

Nigerian Mining Sector Watch

Volume 4 | January 2023

The non-oil sector has continued to be the lifeblood of the Nigerian economy. As at the third quarter of 2022, the non-oil sector contributed 94.34% (in real terms) to the nation's Gross Domestic product (GDP), higher than the share recorded in the third quarter of 2021 which was 92.51% and higher than the second quarter of 2022 recorded as 93.67%¹. However, the Nigerian mining sector ("the Sector") only contributed a meager 0.3% to Nigeria's GDP in Q3 of 2022², although higher than the GDP contribution recorded in Q3 of 2021 i.e., 0.2%.

Notwithstanding the seemingly insignificant contribution to the nation's GDP, the Sector can boast of a slow but progressive growth trajectory, based on a number of parameters, including but not limited to revenue generation and accountability, technological development, more reliable geoscience data, improved clampdown on illegal mining, more global visibility, and gender inclusivity amongst others. For instance, as of November 2022, FGN's actual revenue from mineral and mining stood at ₦3.99Billion³, exceeding the prorata target of ₦2.19Billion expected during that period.

It is therefore no gainsaying that whilst the Sector's performance is improving, more effort is required to set the Sector on a steady growth path and to earn Nigeria a prominent place on the global mining map.

This newsletter highlights some of the recent developments in the Sector and their overall impact on the economy.

Discovery of Lithium Deposits in Nigeria

High grade lithium deposits have been discovered in different parts of the country, thereby enlisting Nigeria as one of the Lithium-rich countries in the world. The mineral has so far been discovered in the northern states of Kogi, Nasarawa, Kwara and Plateau, as well

as Oyo, Ekiti and Cross River in the south. Lithium is highly sought after for its use in the manufacturing of rechargeable batteries used in powering different appliances. Other industrial uses of its compounds, include lithium grease lubricants, flux additives for iron, steel and aluminum production, heat-resistant glass and ceramics, lithium batteries, and lithium-ion batteries, etc.

According to the Nigerian Geological Survey Agency, Nigeria's lithium is acclaimed to be of high grade given its lithium oxide content which ranges from 1 percent up to 13 percent, whereas the global standard for Lithium exploration and mining starts from 0.4 percent lithium oxide content.

Indeed, Lithium exploration and processing has a rich value chain that can catalyze industrial development and lead to job creation, boosting government revenue/foreign exchange, attracting foreign direct investment (FDI) and growing the Nigerian economy. However, the federal government (FG) should put in place appropriate policies to guard against the unpleasant side effects of mining the mineral, considering that Lithium mining has a high tendency to result in air pollution, land degradation, disruption of the ecosystem and other health-related risks to the host communities and the miners.

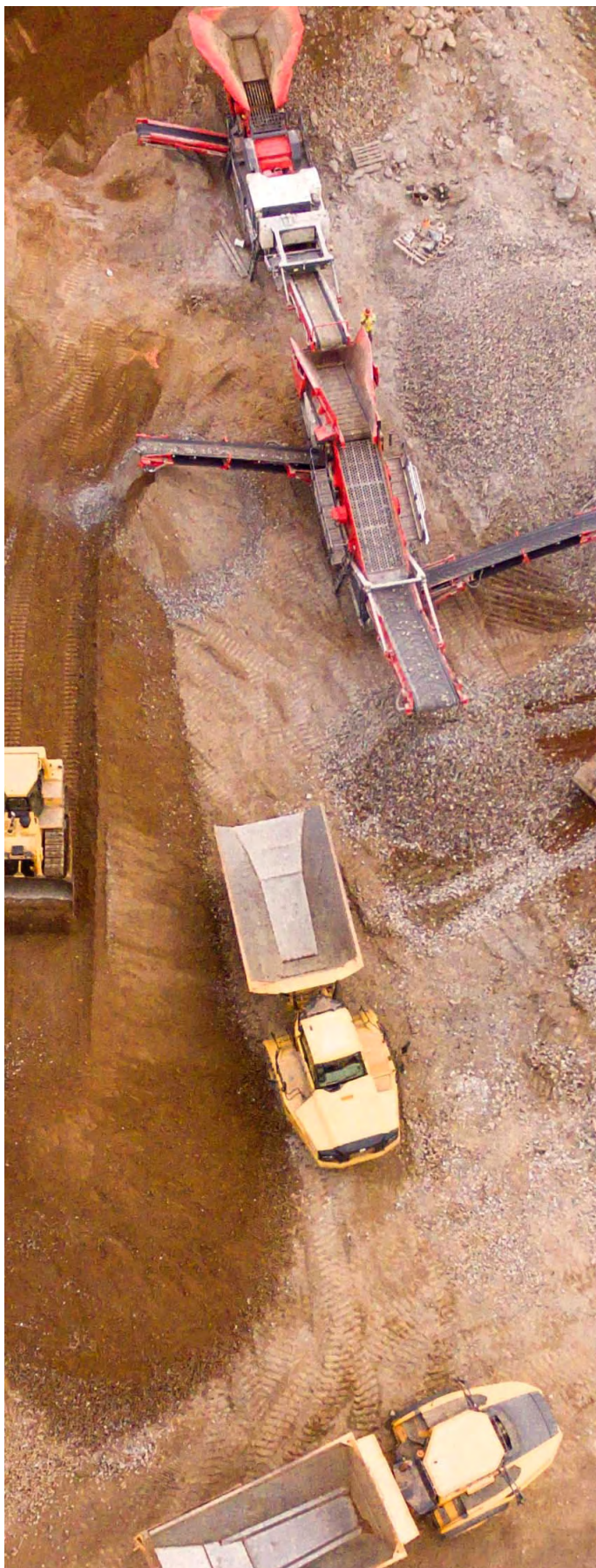
FG to Re-concession the Ajaokuta Steel Company (ASC)

The ASC recently made news in Nigeria following the favorable resolution of the contending issues between the FG and the initial concessionaire - Messers Global Steel Holdings Limited (GSHL). The original plan which was to resuscitate the ASC by the end of 2022 was stalled by the outbreak of Covid-19 Pandemic, thereby preventing the Russian engineers that were scheduled to visit for a technical audit in March 2020 from assessing the plant.

¹<https://nigerianstat.gov.ng/download/1241259>

²Nigerian Bureau of Statistics GDP report for Q3 2022

³<https://www.budgetoffice.gov.ng/index.php/hmfbnp-public-presentation-of-2023-fgn-budget-proposal-breakdown-highlights/hmfbnp-public-presentation-of-2023-fgn-budget-proposal-breakdown-highlights/download>



The FG has now decided to re-concession the ASC. As of the time of producing this newsletter, 11 firms (of which 5 are Nigerian companies while 3 are Russian firms) are in the concession bid for the ASC. This is a welcome development, considering the numerous benefits Nigeria stands to gain from the resuscitation of the ASC.

While it is highly probable that the technology and the machinery installed in the steel plant may have become dated and defective given the age of the facility, the good news is that Nigeria still possesses huge deposits of untapped high-grade iron deposits. Thus, the potential for the ASC to thrive is bright. The other levers that will support its operation are also being resuscitated (for example, the massive investment in railway infrastructure by the current administration will go a long way to facilitate the transportation of the steel produced across the country.

The FG should also ensure that due diligence is observed during the bid review and concessioning process to mitigate against future disputes as was with GSHL. The bid review and eventual selection is expected to be completed by March 2023.

Re-establishment of FG-Owned Mineral Buying Centers Across Nigeria

The FG, through the Ministry of Mines and Steel Development (MMSD), intends to establish new mineral buying centers across the six geo-political zones of the federation, in line with the provisions of Section 95 and 96 of the Nigerian Minerals and Mining Act (NMMA), 2007. Mineral buying centers serve as standardisation centers to enable artisanal and small-scale miners' (ASM) cooperatives and operators receive fair premium for their labour as they concentrate on production. The FG had previously in 2016⁴, ceded all its mineral buying centers (10 of them) across the country to the state governments, in a bid to reduce friction between the two tiers of government on mining activities.

The reintroduction of the buying centers by the FG is indeed a welcome development considering that majority of the industry's players are ASMs. It is expected that the buying centers will curb illegal mining, illegal export of solid minerals and / or unprocessed minerals and minimize capital flight amongst other problems faced in the Sector. When established, the centers would also limit the leakages through the porous borders, thereby ensuring adequate data capture for the purpose of tax and royalty payments to the Government. It will allow for solid minerals to be priced at fair rates thereby improving miners' confidence, trust and ability to create wealth.

⁴<https://punchng.com/fg-cedes-minerals-buying-centres-states/>

There is currently no specific timelines for the establishment of the buying centers. Consequently, the FG should ensure that this agenda is actualized in good time to ensure quick realization of its numerous benefits for the Sector, in particular, and the country, in general. Furthermore, it is hoped that the initiative will be managed in a manner that will not create friction with the centers already created and being managed by the state governments.

ASMs to Benefit From FG Loan Offering

For a capital-intensive business such as mining, access to easy and affordable credit facilities cannot be overemphasized, especially for the ASMs.

The FG through the MMSD recently announced a cumulative loan facility of ₦3.2Billion for ASMs across the country. The loan is available to ASMs who register with cooperative societies of up to 10 participants. The participants are able to seamlessly access loans up to ₦100Million. The loan repayment period could span 20 years, with a relatively low interest rate of 5 percent. Interested and qualified miners can approach the MMSD (through the cooperative societies) to apply for the loan.

Mining is a very expensive venture. Hence, the FG's move to provide funding opportunities like this is commendable. However, more can be done in terms of investing in exploration and acquisition of geophysical data so that the available data would make mining projections more realistic and feasible as well as attract serious players to the Sector.



Given the FG's objective to diversify the economy with a keen focus on the mining sector as a viable vehicle to achieving this objective, the FG should be willing to provide targeted fiscal incentives, monetary support and funding to jump start the Sector and grow the industry.

FG Urged to Re-evaluate Issuing Coal-mining Licenses

Nigeria currently possesses large coal deposits from the Eastern to the Northern parts of the country, estimated to be about 2.8 billion metric tons. Interestingly, coal is one of the seven 7 strategic solid minerals that are being prioritized and promoted for private sector participation and investment by the FG, as enunciated in the Nigerian Mining Sector Roadmap, 2016.

However, given the extensive environmental degradation caused by coal mining, including the contamination of air, water, and soil as well as the global drive towards cleaner energy, the FG has been advised to desist from issuing coal mining licenses to interested players. This was coming on the sidelines of the 2022 United Nations Climate Change Conference (COP27) held in November 2022 in Egypt. It was noted that Nigeria, being a Party to the Paris Agreement, is expected to do more to shift from fossil fuels to renewable energy, due to the negative impact of the former on the environment.

However, while the UN's concerns are valid and laudable, it does seem that the developed countries of Europe are yet to actively back up their commitment to net-zero with action. For example, there are reports that countries in Europe have started opening up their mine sites, in order to address their urgent energy needs. The UK is reported to have approved the first coal mine in 30 years, to be located in England! Actions like this would suggest that while countries committed to the protocols agreed at COP27 (and even in previous convergences in Glasgow and Paris, amongst others), there appears to be little action to actualize those commitments.

Regardless of the action of Europe, the question is whether Nigeria is ready for the paradigm shift from fossil fuel to renewables? It does seem that nature has graciously favored Nigeria, having provided the country with a more viable and cleaner alternative to coal i.e., Lithium; at a time when this conversation has taken the center stage. Thus, there is no better time than now for Nigeria to aggressively commence active transitioning to renewable energy.

While it may seem counter-productive to halt or suspend the issuance of coal mining licenses to interested players, the FG may consider introducing stiff fiscal and policy adjustments to subtly discourage coal mining, whilst incentivizing investments in other cleaner alternatives. More importantly, Nigeria should as a matter of urgency consider including Lithium, among its list of strategic minerals to be prioritized for development. This action would send a clear message to the global community about Nigeria's interest in combatting climate change and its devastating impacts.

State Governments Now Paying More Attention to Mining Activities

More state governments have begun to look inwards to ensure that ongoing mining activities / projects within their states are being conducted legally and in line with approved / standard practices, to safeguard the lives and properties of the inhabitants of the mining host communities.

For example, the Osun State government (which has in recent times been troubled by illegal miners and exposed to the attendant environmental and security hazards associated with it) has introduced / sought to enforce several laws to curb illegal mining and control mining activities within the state. One of such pronouncements is the requirement for companies mining Gold in Osun State to pay 13 percent of their profits into the state's coffers as derivation "tax"; a move which appears to be inconsistent with the provisions of the Nigerian constitution, which reserves the right to tax income of companies only for the FG.

Furthermore, the state government has also vowed to arrest and prosecute all illegal miners and illegal mining syndicates in the state. To reinforce this commitment to zero tolerance for illegal mining, the State Government directed that the mining joint task force be disbanded and reconstituted.

Similarly, the Nasarawa State Government recently issued an Executive Order (No. 2, 2022) to protect mining host communities and to enable the government to verify the legal status of mining companies operating in the State. The Order requires, amongst other things, that:

- Institutional and technical support be provided to ASMs in various communities of the State.
- All mining companies together with their host communities are to submit two copies of previous agreements they had to the Ministry for vetting before January 30, 2023.
- Mining entities arriving in the State with the authority of the FG to carry out mining activities must report to the Ministry to verify their legal status, citizenship and background before settlement in the communities.
- All mining entities doing business in the state must ensure that they pay all mining and other related taxes, levies, fees, and charges promptly to the Central Billing System domiciled with the Nasarawa State Internal Revenue Service.
- Host communities are barred from unilaterally bequeathing Rights of Occupancy of land to entities intending to carry out mining activities.
- All holders of mining licenses in the state are restricted to the powers conferred on them by the Minerals and Mining Act, 2007 and the Land Use Act, 1978.



The State Government through the relevant Ministry, has expressed its willingness to work with security agencies to enforce the Order, and arrest and prosecute defaulters.

Other states that have adopted a similar model in declaring war against illegal mining includes Cross River, Zamfara and Imo states.

While the intervention of the state governments is noble, especially as it borders on protection of lives and property of its people, care should be taken to ensure that regulations and / or Orders issued by the state governments do not contradict or conflict with the provisions of the extant laws of the FG.

FG Issues Statutory Notice to Mineral Title Defaulters

The FG via an official Gazette (Government Notice No. 139), issued a statutory notice dated 16 December 2022, demanding the payment of all outstanding annual service fees by mineral title defaulters within 30 days from the date of the publication of the Gazette, in accordance with the provisions of Sections 11 and 12 of the NMMA. Based on the Gazette, defaulters who fail to pay up the said outstanding service fees within the stipulated timeline risk the revocation of their Mineral Title Licence(s) by the Mining Cadastre Office, without any recourse to them.

A total of 3,432 “defaulters” were published in the Gazette, including 1,110 holders of Exploration Licenses (EL), 85 holders of Mining Leases (ML), 1,101 holders of Quarry Licenses (QLS) and 1,136 holders of Small-Scale Mining Leases (SSML).

The Gazette also extends the same notice to persons or companies who had their Mineral Title(s) revoked in the past, but had outstanding liabilities (Annual Service fees) prior to the revocation of their Title(s), to pay up all their outstanding liabilities (indebtedness) within the same timeline, in line with Section 155 of the NMMA, failure of which all necessary steps, including Legal action (Prosecution) shall be taken to recover all the outstanding Annual Service fees and or liabilities as the case may be, and without any further notice.

In line with the first Schedule of the Nigerian Minerals and Mining Regulations, 2011, holders of mineral titles, other than a Reconnaissance Permit (RP), are required to pay an annual service fee to the MCO equal to the number of Cadastre Units that comprise the title area multiplied by the fee per Cadastre Unit for that type of title. The fee varies per title type and is payable on the anniversary of the issuance of the mining title.

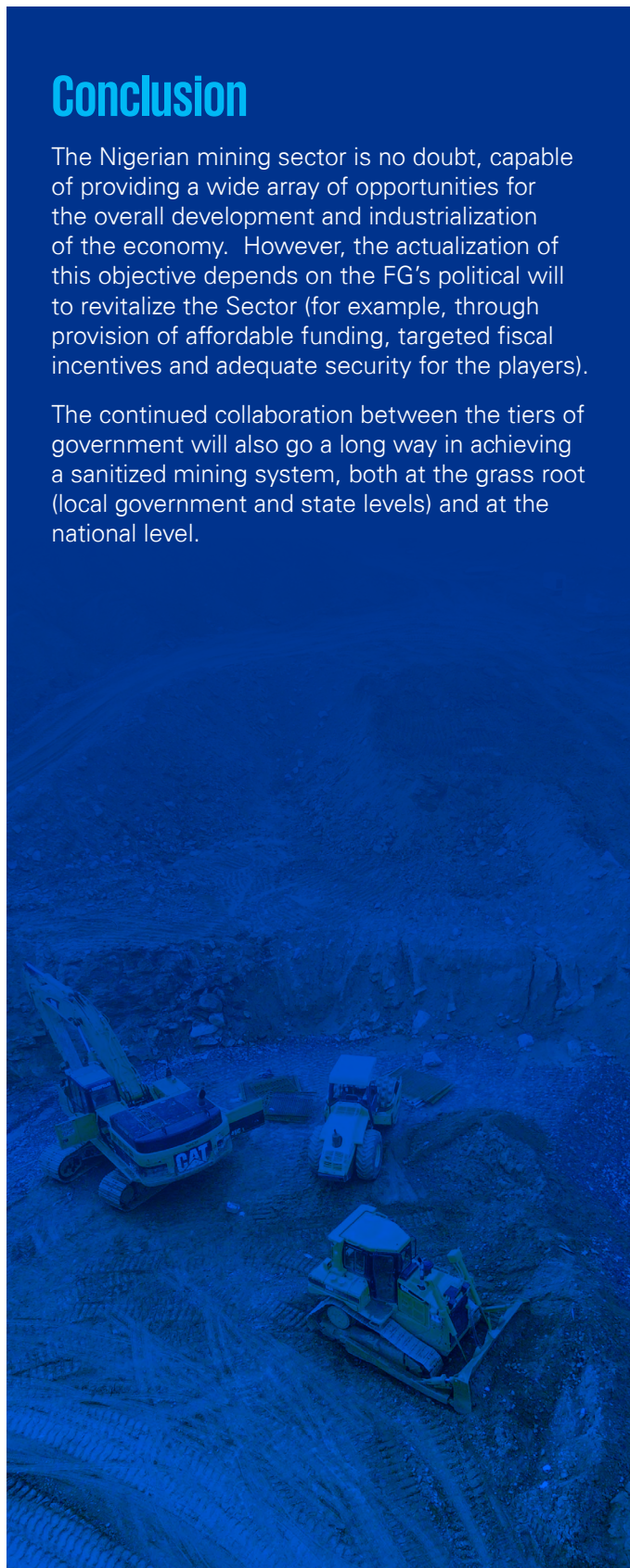
The MCO has continued to adopt different strategies (such as the use-it-or-lose-it strategy) to ensure that it is able to shore up all possible revenue and fees owed by players in the Sector. The MCO was recently reported to have generated ₦14.59Billion as revenue between 2018

and 2022, with the bulk of the revenue coming from application, processing and annual service fees. Thus, it is expected that the combination of the “use-it-or-lose-it” strategy, such routine publication of defaulters and regular revocation of defaulting title holders will drive the effectiveness of the Sector, ensure prompt settlement of outstanding fees and bolster the agency’s revenue base.

Conclusion

The Nigerian mining sector is no doubt, capable of providing a wide array of opportunities for the overall development and industrialization of the economy. However, the actualization of this objective depends on the FG’s political will to revitalize the Sector (for example, through provision of affordable funding, targeted fiscal incentives and adequate security for the players).

The continued collaboration between the tiers of government will also go a long way in achieving a sanitized mining system, both at the grass root (local government and state levels) and at the national level.



For enquiries please contact:

Adewale Ajayi

Partner and Head,
Tax, Regulatory & People Services
T: +234 803 402 1014
E: adewale.ajayi@ng.kpmg.com

Ayo Luqman Salami

Partner and Head,
Energy and Natural Resources
Tax, Regulatory & People Services
T: +234 803 402 1015
E: ayo.salami@ng.kpmg.com

Ayodele Soyinka

Partner and Head
Energy and Natural Resources
Audit Services
T: +234 803 402 0949
E: ayodele.soyinka@ng.kpmg.com

Peter Nwaobi

Senior Manager
Energy and Natural Resources
Tax, Regulatory & People Services
T: +234 803 608 3117
E: peter.nwaobi@ng.kpmg.com

Download KPMG Nigeria Tax Mobile App: [*Apple*](#) [*Android*](#)



home.kpmg/ng
home.kpmg/socialmedia

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2023 KPMG Advisory Services, a partnership registered in Nigeria and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organisation.

For more detail about our structure, please visit home.kpmg/governance