve the use of specialised technology and substantive expenditure.[28]

Since then, *"ASM operations remain largely informal, which adversely affects enforcement of the law and monitoring of operations and ultimately encouraging illegal mining activities that are not only a source of leakage of mineral revenue but also whose mining practices are not environmentally friendly".*[29] *The legal recognition of ASM will help overcome these challenges. This is in line with the aspirations of Africa Mining Vision. The AMV in particular advocates for "harnessing the potential of ASM to improve rural livelihoods, to stimulate entrepreneurship in a socially-responsible manner, to promote local and integrated national development as well as regional cooperation".*[30]

2.4. The Mineral Licensing Regulations 2023: rights and obligations

Under Clause 103, the grant of an artisanal mining license bestows on the holder an exclusive right to conduct exploration and mining operations in the area subject to the license.[31] The license holder also has the power to remove the mineral from the area and dispose of it by their license.[32] In terms of obligations, they must firstly obtain a lease or other right to use the land subject to the license before they can begin their mining operations. Secondly, they are obligated to record their winnings, furnish the Director DGSM, and notify the appropriate local authority with information relating to their operations. Licensed artisanal miners are also required to take safety and environmental precautions.

26 Ibid
27 Clause 97 Clause 101
28 Section 54, Mining Act 2003
29 Regulation, Monitoring and Promotion of the Mining Sector by Ministry of Energy and Mineral Development, OAG Report, December 2015 pg. 27
30 Africa Mining Vision, 2009
31 Clause 103
32 Ibid

These provisions are reasonable and consider current challenges of regulation of artisanal miners to the extent that they create obligations for them to furnish information and take steps to protect the environment and human safety in line with Outcome 6.6 of the AMGF, "Improved and sustainable quality of life for mining-affected communities and the country as a whole". Although the 2022 Mining and Minerals Act provides that the DGSM may extend extension services and training to artisanal miners about best mining practices, value addition, licensing requirements, geology, mineral exploration or health, safety, and the environment, this is yet to be implemented.[33] In Uganda, there is still a challenge in meeting this expectation of the AMV because most artisanal miners are still operating in a clandestine and unsafe manner. The definition and characteristics of artisanal mining under the Act capture entirely the realities of this category of miners. The recognition of artisanal mining rights will also go a long way towards protecting them from the current challenges of eviction and harassment.

Recommendations

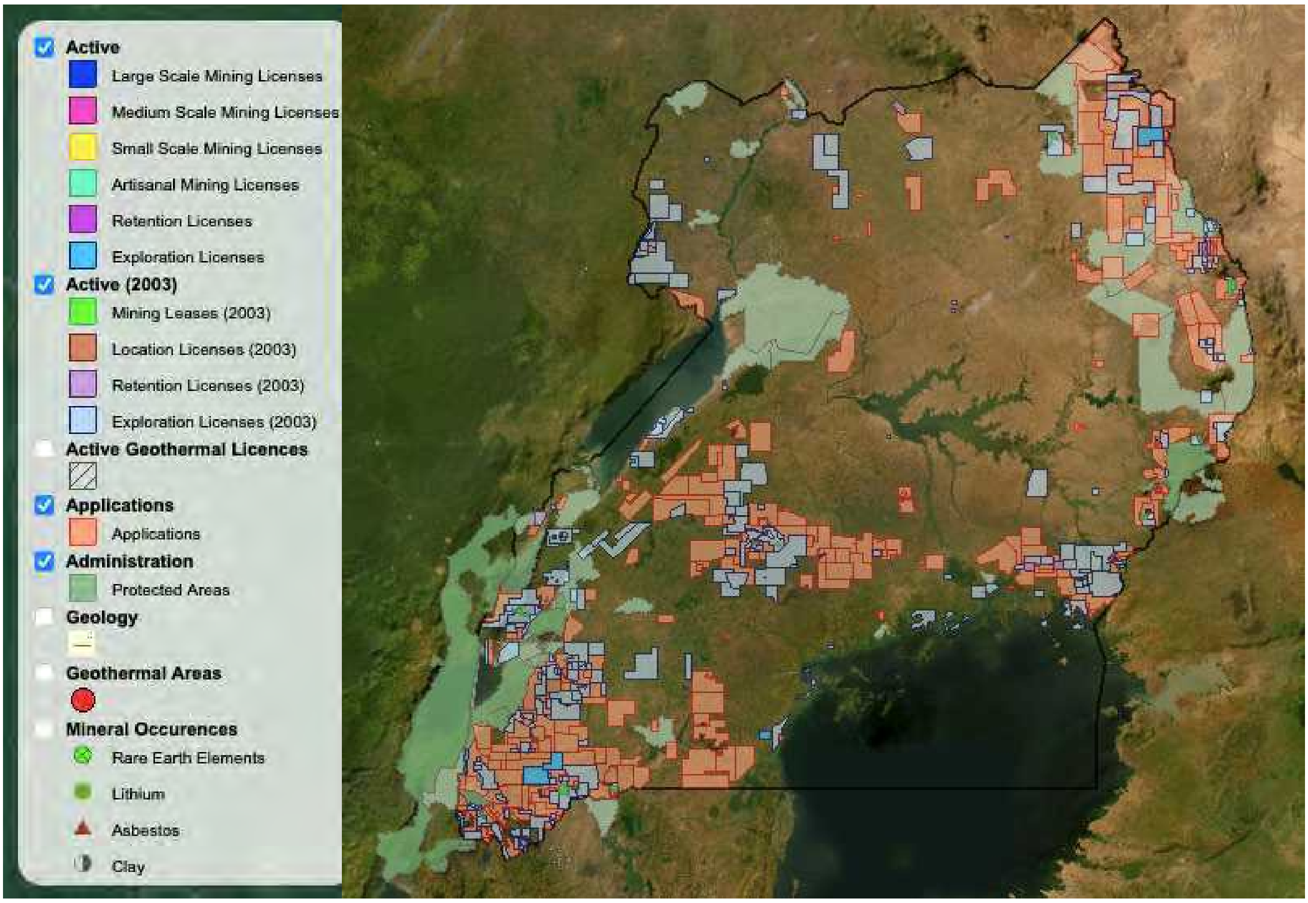
- More critically, separate regulations should be passed to address the environmental, health and safety challenges that arise from artisanal mining.
- Per clause 104, the minister should expedite the enactment of regulations prescribing measures to protect the health and safety of artisanal miners and mining operations.
- The obligation of the DGSM to provide extension services and support in the form of training and capacity building should be mandatory. As stated, artisanal miners constitute most of Uganda's mining sector participants. Their activities have enormous implications for the environment and the broader socio-economic and political spectrum.

2.4.1. Transparency and efficiency of licensing

The law establishes an open, transparent, and competitive process for licensing, ensuring fairness and accountability. Transparency and efficiency in the licensing process are critical to attract investments and provide a level playing field for all stakeholders. The Act emphasises the importance of an open, transparent, and competitive process for granting licenses.

33 Clause 103

Figure 2: Satellite imagery from the mining cadastre portal showing active licenses



The new law has separated the licensing function from the regulation function by establishing a Mining Cadastre Department to conduct online licensing. A transparent licensing process will promote air access to mineral resources, reduce corruption, and encourage responsible mining activities.

Table 3: Definition of Artisanal Mining under the Mining and Minerals Act 2022[34]

Term	Definition adopted
Artisanal mining	"Artisanal mining" means rudimentary mineral extraction and processing that is: - continuous or seasonal; - carried out by individuals or groups of individuals; - primarily and exclusively using manual labour and manual tools; - carried out at a single site or multiple sites; and - focused on producing mineral products that are primarily delivered or sold to: • traders in those mineral products; • local artists and craftsmen; or • builders acting within the national economy.
Artisanal mining operations	Mining operations that do not exceed ten (10) meters depth within an artisanal mining licence area.

34The Mining and Minerals Act 2022, Article 8.

2.4.2. Establishment of areas for artisanal mining

The figure below details the criteria for the establishment of artisanal mining areas in terms of the 2022 Mining and Minerals Act:

Figure 1: Areas for Artisanal Mining according to the Mining and Minerals Act 2022[35]

Areas for artisanal mining.

- Area within the limits of a set geographic area where, due to the features of certain deposits of gold, diamonds or any other mineral substance, technical and economic factors do not allow for large scale, medium scale or small scale mining operations, but do allow for artisanal operations.
- A mining area with a valid mineral right shall not be established as an artisanal mining area and shall be expressly excluded from artisanal mining areas established.
- In locations where associations or entities of artisanal miners have been formed and are operational, artisanal mining by individuals who are not registered or are not members of an association or entity is illegal and prohibited.

35 *The Mining and Minerals Act 2022, Article 95.*

2.4.3. Eligibility for artisanal and small-scale mining licenses

The table below presents the eligibility criteria for Artisanal and Small-Scale mining licenses under the 2022 Mining and Minerals Act:

Table 4: Eligibility for Artisanal and Small-Scale mining licenses under the 2022 Mining and Minerals Act

Eligibility for Artisanal and Small-Scale mining licenses	
Artisanal mining license[36]	**Small-Scale mining license**[37]
- An Artisanal mining licence shall be granted to: • an individual who is a citizen of Uganda; • a cooperative society, trustee or association registered or incorporated under the laws of Uganda comprising of Ugandan citizens exclusively and whose membership shall include women and marginalised groups, where applicable; • a joint venture or partnership registered in accordance with the Partnership Act, 2010 comprising of Ugandan citizens exclusively; • a business registered under the Business Names Registration Act and exclusively owned by Ugandan citizens; or • a company registered or incorporated under the Companies Act,2012 and having one hundred percent of its shares held by Ugandan citizens.	- A Small-Scale mining licence shall be granted to: • an individual who is a citizen of Uganda; • a cooperative society or associations registered under the laws of Uganda comprising Ugandan citizens exclusively; • a partnership registered in accordance with the Partnership Act 2010 comprising of Ugandan citizens holding 100% of the shares; or • a company registered and incorporated under the Companies Act,2012 and having 100% of its shares held by Ugandan citizens.
- An Artisanal mining licence shall not be granted to a cooperative society which is not registered in accordance with the laws of Uganda.	- A Small-Scale mining licence shall not be granted to a cooperative society which is not registered in accordance with the Cooperative Societies Act.
- An Artisanal mining licence shall not be granted to a body corporate: • which is not registered and incorporated under the Companies Act,2012; • which is in liquidation other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of such body corporate;	- A Small-Scale mining licence shall not be granted to a body corporate: • which is not registered and incorporated under the Companies Act2012 or any other applicable written law; • which is in liquidation other than a liquidation which forms part of a scheme for the reconstruction or amalgamation of such body corporate;

36 The Mining and Minerals Act 2022, Article 96.
37 The Mining and Minerals Act 2022, Article85.

Eligibility for Artisanal and Small-Scale mining licenses	
Artisanal mining license[36]	**Small-Scale mining license**[37]
• in respect of which an order has been made by a court of competent jurisdiction for its winding up or dissolution; or • which has made a composition or arrangement with the creditors under insolvency proceedings.	• in respect of which an order has been made by a court of competent jurisdiction for its winding up or dissolution; or • which has made a composition or arrangement with the creditors.

In line with the tenets of the African Mining Vision and the African Minerals Governance Framework, the importance of legal and institutional issues throughout the value chain is recognised as a significant pillar. The pillar focuses on contracts and licensing because of their strategic importance. It can be noted that Uganda is making substantial progress in this direction. For example, the government of Uganda has taken the following actions;-

- The Directorate of Geological Surveys and Mines (DGSM) has taken steps to improve transparency by publishing information about the licensing process, requirements, and fees.
- All mineral licensing processes and transactions are now conducted online through an upgraded mining cadastre portal to ensure transparency and accountability in the minerals sector.[38]
- The government embarked on a national sensitisation campaign to popularise the new law. The Ministry of Energy and Mineral Development conducts community outreach and engagement with stakeholders such as miners, communities, district local governments, civil society and the media.
- The DGSM is currently undertaking a data validation exercise of all mining licenses in Uganda.

Challenges:

- Despite improvements, there is room for further enhancement in making licensing information accessible to the public. Clear guidelines for license application procedures and timelines should be readily available. Complaints about the inconsistent interpretation of licensing criteria and requirements highlight the need for standardisation and more transparent communication.
- The government sought to modernise its mining industry by creating a more favourable investment climate with a streamlined bureaucracy, transparent allocation of licenses, and heightened use of geological information. The law provides for acquiring, managing, and disseminating geological information to support informed decision-making in the mining sector.

2.4.4. Accessibility of geological data

The government plans to conduct a detailed exploration of some mineral prospects for feasible mining projects by acquiring high-resolution geological, geochemical and geophysical data and generating mineral targets to be packaged for investors. It has also extended incentives to investors within the extractive industries to lessen investment costs, including zero-rated import fees for equipment and machinery and tax holidays.

38 See online mining cadastre portal available at https://dgsmportal.minerals.go.ug/site/

Status of implementation

Airborne Survey of Karamoja: Under the Airborne Geophysical Survey, the government completed data acquisition in Phase 1 and Phase 2; gravity data over Karamoja and Lamwo in Phase 1 and Phase 2 also completed, as well as 82 per cent of magnetic and radiometric data were acquired in Karamoja. Interpretation of the data and sensitisation of communities for ground follow-up is ongoing.

2.5. Institutional framework and capacity

The Ministry of Energy and Mineral Development is in charge of the energy and mining sector but works hand in hand with several other agencies to execute its mandate. For example, the Directorate of Geological Survey and Mines is the lead agency for controlling mining operations. However, the National Environmental Management Authority (NEMA) is mandated to take the lead on all aspects of environmental management. Other lead agencies that have stakes in mining activities include the National Forest Authority (NFA), the Uganda Wildlife Authority (UWA), the Directorate of Water Resources Management (WDWRM) and the Ministry of Gender, Labour and Social Development (MoGLSD).

In inter-sectoral cooperation, the Ministry of Energy and Mineral Development must cooperate with various institutions to regulate the mining sector. Activities in the mining sector are often cross-cutting, and other institutions in charge of related activities come into play as a legal or courtesy requirement. Most often, sectoral activities have to[7] be performed where different sectors are mandated, for example institutions that handle land, gender, trade, health, forestry life, etc.

The following table indicates the mandate of the ideal key stakeholder institutions that require collaboration and coordination for ASM, including reducing mercury and eventual phase-down.

2.5 1. Government Implementation of the Mining and Minerals Act

Institution	Role
Ministry of Energy and Mineral Development	• Provide policy direction for the minerals sector. • The minister plays a key role in the arbitration of disputes and conflict resolution as well as in issuing statutory instruments and promoting the sector. • Oversee and provide guidance to DSGM on its mandates and functions.
Department of Geological Survey and Mines	• The DGSM is responsible for the regulation and management of minerals and mining activities through the Department of Geological Surveys, the Department of Mines, the Department of Geothermal Resources and any other departments that shall be created within the Directorate.
Uganda Chamber of Mines & Petroleum	• Uganda Chamber of Mines and Petroleum creates, receives and disseminates news for, from and to all stakeholders in the minerals and petroleum industry.
National Forest Authority	• Collaborate with DGSM and other key agencies to harmonise policies and legislation with respect to mineral development in forest reserves. • Develop guidelines related to mining activities in forest reserves.
Parliament	• Pass laws for the good governance of Uganda in the Mining and Minerals sector.
National Forest Authority	• Collaborate with DGSM and other key agencies to harmonise policies and legislation with respect to mineral development in forest reserves. • Develop guidelines related to mining activities in forest reserves.

Institution	Role
Ministry of Finance, Planning and Economic Development	• Secure and disburse sufficient funds to DGSM in accordance with approved work plans and budgets to enable the fulfillment of the mandate in accordance with the National Development Planning process.
National Environment Management Authority	• Coordinate with DGSM, FA and other relevant government agencies to ensure appropriate application of the National Environment Act, effective monitoring and development of suitable requirements for the minerals sector.

Under Section 20 of the Act, the Minister of Energy and Mineral Development is forbidden to establish a Mining Cadastral Department within the DGSM to administer mineral rights and maintain a cadastral register. The law also provides for a Mineral Exploration Unit whose primary mandate involves exploring and evaluating mineral occurrences.[39] Overall, the institutional arrangements put in place are satisfactory. Looking at the functions of the established institutions under the law, they will, if well-coordinated, facilitate the formalisation of ASM and promote health, safety, and environmental protection. All these are significant aspirations for countries under the Africa Mining Vision.

It is important to note that by putting in place an elaborate institutional mechanism for the management, administration, and regulation of the minerals sector, the Act responds to most of the tenets of the Africa Mining Vision. The robust institutional framework thus (a) strengthens mineral revenue and mineral rents management; (b) strengthens geological and minerals information systems; (c) improves minerals sector governance, including regulating the ASM sector; (d) strengthens research and development; (e) creates capacity for managing environmental and social issues; (f) creates linkages and diversification; (g) facilitates mobilisation and supports infrastructure for development. In line with this, unlike in the previous Mining Act of 2003 where all aspects of minerals management were vested in an individual (i.e., the Commissioner for Geological Survey and Mines Department), under the 2022 Mining and Minerals Act, there has been a deliberate effort to strengthen the institutional framework for mining.

As a result, the following has been achieved so far;-

- o Establishing the Directorate of Geological Surveys and Mines [formerly a department in the Ministry of Energy and Mineral Development] has centralised the oversight of mining activities, leading to more effective coordination and enforcement of regulations.
- o DGSM is demonstrating efforts to enhance its organisational structure, staffing, and technical capacity. It contributes to improved regulatory control by streamlining administrative procedures and adopting digital platforms to expedite the licensing process.

39 Clause 18, Mining and Minerals Act, 2022.

- o Enhanced transparency and accessibility of licensing information are essential to promote fairness and discourage corruption. The DGSM is improving its online portal for license applications and approvals. The Online Mining Cadastre Transaction Portal, established in 2019 to manage mineral rights (including licensing, communication, reporting and payments) is being upgraded with the online mineral licensing system to align with the new law.

2.6. Financing and taxation of artisanal and small-scale mining

Uganda has often decreased the rate at which profits are taxed and increased the number of tax exemptions granted to mining companies. Contrary to the assumption that tax incentives encourage investment, studies have shown that fiscal considerations are secondary when making investment decisions in the mining sector.

Status of implementation:

- o The government is currently reviewing a minerals revenue strategy (royalty-tax regime) to ensure optimal benefits for all stakeholders in the mining and profit-sharing across the value chain for both the investor and the country
- o As a member of the Extractive Industries Transparency Initiative, the government annually releases a report detailing mineral statistics and revenue management in line with international obligations. In June 2023, the government published payments made by extractive entities, revenues received by government agencies and other material payments and benefits to government agencies in the financial year 2020/2021 as stated by Requirement 4.1 of the 2019 EITI Standard.

The exploitation and development of minerals, is a transaction-intensive stage of the mining value chain with significant implications for transfer pricing. The outbound trade of minerals and the inbound supply of corporate services and goods to mining operations frequently involves trade among related parties, with risks of transfer mispricing. Mining companies take advantage of complex cross-border structures designed to shift profits across several subsidiary entities resident in other (generally low-tax) jurisdictions. Transfer mispricing occurs in related party transactions that may imply tax liability and income, including thin capitalisation, treaty shopping and exchange controls. Tax policies and laws remain crucial for allowing the tax administration to identify and address risks of transfer mispricing (UNECA, 2017).

2.6.1 Fiscal Provisions and Revenue generation

Mobilising adequate and sustained domestic revenues from natural resources is central to achieving countries' long-term development priorities in line with the AMV. Three critical variables interact to determine the scale and quality of domestic resources available from the mining sector: fiscal regimes, mining companies, and mineral value chains. A budgetary regime comprises legislation, policy and administration. Successful modern states depend on mobilising revenues through an effective tax system capable of constraining tax evasion. However, weak fiscal regimes interact viciously with mining companies' illicit and sophisticated tax-avoiding practices along the mineral value chain. The outcome is often cross-border illicit financial flows with a net negative impact on domestic resource mobilisation. In contrast, good governance creates a virtuous cycle of mutually reinforcing interactions between the three elements outlined, with a consequent increase in domestic resources mobilised (UNECA, 2017).

Revenue generation is the main objective that drives resource-rich countries to develop their extractive industries. Uganda is no exception, and for this reason the law makes numerous provisions for generating, managing and sharing mining revenues. Clause 207 of the law provides for the payment of royalties on all minerals obtained or mined in Uganda. The law also gives the Director DGSM the power to assess royalties due on stockpiled minerals. The assessed royalties are to be paid when the mineral is disposed of.[40] Once evaluated, royalties are required to be paid within thirty days. Delays in payment of royalties attract an annual interest of 2 per cent above the commercial bank lending rate.[41] The other consequences of non-payment of royalties include prohibition from the disposal of minerals mined, suspension and, in some cases, revocation of mining licences. While not fundamentally different from those contained in the 2003 Mining Act, the above provisions are generally satisfactory as they clarify circumstances when royalties are payable and provide recovery where such amounts remain unpaid. The major challenge will be in the implementation of the law. It should be recalled that while the 2003 Mining Act has similar provisions, royalty collections have had challenges. An audit undertaken by the Office of the Auditor General on the activities of the DGSM in FY 2016/17 found that one of the private mining companies had failed to pay royalties amounting to UGX679.6 million.[42]

The second concern arises from the exemption from payment of royalties on mineral samples. Notably, while this may be necessary for companies to ascertain the value and potential of their investment, this window has previously been abused to deny the country royalties and other revenues. According to Global Witness, well-connected business people manipulated exemptions on mineral samples to export actual minerals without paying royalties.[43] The Mining and Minerals Act of 2022 mitigates this risk by requiring the minister, through regulations, to set a maximum value of mineral samples that may be exported without the requirement to pay royalties.[44]

While this may address the current challenge where minerals are exported under the guise of samples, its success will significantly depend on the speed within which the minister enacts the regulations clarifying the maximum value.

Uganda lacks effective anti-avoidance rules that could prevent thin capitalisation requirements from being abused. In addition, thin capitalisation may lead to abusive transfer pricing, where companies shift profits as untaxed interest deductions abroad to their lending affiliates in low-tax jurisdictions.

40 Clause 213, Mining and Minerals Act, 2022
41 Ibid, Clause 214.
42 Ibid, Clause 215
Findings of the Auditor General's Report to Parliament, 2017 at pg.16.
Available on http://www.oag. go.ug/wp-content/uploads/2018/01/Extracts-of-Key-Findings-of-the-Auditor-Generals-Report_2017.pdf
43 Global Witness, Undermined: How Corruption, Mismanagement & Political Influence is Undermining Investment in Uganda's Mining Sector and Threatening People and the Environment, June 2017 at pg.42
44 Clause 207, Mining and Minerals Act, 2022

The Ugandan government exercises its stewardship, ownership and fiscal roles by collecting royalties and taxes from mineral development. However, increasing rates requires an increase in geological information and financial modelling. The country still needs the technical expertise to adjust fiscal regimes to optimise domestic mineral revenue mobilisation.

Recommendations

- The minister should expedite the necessary regulations to define the maximum value of mineral samples that may be exported outside Uganda without payment of royalties.

- The minister should also urgently issue the statutory Instrument on royalty rates payable. The instrument should be informed by royalty rates that other countries in the region charge.

2.6.2. Revenue sharing

Revenue sharing is another crucial aspect of mineral revenue management. Clause 207 (4) of the Act provides for royalties collected to be distributed in a manner prescribed under Schedule 2. Parliament decided that the central government is to retain 70 per cent of all royalties. Local governments and sub-counties or town councils are entitled to 15 per cent and 10 per cent respectively. The remaining 5 per cent is for owners (lawful and bona fide occupants) of the land subject to mineral rights.[45]

Table 3: Sharing of Royalties from Minerals

Central Government	70%
Local Governments	15%
Sub-counties or Town Councils	10%
Owners, lawful occupants or bona fide occupants of land subject to mineral rights	5%

The revenue distribution mechanism above is progressive and represents an improvement on the one under the 2003 Mining Act. It is noted that the revised royalty-sharing mechanism has enhanced the overall share of local governments by 8 per cent. Secondly, the law has introduced a royalty share of 10 per cent for sub-counties and town councils. Thirdly, the royalty share of owners of land subject to mineral rights has been enhanced by 2 per cent.[46]

45 *Schedule 2, Mining and Minerals Act, 2022*
46 *The Uganda Mining and Minerals Act 2022*

2.7. Environment, occupational health, and safety

The 2022 Mining and Minerals Act, as passed, contains diverse provisions for the protection of the environment, health, and safety. Clause 4 of the Act explicitly enjoins all persons involved in mining and minerals operations to abide by the environmental principles outlined in the 2019 National Environment Act. In addition, the law contains even more comprehensive provisions for environmental protection under Part XVII. These include provisions for the prohibition of and imposition of strict liability for pollution,[47] mandatory environmental and social impact assessment and audits for all mineral right holders, submission of ecological management and monitoring plans for approval by NEMA,[48] decommissioning plans and establishment of a decommissioning fund in case of closure of operations[49] or closure of open pit mines,[50] financial security for environmental protection, and the safe disposal of explosives, among other things. Furthermore, mineral rights holders must conduct their activities with the highest levels of safety, the best industry practices, technological developments and in accordance with the 2006 Occupational Health and Safety Act. The law also provides for the right to work in satisfactory, safe and healthy conditions. It is an offence to exploit minerals without complying with environmental protection, health and safety standards under Clause 305 (c). Clauses 301 and 302 make it a criminal offence to use explosives and hazardous chemicals such as mercury and cyanide without authorisation.

Considering that mining poses adverse environmental effects and where health and safety risks are frequent, the above-stated provisions are favourable. If well implemented, they will go a long way in preventing such risks and ensuring that there is redress where harm is occasioned. These provisions are well aligned with the AMV goal of fostering sustainable development principles based on environmentally safe and socially responsible mining.

2.7.1. Gaps in environment, health, and safety laws

Despite introducing a tremendous environmental safety and management regime regarding mining operations, the existing law left some gaps. The Act presented to parliament expressly barred the use of mercury and cyanide in mining operations, but this is compromised by limited investment in alternative technologies. ASM, therefore, continues to use mercury due to a lack of cost-effective alternative technologies.

The use of mercury amalgam to extract gold in the artisanal mining sector is widespread, and its harmful effects on the environment and people's health are well documented. The capacity of the government to monitor and regulate the use of these dangerous substances is also highly dubious, especially in artisanal and small-scale mines whose numbers are very high, and the miners are spread out across the country.

47 Clauses 240 and 241
48 Clause 244
49 Clauses 245 and 246
50 Clause 247

Recommendations

- Given the devastating environmental, health and safety effects of mercury in gold extraction, the government should work to promote alternatives in the medium and long term.
- The government should actively support artisanal and small-scale miners' acquisition of environmentally friendly mining technology. This support may be physical or may take the form of incentives that allow ASM enterprises to acquire the technology on affordable terms.

2.8 ASM and communities

The 2022 Mining and Minerals Act contains a few provisions that encourage participation of, and in some cases advance, the protection of the rights of women and children in the mining context. Under Clause 24 of the act, there is a requirement for at least one-third of Uganda National Mining Company (UNMC) board members to be women. This provision is favourable to the extent that it promotes the involvement of women in the state mining company entrusted with managing the country's commercial interests in the sector. The Act also makes it an offence to employ children below the minimum working age.[51]

The employment of child labourers is grounds for revoking mineral rights under the law.[52] These provisions are essential considering that Uganda's mining sector is infamous for the employment of child labourers with adverse effects on their health and fundamental human rights. It is estimated that 40 per cent of Uganda's artisanal and small-scale miners are women.[53] In 2016, an estimated 10-15 000 children worked alongside adults in artisanal gold mining alone.[54] The number is even more significant if the mining sector is considered a whole. The participation of women and children in mining activities has been associated with various adverse effects. Women and children constitute the majority of the victims of exploitation and physical and sexual violence in the mining sector, which is relatively male-dominated.[55] Given their vulnerability, children are disproportionately affected. By being confined to mining, they are often deprived of their fundamental right to education and their health is put at significant risk. In addition to this, cases of child neglect are high in areas where mining is common. Despite all these challenges and the gruesome nature of abuse to children and women in mining areas, the 2022 Mining and Minerals Act appears soft on those who are responsible for these abuses. This goes against the Act's expressly stated objective to promote and protect human rights in the mining sector, including gender, labour, and children's rights.[56] The Act proposes to provide a framework for gender mainstreaming and human rights and the eradication of child labour in the mining industry.[57]

51 Clause 305
52 Mining and Minerals Act, 2022 Clause 186
53 Understanding the Economic Contribution of Small-Scale Mining in Uganda: Clay and Gold, Alliance for Responsible Mining, 2018 at pg.45.
54 Anne Lydia Sekandi, Keeping Children Out of Harzadous Gold Mines in Busia, UNICEF, October 2019. Available on https://www.unicef.org/uganda/stories/keeping-children-out-hazardous-gold-mines-busia
55 Ibid. See also Women in Artisanal and Small-Scale Mining- A Snapshot of Challenges and Opportunities for Empowerment, Impact, September 2017. Available on https://impacttransform.org/wp-content/uploads/2017/10/women-in-artisinal-and-small-scale-mining-uganda.pdf
56 Memorandum to the Mining and Minerals Act, 2022
57 Clause 3, Mining and Minerals Act, 2022.

Recommendations

- Enhance penalties and punishment associated with the exploitation of women and children, violence and other forms of abuse and human rights violations. This will ensure deterrence and provide a form of redress to women and children who are adversely affected as a result of their often involuntary involvement in mining activities.
- Parliament should adopt the recommendation to expressly include human rights compliance as part of the social impact assessment under Clause 243 of the Act.

2.9. ASM and sustainable livelihoods

The Mining and Minerals Act 2022 mandates national and local content in mining operations, including employment, service provision, training and skilling. The law has specific provisions to ensure that Ugandans benefit more from the mining sector. It seeks to ensure technology transfer, research, recruitment, training and promotion of Ugandans, and to prioritise the use of goods and services available in Uganda. By involving local stakeholders in mining operations, the law will contribute to national content development, guarantee that local communities, businesses, and the broader population benefit from mining activities, and support local economic development.

The law introduces a model agreement for large-scale mining businesses, which requires community development agreements (CDAs)[58] between mining companies and owners of land where minerals are found. The Act introduces CDAs as a mechanism to help develop and enhance community welfare through equitable revenue-sharing arrangements. CDAs have now become an integral part of the licensing process and a means to generate benefits for the community.

The new mineral rights include small-scale and artisanal mining licences alongside large-scale and medium-scale mining licences to provide for local participation in artisanal mining, which has been ring-fenced for Ugandan citizens. Ugandans can operate small-scale mining enterprises with majority shares alongside foreign investors to raise capital. This is designed to further incentivise local participation.

Status of Implementation:

- Mineral beneficiation centres: Construction of mineral beneficiation centres in Ntungamo District and Fort Portal are nearing completion.

58 See, Section 228(2) of the Mining and Minerals Act, 2022.

2.10. Access to information and technology

Besides competitive bidding and licencing, access to information is the other necessary pillar of transparency and accountability in the mining sector. Under Clause 331, the DGSM must promptly publish and maintain, in an accessible form, all beneficial ownership information of minerals rights, licence and permit holders on its website[59]. Beneficial ownership is defined to mean "the control, possession, custody or enjoyment of a natural person, directly or indirectly, of a reasonably significant economic interest in a given legal entity or receives significant economic interest in a given legal entity or [one who] receives significant economic interest from such a legal entity, even if formal ownership of title may be in the name of another person or entity[60]." Clause 331 (7) states that all confidentiality clauses included in mining contracts shall be void. The other provisions on transparency relate to the requirements for the minister to lay before parliament "model mining agreements" that the cabinet has approved[61]. Lastly, the law expressly prohibits acts of corruption in the minerals sector.

Access to information and anti-corruption provisions are favourable, considering that the minerals and extractive industries are among the most corruption-prone. All persons involved in mining activities must provide beneficial ownership information, and for such information to be publicised in an accessible format is equally laudable. In the Ugandan context, public officials and their close affiliates have been implicated in illegal involvement and interference in the mining sector by hiding behind corporate bodies. For this reason, the law, as passed, expressly prohibits public officials from acquiring interests in the mining sector under Clause 314. This provision would be complicated to enforce where the beneficial ownership of those who hold interests is not disclosed. For this reason, the requirement for proactive disclosure of beneficial ownership of mineral rights is laudable.

2.10.1. Restrictions on access to mining and minerals information

The provisions on transparency notwithstanding, the law as passed restricts access to critical information in diverse ways. Under Clause 231, all information, data, and reports submitted to the DGSM must be confidential. Furthermore, the DGSM must keep all geological information submitted by mineral rights holders confidential.[62] Although there are provisions for creating and maintaining separate registers of all mineral rights and licences granted under the law, there is no corresponding provision for public access to the information contained in these registers. It is also of concern that while the Board of Directors of the Uganda National Mining Company is required to submit audited accounts of revenues and expenditures and an annual report of the state's participating interests managed by the company, there is no requirement for this information to be publicly disclosed.

It is a significant principle that governments hold information on behalf of citizens. Secondly, as stated above, minerals are owned by the government of Uganda in trust for its citizens. The constitution of Uganda also guarantees the unfettered right of citizens to access information. This

59 Clause 331 (2)
60 Clause 331 (4)
61 Clause 31
62 Clause 228 (6)

right can only be restricted where the release of information is likely to prejudice the security or sovereignty of the state or to interfere with the right to privacy of another. The right to information is also critical to realising AMV goals to promote citizen participation, transparency, and good governance of the mining sector. Importantly, Uganda was recently admitted as a member of the Extractive Industries Transparency Initiative (EITI), so the country must disclose information on its mining and petroleum sectors. In light of all these considerations, the government is duty-bound to provide all information relating to the country's mineral resources in its custody.

3. Summary Assessment of Uganda's ASM Status in terms of the AMV

Africa Mining Vision Goal: Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development.
Framework Pillar: Artisanal and small-scale mining.
Expected outcome: Improved entrepreneurship in an environmentally and socially responsible manner, leading to sustainable livelihoods, growth and development.

Framework Intervention Areas	Framework Assessment	Current Status	Recommendations
Improvement in the availability, progressivity and sustainability of the artisanal and small - scale mining sector to enhance its contribution to growth and development through gaining access to training, extension services, finance, marketing and cleaner and more efficient technologies	Policy and legal framework for artisanal and small scale mining	Uganda has put in place a strong policy and legal framework for licensing, regulation and monitoring of ASM activities; The policies and laws include issues that focus on: • registering and encouraging ASM to form associations for their operations; • Licensing of ASM enterprises; • mapping and demarcating areas for ASM; • ensuring that artisanal mining is a preserve for Ugandan citizens and encouraging joint ventures for small -scale mining operations; • providing extension services and technical assistance to ASM in adopting safe, environmentally and socially acceptable mining and processing practices. • promoting the establishment of buying centres for mineral commodities for ASM and encouraging them to participate in supply chain initiatives; • promoting technological transfer and the use of appropriate equipment. • establishing mechanisms for ASM to access financing; and • collaborating with development partners and civil society to promote best practices in the ASM sector.	• The minister should expedite the enactment of regulations for prescription procedures and conditions for establishing, gazetting and de-gazetting areas for artisanal mining under Clause 96, separate regulations to address the environmental, health and safety challenges that arise from artisanal mining. • Per clause 104, the minister should also expedite the enactment of regulations prescribing measures to protect the health and safety of artisanal miners and mining operations.

Framework Intervention Areas	Framework Assessment Categories	Current Status	Recommendations
	Institutional framework and capacity	A strong institutional framework with the following key institutions has been established; - Ministry of Energy and Mineral Development, Directorate of Geological Survey and Mines, Uganda Chamber of Mines & Petroleum, National Forest Authority, Parliament, Ministry of Finance, Planning and Economic Development and National Environment Management Authority exists. Some of the other notable initiatives include: • Establishing the Directorate of Geological Surveys and Mines [formerly a department in the Ministry of Ener gy and Mineral Development] has centralised the oversight of mining activities, leading to more effective coordination and enforcement of regulations. • DGSM is demonstrating efforts to enhance its organisational structure, staffing, and technical capacity, contributing to improved regulatory control by streamlining administrative procedures and adopting digital platforms to expedite the licensing process. • Enhanced transparency and accessibility of licensing information are essential to promote fairness and discourage corruption. The DGSM is improving its online portal for license applications and approvals. The Online Mining Cadastre Transaction Portal, was established in 2019 to manage mineral rights, including licensing, communication, reporting and payments, is being upgraded with the online mineral licensing system to align with the new law.	• Need to develop technical competences • Improve on the number of staff such as recruitment of more mine inspectors • Improve inter -institutional coordination
	Financing and taxation of artisanal and small -scale mining	• Clause 207 (4) of the Mining and Mineral Act 2022, provides for royalties collected to be distributed in a manner prescribed under Schedule 2. Under this, parliament prescribed for the central government to retain 70% of all royalties. Local governments and sub -counties/town councils are entitled to a total of 15% and 10% respectively. The remaining 5% is for owners (both lawful and bona fide occupants) of the land subject to mineral rights.[63] The revenue distribution mechanism above is progressive. It is noted that the revised royalty -sharing mechanism has enhanced the overall share of local governments by 8%. Secondly, the law has introduced a specific royalty share of 10% for sub -counties/town coun cils. Thirdly, royalty share of owners of land subject to mineral rights has been enhanced by 2%.	• Publish information on revenues and royalties. • The minister should expedite the necessary regulations to define the maximum value of mineral samples that may be exported outside Uganda without payment of royalties. • The minister should also urgently issue the statutory instrument on royalty rates payable. The instrument should be informed by royalty rates that other countries in the region charge.

63 Schedule 2, Mining and Minerals Act, 2022

Framework Intervention Areas	Framework Assessment Categories	Current Status	Recommendations
	Financing and taxation of artisanal and small -scale mining	• Clause 207 (4) of the Mining and Mineral Act 2022, provides for royalties collected to be distributed in a manner prescribed under Schedule 2. Under this, parliament prescribed for the central government to retain 70% of all royalties. Local governments and sub -counties/town councils are entitled to a total of 15% and 10% respectively. The remaining 5% is for owners (both lawful and bona fide occupants) of the land subject to mineral rights.[63] The revenue distribution mechanism above is progressive. It is noted that the revised royalty -sharing mechanism has enhanced the overall share of local governments by 8%. Secondly, the law has introduced a specific royalty share of 10% for sub -counties/town coun cils. Thirdly, royalty share of owners of land subject to mineral rights has been enhanced by 2%.	• Publish information on revenues and royalties. • The minister should expedite the necessary regulations to define the maximum value of mineral samples that may be exported outside Uganda without payment of royalties. • The minister should also urgently issue the statutory instrument on royalty rates payable. The instrument should be informed by royalty rates that other countries in the region charge.
	Environmental issues in artisanal and small-scale mining	• The Mining and Minerals Act 2022, contains diverse provisions for the protection of the environment, health, and safety. • Clause 4 of the Act, explicitly enjoins all persons involved in mining and minerals operations to abide by the environmental principles set forth in the National Environment Act of 2019. • In addition to this, the law contains even more comprehensive provisions for environmental protection under Part XVII.	• The DGSM should provide extension services and support in the form of training and capacity building should be mandatory. • Support the ASMs in conducting Environment and social Impact assessments. • Their activities have huge implications on the environment and the broader socio -economic and political spectrum.

Framework Intervention Areas	Framework Assessment Categories	Current Status	Recommendations
		• These include provisions for the prohibition of and imposition of strict liability for pollution,[64] mandatory environmental and social impact assessment and audits for all mineral right holders, submissionof environmental management and monitoring plans for approval by NEMA[65] decommissioning plans and establishment of a decommissioning fund in case of closure of operations,[66] closure of open pit mines[67] financial security for environmental protection, and the safe disposal of explosives among others. • Furthermore, mineral rights holders are required to conduct their activities in accordance with the highest levels of safety, the best industry practices, technological developments and the Occupational Health and Safety Act, 2006. • The law also provides for the right to work under satisfactory, safe and healthy conditions. • It is an offence to exploit minerals without complying with environmental protection, health, and safety standards under Clause 305 (c). • Clauses 301 and 302 also make it a criminal offence to use explosives and hazardous chemicals such as mercury and cyanide without authorisation.	• Given the devastating environmental, health and safety effects of the use of mercury in gold extraction, government should work to promote alternatives in the medium and long term. • Government should actively support the acquisition of environmentally friendly mining technology by artisanal and small-scale miners. This support may be physical or may take the form of incentives that allow for ASMs to acquire the technology on affordable terms.
	Occupational health and safety	• Despite introducing a tremendous environmental safety and management regime in respect to mining operations, the law as passed left some gaps. • Clause of the Act presented to Parliament expressly barred the use of mercury and cyanide in mining operations. This is however challenged by limited investment in alternative technologies. ASM enterprises therefore continue to use mercury due to lack of cost effective alternative technologies. • The use of mercury amalgam to extract gold in the artisanal mining sector is widespread and its harmful effects on the environment and health of people are well documented. • The capacity of government to monitor and regulate the use of these dangerous substances is also very low especially in relation to artisanal and small scale whose numbers are very high, and the miners are spread out across the country.	• Given the devastating environmental, health and safety effects of the use of mercury in gold extraction, government should work to promote alternatives in the medium and long term. • Government should actively support the acquisition of environmentally friendly mining technology by artisanal and small-scale miners. This support may be physical or may take the form of incentives that allow for ASMs to acquire the technology on affordable terms.

64 Clauses 240 and 241
65 Clause 244
66 Clauses 245 and 246
67 Clause 247

Framework Intervention Areas	Framework Assessment Categories	Current Status	Recommendations
	Artisanal and small-scale mining and communities	• The new mineral rights include a small-scale mining licence and an artisanal mining licence alongside large-scale mining and medium-scale mining licences to provide for local participation in artisanal mining which has been ring-fenced for Ugandan citizens. • Ugandans can operate small-scale mining enterprises with majority shares alongside foreign investors for purposes of raising capital. This is designed to further incentivise local participation.	• Increase access to services such as health, and education. • Community assets such as access to clean water, skills development, and environmental protection not fully developed.
	Artisanal and small-scale mining and sustainable livelihoods	• Focus has been on formalisation and licensing whilst the strategy to improve livelihoods is not clearly provided to support community assets. • ASM is still characterised by poor technology, limited access to finance, poverty, and lack of livelihood options. They do not access key social services like health, education and they stillform a bigger percentage of the poor. ASM in Uganda is not integrated into government development initiatives such as the Parish Development Model an initiative of government to eradicate poverty.	• Increase access to finance and technology. • Strengthen formalisation of the ASM sector and organise miners into cooperatives. • Integrate ASM into government development programmes such as Parish Development Model.
	Gain access to information and technology	• The Directorate of Geological Surveys and Mines has taken steps to improve transparency by publishing information about the licensing process, requirements, and fees. • Upgraded online mining cadastre portal. Now, all mineral licensing processes and transactions are conducted online to ensure transparency and accountability in the mineral. • The government embarked on a national sensitisation campaign to popularise the new law. • The Ministry of Energy and Mineral Development conducts community outreach and engagement with stakeholders such as miners, communities, district local governments, civil society and the media. • The DGSM is currently undertaking a data validation exercise of all mining licenses in Uganda. • In the Ugandan context, public officials and their close affiliates have been implicated in illegal involvement and interference in the mining sector by hiding behind corporate bodies.	• Despite progress, there is a need to strengthen the online portal withup-to-date information in the licensing process for the public and potential investors. • All persons involved in mining activities must provide beneficial ownership information, and such information is to be publicised in an accessible format .

4. Conclusion: Domestication of AMV in the ASM sector

Uganda's mining and minerals sector has a rich history and significant economic potential. Since the inception of the Africa Mining Vision, Uganda's mineral sector has undergone significant transformations driven by domestic and international factors. New issues like mineral certification requirements and regional and international commitments have emerged. Uganda also started heeding the global need for responsible and sustainable mining practices.

Uganda's participation in international initiatives and compliance with standards such as the Extractive Industries Transparency Initiative (EITI) demonstrates its commitment to aligning with global industry best practices (EITI, 2020). The enactment of the Mining and Minerals Act in 2022 represents a pivotal moment in the country's efforts to harness its mineral wealth while ensuring sustainable and responsible extraction practices.[68] The enactment of the Mining and Minerals Act marks a critical step towards addressing past challenges and realising the sector's full economic potential. The successful implementation of this new legislation, considering the historical, economic, and environmental contexts, will shape the sector's development and realisation of its full potential.

True to most of its objects, the law addresses many critical areas not previously covered by the 2003 Mining Act. It puts in place a relatively comprehensive mining regulatory and administrative framework; reintroduces the public trust doctrine in mining; establishes protections for the rights of landowners, children, women, and workers; establishes a state mining company; recognises rights of artisanal miners and supports the regularisation of the sector; promotes transparency and accountability in mining; and safeguards the environment and health. The law is also primarily responsive to emerging developments and challenges in the minerals sector and national, regional, and global aspirations such as those in the Africa Mining Vision. The law promotes mineral beneficiation and value addition, community participation, local government oversight in mining, local content, and equitable revenue sharing.

Uganda has also implemented initiatives to recognise ASM. In 2021, the government of Uganda, through the Directorate of Geological Survey and Mines, commenced formalising artisanal and small-scale miners through the National Biometric Registration of Artisanal and Small-scale Mining (BRASM). The BRASM aimed at keeping an updated register of all ASMs, service providers, dealers and agents, creating a database with all the bio-data of all miners, including names, sex, age, location, affiliations to registered ASM associations and National Identification Numbers (NIN) to establish numbers and categories of people involved in ASM operations. The BRASM project has registered 6 211 artisanal miners within Busia, Namayingo, Buhweju, Kasanda, and Mubende districts.

68 *https://egiuganda.org/wp-content/uploads/2021/08/Mining-Amendment-Act-2021.pdf*

Under the ACP-EU Development Minerals Program, the government of Uganda is working with the European Union (EU) and the countries of the African, Caribbean and Pacific (ACP) group of states to support efforts to formalise operations in the mining sector. This programme has helped develop and implement an ASM strategy to enable artisanal and small-scale mining enterprises (ASMEs) to achieve better livelihoods through higher employment and incomes from their mining operations. Critical interventions under the programme include:

a) formalising artisanal and small-scale mining;
b) increasing incomes of ASMEs and enhancing business development (entrepreneurial skills, access to finance, technology, market, and market information);
c) ensuring environmental and social safeguards in and around mining operations;
d) supporting women-owned and run ASMEs along the value chain;
e) facilitating inter-ACP knowledge exchanges.

The Ministry of Energy and Mineral Development (MEMD) has supported the mobilisation of ASMEs for training in various aspects of responsible and sustainable mining and identifying multiple ASMEs that need further support to formalise their operations. To date, 350 ASMEs with 3 932 miners have been trained and sensitised in 25 districts of Uganda. Efforts are underway for the MEMD to formally launch the Formalisation and Business Development Strategy for the Development Minerals sector in Uganda.

Whereas the government has attempted to develop the mining sector, gaps still need to be addressed if the country is to fulfil the ambitions of the African Mining Vision regarding ASM. Although a new legal framework has been implemented, this is just recent.[69] The ASM sector therefore still faces several challenges, including illegal mining activities, inadequate infrastructure, environmental degradation, and issues related to transparency and accountability. Illegal mining operations in some areas continue to affect the environment and revenues generated from mining operations.

69 Ugandas Mineral Law, the Mining and Mineral Act, was passed in the year 2022. The mining and licensing regulations were finalised in 2023. The Ugandan government has embarked on the development of another 7 pieces of legislation to operationilse the Mining and Minerals Act 2022.

4.1. Customised Africa Mining Vision progress scale

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

The Framework Assessment Categories of ASM are (1) Policy and Legal Framework for artisanal and small-scale mining, (2) Institutional framework and capacity, (3) Financing and taxation of artisanal and small-scale mining, (4) Occupational health and safety (5) Artisanal and small-scale mining and communities (6) Artisanal and small-scale mining and sustainable livelihoods (7) Gain access to Information and technology.

4.2 Ranking of Ugandas' progress in the domestication of AMV is ASM

Based on the assessment done in this study, from the above table, Uganda's implementation of ASM in line with the African Mining Vision can be concluded to be Grey or Intermediate stage because the country has a mix of progression, regression and neutrality throughout the seven Framework Assessment Categories of ASM.

Uganda's AMV Domestication Performance Status on Artisanal and Small-scale Mining Sector

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	●

5. Recommendations

The enactment of the Mining and Minerals Act in 2022 represents a pivotal moment in the country's efforts to harness its mineral wealth while ensuring sustainable and responsible extraction practices.[70] The enactment of the Mining and Minerals Act marks a critical step towards addressing past challenges and realising the sector's full economic potential. The successful implementation of this new legislation, considering the historical, economic, and environmental contexts, will shape the sector's development and realisation of its full potential. Key recommendations include the following:

1. To improve performance, the government needs to fast-track the development of regulations to guide the implementation of the new mining and minerals law and provide for solid enforcement in the sector. Uganda finalised the Mining and Licensing Regulations in 2023. These, however, regulate only one area, which is licencing. There are seven other pieces of legislation underway to control different aspects. These should be fast-tracked.

2. Currently, there is a presidential directive banning the export of raw minerals. This has led to the closure of some ASM mines because they need more finance to carry out value addition through processing. The Ministry of Energy and Mineral Development needs to implement a programme targeting the reorganisation of artisanal miners and building their capacity to ensure improved recovery of mineral resources. The government should also fast-track the establishment and equipping of mineral beneficiation centres for enhanced recovery and capacity development of local artisanal miners.

70 https://egiuganda.org/wp-content/uploads/2021/08/Mining-Amendment-Act-2021.pdf

3. The minister should expedite the enactment of regulations for prescription procedures and conditions for establishing, gazetting and de-gazetting areas for artisanal mining under Clause 96, with separate regulations to address the environmental, health and safety challenges that arise from artisanal mining.

4. The DGSM should provide extension services and support through training, and capacity building should be mandatory. This can be done by increasing inter-institutional coordination and strengthening the capacity of mandated institutions to operate. For example, the human resources and financial capacity of the DGSM should be strengthened to scale up mine site inspection.

5. The government of Uganda should actively support the acquisition of environmentally friendly mining technology by artisanal and small-scale miners. This support may be physical or may take the form of incentives allowing artisanal miners to acquire the technology on affordable terms.

6. Despite progress in the disclosure of mining information, there is a further need to strengthen the online portal with up-to-date information in the licensing process for the public and potential investors. The information on royalties transferred to district and local governments should be disclosed. The government must also enforce the implementation of the beneficial ownership guidelines by requiring all persons involved in mining activities to provide helpful ownership information, and for such information to be publicised in an accessible format.

7. Lastly, the government of Uganda must put in place a mechanism to increase access to finance among ASM enterprises. This will facilitate organisation, responsible mining, capacity development, etc. This could be done by integrating ASM into government development programmes such as the Parish Development Model or creating specific funding models for ASM work.

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