

## **Technical Committee for the Review of Mineral Rights (Terms of Reference)**

### **General**

A Task Force for the Review of Mineral Rights has been established. Supporting that Task Force will be an Assessment Team as well as a Technical Committee. The Technical Committee will perform research and analysis of mineral rights to inform the Task Force of legal, technical, social and financial (and potentially other areas, as requested) in determining whether mineral rights are providing optimal benefits to the country. The Technical Team will support the smaller sized Assessment Team in enabling it to carry out its responsibilities as set out in separate Terms of Reference.

Below, membership and other elements of the Terms of Reference for the Technical Committee are set out.

### **Objective**

In order to effectively inform the Mineral Rights Task Force and, ultimately Cabinet, a Technical Committee will be formed to research and analyze existing mineral rights, including mining agreements setting out those rights. The objective of the committee will be to provide an assessment of current financial, technical, social and legal arrangements and other matters, for use by the Task Force. The results of these reviews and assessments will support the Assessment Team in its responsibilities to provide advice to the Task Force.

### **Composition**

The Technical Committee will consist of subject experts who will be able to undertake the process of researching the impact of the mineral rights (i.e., mining, exploration and prospecting licenses and agreements). The Committee will be chaired by the Minister of Mineral Resources supported by experts from government ministries and agencies and others, as appropriate, including:

- Ministry of Mineral Resources (MMR)
- Ministry of Finance
- National Revenue Authority
- Government Gold and Diamond Office (GDO)
- Bank of Sierra Leone
- Solicitor General's Office
- Ministry of Lands Country Planning and the Environment
- Ministry of Internal Affairs and Local Government
- Ministry of Transport and Civil Aviation
- Sierra Leone Roads Authority (SLRA)
- Ministry of Employment and Social Security
- Ministry of Agriculture
- Ministry of Employment and Social Security
- Other experts, including, Revenue Watch, International Senior Lawyers Project (ISLP)

The experts will be given specific research and analysis assignments. Much of this work will be undertaken outside of meeting times and will be additional to existing work. Four teams will initially be created to address the four elements as set out below.

### **Scope of Work**

The teams will be coordinated by the Ministry of Mineral Resources' Director General (MMR-DG), and report to the Minister of Mineral Resources, the Chair of the Committee. The teams will be responsible for the following:

1. Develop a list of required material (agreements, financial reports, exports, bank records, mining development plans, environmental impact etc.)
2. Draft letters and prepare communication material for the Committee; notifying companies and requesting information etc. The communications should be channeled through the MMR-DG.
3. Analyze each of the four (4) major mining rights (Sierra Rutile, Koidu Holdings, SLDC/African Minerals, and Sierra Minerals) on the following basis:

#### LEGAL ISSUES

- Is the agreement clear in the terms and obligations of the parties?
- Are there penalty and performance clauses?
- Is the timeframe reasonable?
- Are the agreement terms consistent with the Core Minerals Policy?
- Does the mining agreement/lease comply with the rule of law (i.e. are provisions of the contract consistent with similar contracts of this nature)?
- Was the contract/agreement properly executed, (e.g. all necessary signatures, ratification by the legislature (if necessary,))? Did both parties perform their obligations under the contract?
- Has the company provided adequate financial and technical information?

#### TECHNICAL ISSUES

- Based on the initial mining plan, has the anticipated investment in mining operations been made by the company?
- How efficient are the mining operations in terms of maximizing exploitation? (operations relative to lease area and ore/mineral body)
- Mine rehabilitation matters
- Infrastructure considerations

#### SOCIAL AND ENVIRONMENTAL ISSUES

- Has the company reasonably met all its employment obligations; health & safety, salary, housing etc.?
- What positive and/or negative impacts have affected communities experienced? (Environmental, displacement & relocations, social services etc.)

#### FINANCIAL ISSUES

- What have been the discrete revenues generated as a result of the agreement? (mining & surface rent, royalties, income tax, withholding tax, additional income

tax, PAYE/payroll tax, import duties, agricultural development fund, road users fuel levy, port charges and harbor duties, plus any other government revenues)

- Does the agreement make any special concessions, whereby tax, royalty, duties, deductibles and other fees are charged below the standard national rates?
  - Are there additional arrangements to ensure government interests are achieved? (i.e. options and equity arrangements)
  - How does mining firm profitability and return on investment compare with other similar operations? (Earnings Before Interest and Taxes, Net Income etc.)
  - Have the broader economic conditions changed since entering into agreement?
  - Do the terms (accounting for local factors like risk) reflect comparable deals elsewhere?
  - Development Fund matters
  - Are there implications for broader fiscal and revenue management policies?
4. Carry out similar reviews, as required, on all remaining mineral rights.
  5. Present all evidence and make evidence available to the Technical Committee, Assessment Team and, ultimately to the Task Force.
  6. Maintain minutes for meetings and all other secretarial duties.
  7. Visit mine sites and affected communities if necessary.
  8. Provide information and make specific recommendations to the Task Force as well as recommendations on possible mineral rights reforms.
  9. Write status reports for presentation to the Task Force on a periodic or as required basis.

In addition to the work by the four teams, the Technical Committee will provide economic and policy analysis of the mineral rights, assessments of actual or proposed fiscal policy frameworks and peer reviews of any such analyses or assessments prepared by others.

Further, the committee will identify issues for decision by the Task Force and possible potential alternatives and provide some assessment of the government's case for reopening contracts or other mineral rights issued (this could include, for example, recommendations for non-renewing or even canceling rights and, also, recommendations on policies affecting existing and future rights through mining policies.