



AFRICA MINING VISION @10
RECOMMENDATIONS OF CSOs CONFERENCE
OCTOBER 23-25, 2019 JOHANNESBURG

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1. CONTEXT AND BACKGROUND

According to the Africa Mineral Development Centre (AMDC), 32 states in Africa are implementing various aspects of the Africa Mining Vision (AMV) by incorporating it into their national mining policies. The AMV, adopted in February 2009 by the African Union (AU) Heads of State and Government, is Africa's overarching framework for achieving inclusive, broad-based, sustainable mineral-based structural transformation of the continent. Over 45 practitioners working on mining governance participated in the Civil Society Africa Mining Vision (AMV) Conference on 23-25 October 2019 in Johannesburg, South Africa. They included civil society organisations (CSOs) working in the mining sector, labour unions, Africa Minerals Development Centre (AMDC), Africa Development Bank (AfDB) and the United Nations Development Programme (UNDP).

The Civil Society AMV Conference was convened by a consortium of organisations: the Southern Africa Resource Watch (SARW), Third World Network Africa, Tax Justice Network Africa, Publish What You Pay, Zimbabwe Environmental Law Association and Norwegian Church Aid. The conference was a follow-on to the one held in Zambia in 2014 to review the implementation of the AMV after five years. The 2019 Civil Society AMV Conference assessed progress made by countries in the past decade towards implementation of the AMV as an agreed continental development framework to transform the management of the diverse and abundant mineral resources. Progress review of implementation sought to solidify efforts by civil society to keep the vision alive and contribute towards its promotion, implementation and actualisation by African governments.

Whilst the AMV is generally accepted as a progressive framework that can help transform African economies to benefit from available mineral resources, its implementation after ten years remains a challenge. The AMV is a non-binding framework, and member states are only encouraged to adopt it in national laws and policies. It is acknowledged that great strides have been made to implement the AMV at the continental level, including the adoption of an Action Plan and development of the Africa Mineral Governance Framework (AMGF). At the regional level, the Southern Africa Development Community (SADC) has finalized its Regional Mining Vision while The Economic Community of West African States (ECOWAS) is working on the Mineral Development Model Law. These two different instruments are aimed at promoting implementation of the AMV. In all these milestones attained, civil society has been an instrumental stakeholder, particularly working with the AMDC and carrying out various national advocacy initiatives. It is therefore imperative that African governments have a renewed political will, as was shown in 2009 when the AMV was adopted, to ensure that the visionary framework translates into legislative and policy narrative at national level.

In his welcoming remarks at the conference, the director of SARW, Dr Claude Kabemba, highlighted how, despite the AMV being in place, the continent is yet to witness "visible impact" of its mineral wealth or a change in the lives of ordinary people. The reality on the ground is that African countries are still riddled with poverty and poor social services, and local communities continue to bear the negative social and environmental impacts from various mining activities. Some mining companies and governments continue to disrespect the human rights of mining communities and do not take seriously the global issue of climate change which has a negative impact on the livelihoods of most people.

2. AMV CONFERENCE 2019 OBJECTIVES

- Defining the role and responsibility of civil society in the implementation of the AMV;
- Agenda setting of short- and medium-term strategies to support the implementation of the AMV;
- Agreeing on areas of intervention and defining the substance.

3. CONFERENCE OUTCOMES

- Developing a civil society sensitisation programme in support of the AMV;
- Development of a five-year civil society plan to monitor the implementation of the AMV.

The conference participants assessed the implementation progress of the AMV using the six pillars provided by the Africa Mineral Governance Framework (AMGF): the legal and institutional framework on contracts and licences; geological and mineral information; fiscal and revenue management; linkages and diversification; artisanal and small-scale mining; and environmental and social issues.

4. OVERVIEW OF AMV PILLARS

Pillar 1: The Legal and institutional framework on negotiation of contracts and licences

Various countries (including Lesotho, Angola, Botswana, DRC, Zimbabwe and Ghana) have been on a drive to reform laws that govern the awarding of mining rights and titles. Whilst some of these reforms have been finalised and others are still ongoing, the provisions relating to contracting and licensing have largely not been aligned to the tenets of the AMV which fosters greater transparency in licensing and management of mineral rights. The awarding of contracts and licences in most countries is still largely confined to a few individuals often lacking legal expertise in the negotiation of contracts. These few individuals are further conferred with discretionary powers and processes in the awarding of mining rights characterised by secrecy and non-competition. This situation has led to many cases of poorly negotiated mining contracts, opaque licences and corruption, with minimal benefits being derived by host countries. Furthermore, mining contracts and licences in many countries are still largely not in the public domain, restricting public accountability regarding the terms and conditions of such investments. Tied to the issue of countries failing to effectively and optimally negotiate mining contracts and licences has been the limited investment made in conducting systematic gathering of information on mineral resources through geological and mineral surveys.

The less that is known about the potential value of a resource, the greater the share of the rents that the investor will demand due to the high risk of discovering or dimensioning the resource (which may turn out to be sub-economic). Thus, the more a country knows about the potential value of a mineral or resource, the greater will be its ability to strike an equitable deal in terms of

contracts or licences and benefits accruing from the exploitation of the resource. The effective negotiation of contracts and licences by countries is deemed essential to attaining implementation of other critical pillars of the AMV, such as fiscal and revenue management, linkages and diversification, environmental and social issues.

Pillar 2: Geological and mineral information

Africa's large and diverse mineral resources constitute 30% of the world's reserves. Eleven African countries are among the top ten global resource producers in at least one major mineral, for example 54% of platinum group of metals (PGM), 78% of diamonds, 100% of cobalt, and 60% phosphate are supplied to the key commodity markets which include the USA, China, the Middle East and Europe. Despite, these high production figures by the mining sector, the continent is grappling with inability to undertake geological surveys that enable countries to gather mineral information relevant to the awarding of mining rights in contracts and licensing. In addition, there is a lack of adequate local and trans-border data policies regarding data standardisation, resource classifications and reporting systems to promote broad and sustainable development processes in Africa. Although legal and policy frameworks are in place in most countries to enhance geological and mineral information, a gap remains in implementation. This has been attributed to limited prioritisation through funding by most countries, given the high costs and risks associated with conducting geological surveys. The result has been erratic national and regional mapping programmes on undertaking geological surveys. Given the strategic importance of geological and mineral information for informed broad-based mineral governance, generating this data is a key priority as part of national development planning. Information dissemination of shared geological and mineral data at the regional and continental level has also not been fostered. There is a need to promote data-sharing mechanisms as a basis of regional cooperation throughout the continent. The African Mineral and Energy Resources Classification (AMREC) -Pan African Reporting Code (PARC) and the Management Systems which are based on the United Nation Framework Classification for Resources (UNFC) are intended to bridge the gap code for reporting mineral and energy resources. AMREC -PARC is the first application system that encompasses oil, gas, minerals and renewable energy in a single package for transparent financial reporting. These tools are designed to foster implementation of the AMV through a unified system harmonizing continental wide resource management system as well as integrating environmental and social issues.

Pillar 3: Fiscal and revenue management

The fiscal and revenue management pillar was deemed the most highly implemented aspect of the AMV. This is because governments are particularly interested in obtaining as much possible revenue in the form of taxes and royalties from the extraction of minerals in their jurisdictions. An assessment of the effectiveness of implementation efforts by some countries shows weak fiscal regimes that inhibit the effective collection of resource rents by institutions. Often tax institutions are constrained in terms of human and financial resources to undertake site production audits at mining sites, and instead often depend on data provided by the mining companies. In addition, given the competition amongst member countries to attract foreign direct investment, weak fiscal regimes are presented that highly favour the investors at the expense of maximizing revenues. These weak and rigid fiscal regimes in turn fail to be sensitive

to mineral price volatilities and restrict maximising existing scenarios to stimulate national development. Other highlighted challenges associated with the implementation of this pillar included poor contract negotiations, corruption, illicit financial flows, tax incentives, and inequitable sharing of revenues at different tiers of government.

Pillar 4: Linkages and diversification

Minerals are finite and revenues collected in the form of taxes and royalties are not enough for countries to draw maximum and sustainable benefits. Most resource-dependent economies fail to invest in and maintain the necessary feeder infrastructure critical to boosting other economic sectors. The AMV hinges on ensuring that resource-rich countries use the sector as a lever to broaden the economy through the creation of sectorial linkages. Key to this is infrastructure development investments, mining value addition and beneficiation, skills and technology transfer, and local content development. Most African countries are still largely exporting minerals in their raw form without any value addition and beneficiation, thus decreasing higher export returns. Although many countries are adopting mineral value addition and beneficiation policies and laws, the major implementation challenge lies in the failure to invest the mineral revenues in necessary infrastructure developments such as energy, water and transport. In addition, the mining sector is failing to be a catalyst for broad-based development that promotes upstream, downstream and side-stream industries through local content development initiatives. Several countries have adopted or are considering the adoption of local content policies, laws and regulations aimed at obtaining the optimum benefits from the extraction of these finite resources. This is amid calls by citizens and local communities in these resource-rich countries for the need to directly benefit from the abundant mineral wealth. Whereas, local content policies and laws have the potential to stimulate broad-based socio-economic development, often their application has achieved mixed results. This is because local content in the mining sector is a complex and rapidly evolving policy arena. It is critical that a collective and standard approach be developed if the envisaged local content from the mining sector is to be harnessed.

Pillar 5: Artisanal and small-scale mining

There is concern that this sector is still largely criminalised and defined as “illegal” in most African countries despite its economic contributions to gross domestic product. The failure to formalise artisanal and small-scale mining (ASM) through governing legislative and policy frameworks has been attributed to the sector being a source of illicit financial flows and political power patronage by corrupt business and political elites. There is also concern that this industry is undermining global efforts aimed at sustainable development due to challenges of environmental management and child labour. The limited efforts to formalise and regulate the sector as a viable source of livelihood have faced the challenge of adequately monitoring and safeguarding associated environmental, health, social and economic impacts. Efforts to formalize the sector are also met with resistance from those participating who do not want the responsibilities of paying taxes or adhering to environmental and health standards. As a result, the sector has

created an underground economy through money laundering backed by politicians and funders who benefit from the lack of regulating legal frameworks. African governments are deemed not to be treating the issue of ASM with seriousness despite its expected contribution to revenue generation and to the ordinary lives of individuals.

Pillar 6: Environmental and social issues

Research and monitoring work by civil society in many parts of the continent indicate progress made by countries to put in place laws and policies governing the mining sector, in line with environmental and social concerns. Although the mining sector is a catalyst for broad-based socio-economic growth, its activities also come with negative environmental, socio-cultural and health impacts on adjacent local communities. To address these concerns, 70% of international best practice standards have been integrated into many country mining laws and regulations, such as undertaking Environmental and Social Impact Assessments (EIAs and SIAs) prior to mining operations. In most countries, despite the existence of environmental and social laws, forced displacements are taking place without free and prior informed consent and compensation. Despite the large investments by mining companies in corporate social responsibility (CSR) programmes aimed at contributing towards local community developments, these have largely been deemed unsustainable with minimal community participation. Furthermore, institutions mandated to implement environmental and social laws lack human and financial resources to effectively carry out site audits, and lack a coordinated approach to work with local community champions to address these challenges.



5. RECOMMENDATIONS

The AVM 2019 conference discussed progress made, success achieved, and challenges faced by countries in implementing the AMV against each pillar, using the AMGF as an evaluation tool. Participants used the AMGF to reflect on the national and regional situations. They identified gaps and recommended actions that are needed for each pillar.

PILLAR: Legal and institutional framework for contracts and licences	INTERVENTION AREA Develop a comprehensive and transparent licensing and mineral rights management system.	OUTCOME Greater transparency in licensing and management of minerals.	GAPS There remains limited institutional capacity by most government representatives in mining contract negotiating skills and analysis resulting in poor mining deals. Mining laws still have weak competitive contracts/licence awarding processes and disclosure provisions of mining titles, thus inhibiting open public participation and accountability. There is weak implementation of transparent contracting and licensing laws in place. Out of the few countries that have contracts and licence disclosure laws, only two are implementing the laws.	RECOMMENDATIONS A framework guide on mining contract negotiation skills and analysis should be developed. Technical expertise training should be provided to AU countries on mining contract negotiation skills and analysis. This needs to be coupled with support during the contract negotiation processes of countries. The oversight role of Parliament in contract negotiations and awarding of mining rights should be mandatory in mining legal and institutional frameworks.	RESPONSIBLE ACTORS AMDC AU Member States Regional economic blocs RECs CSOs
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<p>PILLAR: Legal and institutional framework for contracts and licences (cont.)</p>			<p>GAPS (cont.)</p> <p>The role of state-owned mining enterprises in most countries is not clearly defined, particularly the grounds on which they should venture into mining activities given the major losses they are incurring, draining treasury as details about relevant joint venture agreements are opaque.</p>	<p>RECOMMENDATIONS (con)</p> <p>A re-invigoration of political will amongst member states is needed to enact and implement legislation and institutional frameworks promoting transparent licensing and contracts.</p> <p>A model law on mining, such as the one being drafted by ECOWAS, should be used as a reference point to draw lessons for enacting mining law reforms and the adoption of the SADC Regional Mining Vision by member states.</p> <p>Advocacy awareness efforts popularizing the AMV amongst parliamentarians and citizens needs to be undertaken to lobby and influence legislation reforms and implementation on contracts and licence disclosure for accountability.</p> <p>The AMV/AMGF needs to elaborate on the participation of state-owned mining enterprises to ensure clear grounds for investments and transparent processes in joint venture agreements.</p>	
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PILLAR: Geological and mineral information	INTERVENTION AREA Improvement in and strengthening of geological and minerals information systems to underpin investment, exploration and mine development. Improvement in the standards of reporting, resource classification and mineral reserve valuation, and optimise mineral resource and reserves governance.	OUTCOME Comprehensive knowledge of geological and mineral endowment, leading to broad-based development.	GAPS Most countries have existing legal and regulatory frameworks in place for systematic collection of geological and mineral information through geological surveys, but these are not being implemented due to limited funding allocations in national budgets. There is limited investment by countries to provide technical and technological capacity skills within staff of geological and mineral information departments to conduct geological and mineral surveys. Regional Economic Blocs lack policy frameworks enhancing information sharing of trans-border or shared geological and mineral resources.	RECOMMENDATIONS National budgets must prioritise systematic collection of geological and mineral information through geological surveys and procuring latest geological technologies to ascertain mineral wealth as part of national development and long-term broad-based sustainable investment. Regional economic blocs should develop geological and mineral information sharing policies as part of integration. AMREC and PARC should be adopted by member states at national level as tools to facilitate collection of reliable geological and minerals data and efforts to integrate environmental/ social issues in mineral extraction.	RESPONSIBLE ACTORS Member states Financial institutions RECs AMDC CSOs
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PILLAR: Fiscal and revenue management	INTERVENTION AREA	OUTCOME	GAPS	RECOMMENDATIONS	RESPONSIBLE ACTORS
	<p>Strengthening of policies (legal and practice or systems) and institutions for transparency and accountability in the management and use of mineral revenue; Improvement in policies (legal and mechanisms) including capacity for the equitable use of resource revenue and productive investment to promote broad-based development.</p>	<p>Optimised share of revenue accruing from mineral resource extraction.</p> <p>Improved transparency and accountability in the management of mineral revenue.</p> <p>Equitable and efficient use of resource revenue.</p>	<p>Some countries have weak and retrogressive national fiscal frameworks which are not maximising on mineral price volatilities through tax incentives or holidays and stabilisation clauses.</p> <p>Revenue management laws are not ensuring equitable distribution of mineral revenues by different tiers of government, resulting in local mining communities not benefitting from revenue management;</p> <p>National Institutions such as tax authorities have limited financial and technical capacity to address problems of illicit financial flows.</p>	<p>National Fiscal Regimes should maximise revenues and rents by responding to prevailing contexts, stages of the mining cycle and market price costs.</p> <p>A harmonised continental fiscal regime for the same minerals should be adopted.</p> <p>National legislative or policy frameworks should provide clear equitable revenue management and distribution mechanisms at all tiers of government.</p> <p>National Tax institutions should be financially and technically</p>	<p>AMDC AU Member states RECs CSOs</p>

PILLAR: Fiscal and revenue management (cont.)	INTERVENTION AREA	OUTCOME	GAPS	RECOMMENDATIONS (cont.)	RESPONSIBLE ACTORS
				well-resourced to effectively collect and manage mineral revenues and curb leakages.	

PILLAR: Linkages and diversification	INTERVENTION AREA	OUTCOME	GAPS	RECOMMENDATIONS	RESPONSIBLE ACTORS
	<p>Strengthening and investing in education, science, technology engineering and mathematics (STEM) skills development and technology transfer for an inclusive and competitive mining industry.</p> <p>Creation of a conducive policy, legal and institutional environment to catalyse the mineral sector to generate upstream, downstream, side-stream and infrastructure linkages.</p> <p>Creation of a policy and regulatory environment that leads to increased investment in</p>	<p>A knowledge-driven minerals sector that is a key component of a diversified, vibrant, and globally competitive industrialised African economy.</p> <p>Broad-based development catalysed by a mineral sector that promotes upstream, downstream, side-stream and infrastructure linkages.</p> <p>Increased level of investment flows into value added minerals activities and multi-use</p>	<p>There is limited focus by countries on STEM in education system since more focus is on social sciences resulting in skills transfer deficits.</p> <p>There is lack of harmonisation between national and regional development plans on industrialisation and education systems.</p> <p>Countries lack in-depth research on relevant local STEM skills key in the mining sector.</p>	<p>National education budgets and mining companies' CSR allocations should prioritise STEM education and training, including technology/ infrastructure in academic institutions that supports the mining industrialisation agenda.</p> <p>Comprehensive national STEM skills mapping studies in the mining sector should be done.</p> <p>A collective and standard approach by the continent needs to be developed premised on</p>	<p>Member states AMDC RECs Mining companies CSOs</p>

PILLAR: Linkages and diversification (cont.)	INTERVENTION AREA (cont.) multi-use infrastructure and socio-economic development.	OUTCOME (cont.) infrastructure to support broad-based socio-economic development.	GAPS (cont.) There is lack of a standard definition of local content at regional and continental level. Countries with local content policies or strategies face implementation challenges due to lack of set targets and indicators for tracking implementation. The mining sector is still enclave in nature not linked to the local economy.	RECOMMENDATIONS (cont.) the envisaged local content from the mining sector; Countries should establish multi-sectorial local content groups to track and monitor implementation of local content policies and laws. Regular comprehensive assessments should be done of national mega-mining projects and their link to infrastructure development (roads, railways, electricity, water, health facilities) on social economic development and other economic sectors.	RESPONSIBLE ACTORS

PILLAR: Artisanal and small-scale mining	INTERVENTION AREA	OUTCOME	GAPS	RECOMMENDATIONS	RESPONSIBLE ACTORS
	Improvement in the visibility and sustainability of the artisanal and small-scale sector to enhance its contribution to growth and development through gaining access to training, extension services, finance, marketing and cleaner, more efficient technologies.	Improved entrepreneurship in an environmentally and socially responsible manner, leading to sustainable livelihoods, growth and development.	While de facto policy efforts are being made to support the sector, ASM is still classified as illegal, not formalised through legislative and regulatory frameworks that contribute towards revenue leakages.	There is a need to undertake a continental baseline study to get a clear understanding and mapping of the sector and players as well as locations across the country.	Member states AMDC RECs Mining companies CSOs
			The failure to formalise the sector by most countries is undermining global efforts of sustainable development due to the challenges of environmental management and child labour.	There is a need to reserve ASM for nationals in legislative frameworks.	
			There is heavy involvement of foreigners in the sector despite it being a livelihood and empowerment alternative for nationals.	The continent needs to invest in research anchored at ascertaining different models of ASM formalisation that make it a viable industry, and countries need to establish mineral markets where artisanal miners can sell their products directly.	

<p>PILLAR: Artisanal and small-scale mining (cont.)</p>				<p>RECOMMENDATIONS (cont.)</p> <p>ASM miners need to be organised to set up legal and formal entities who are provided with technical and financial capacity for sustainable business viability.</p>	
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<p>PILLAR: Environment and social issues</p>	<p>INTERVENTION AREA</p>	<p>OUTCOME</p>	<p>GAPS</p>	<p>RECOMMENDATIONS</p>	<p>RESPONSIBLE ACTORS</p>
	<p>Strengthening the environmental, social, economic and cultural protection policies, laws, systems and capacities of communities to benefit from mineral extraction.</p>	<p>Improved and sustainable quality of life for mining-affected communities and the country.</p>	<p>Mining-affected communities are still not involved in the carrying out and monitoring of EIA (environment impact assessment) and relocation processes despite the existence of mining laws.</p> <p>There are overlaps in laws governing mining, environment and social issues with mining laws and policies overriding the other laws.</p>	<p>Local communities should be provided with training and capacity to understand and appreciate the value proposition or utility value of the AMV and participate effectively in the environmental impact assessment processes.</p> <p>A comprehensive communication strategy for the AMV must be developed for a broad-based continental dissemination exercise, targeting various stakeholders to influence implementation of the AMV at country level.</p>	<p>Member states AMDC RECs Mining companies CSOs</p>

<p>PILLAR: Environment and social issues (cont.)</p>			<p>GAPS (cont.)</p> <p>There are limitations in most countries to effectively implementing environmental laws, and inadequate advocacy skills among communities to hold government accountable for implementation.</p>	<p>RECOMMENDATIONS (cont.)</p> <p>Mining-related laws must be harmonised to address the environmental and social impacts associated with mining operations.</p> <p>Public interest human rights support services such as litigation should be a continuous strategy to assist mining-affected communities.</p>	
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SOUTHERN AFRICA RESOURCE WATCH OBJECTIVES

- Monitor corporate and state conduct in the extraction and beneficiation of natural resources in Southern Africa, and assess to what extent these activities uplift the economic conditions of the region's communities.
- Generate and consolidate research and advocacy on natural resource extraction in Southern Africa.
- Create informed awareness of the specific dynamics of natural resources in Southern Africa, building a distinctive understanding of the regional geo-political dynamics of resource economics.
- Provide a platform of action, coordination and organisation for communities, activists, researchers, policy-makers, corporations, regional and global governing bodies in the watching and strengthening of corporate and state accountability in extractive industries.
- Engage with and support government on building accountable and transparent management of extractive resources.
- Build capacity for communities, civil society, parliaments, and media to hold governments and corporations to account, and to participate in decisions about resource management.
- Advocate and promote human rights and environmental protection in resource extraction activities.
- Support efforts to legislate mandatory public disclosure of and access to financial, social, environmental and regulatory compliance information in the extractives industry.
- Promote extractive industries that create wealth for local communities.

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