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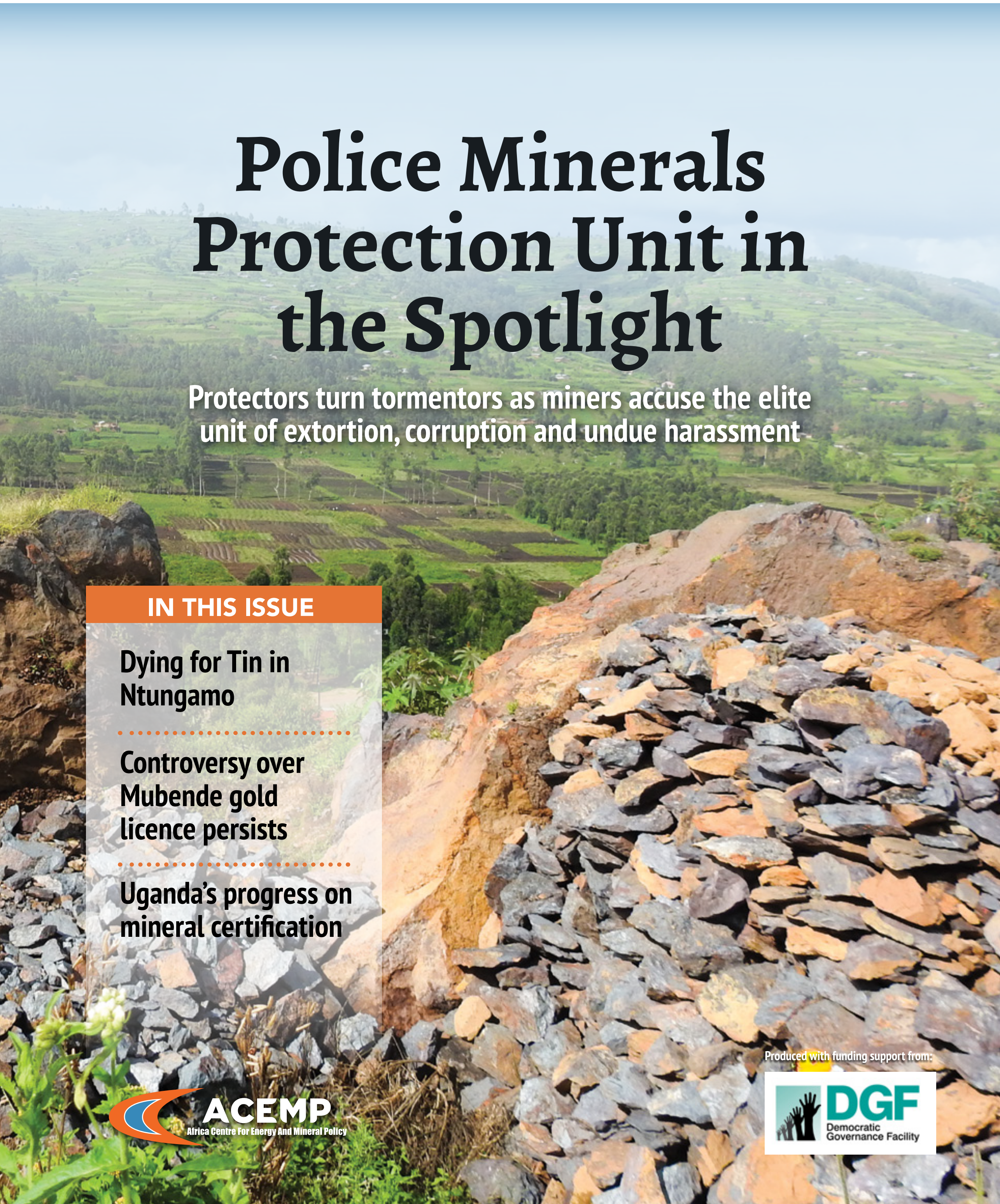

Police Minerals Protection Unit in the Spotlight

Protectors turn tormentors as miners accuse the elite unit of extortion, corruption and undue harassment

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Cover photo: An iron ore mine in Kabale District located in the South Western part of Uganda (Credit: PLEXII)

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Extracting Sustainability

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Did you know?

Uganda could be seated on Diamonds

Several areas in Uganda have potential for producing diamonds, according to several geological studies that have been conducted by successive governments in Uganda since the nineteen thirties.

According to the Uganda Investment Authority (UIA), some diamonds were discovered in Buhweju District during the colonial times when the British were prospecting for gold. "A few small diamonds were found in Kibale in 1938 and Butale in 1956," says UIA.

These early discoveries reportedly sparked off countrywide exploration for diamonds that spanned the period 1965-1974. According to the Diamond Prospecting Programme in Uganda Report (1965-1974), no economically viable deposits were found, but micro diamonds and indicator minerals were found in Southern Karamoja and Katakwi District. The prospecting was done by Mineral Prospecting Uganda Limited. Kimberlite indicator minerals were also found in Kabale and Kisoro Districts as well as Bushenyi. Kimberlites are a type of rock which sometimes contain diamonds.

In 2012, the Ministry of Energy and Mineral Development conducted airborne geophysical mapping surveys under the Sustainable Management of Minerals Resources Project that established potential for kimberlites in South Eastern Uganda. This was South of Lake Kyoga, at the Kidera Peninsula and further South East, between Iganga District and the Kenyan border.

A carat of Jadeite costs billions

The most expensive mineral in the world could very well be a gemstone called Jadeite. A carrat will set you back about three million dollars or over seven billion shillings. By comparison, a carat of gold today costs 'only' about eleven dollars. Jadeite is as extremely rare a mineral as it is beautiful. It occurs in many colours but the most popular is green. It is mined in Myanmar, Japan, Kazakhstan, Russia, China and Guetemala. In 1997, a Jadeite bead necklace was sold at an auction house in Hong Kong for 9.3 million dollars-almost 34 billion shillings.

Photo: Isabella Acomai, 2018

PMPU Commandant Jessica Keigomba, alongside MEMD officials, visit the contested Katenga mine site in Buhweju District in August 2018.

Police Minerals Protection Unit in the Spotlight

Miners accuse newly created unit of extortion, corruption and harassment

BY PEARL ARIGYE

In 2017, under a directive of Uganda's President Museveni, the Police Minerals Protection Unit (PMPU) was established. At the time, the Unit was created to respond to a growing concern that the country's mining sector was not properly supervised and needed an enforcer to support the work of the Directorate of Geological Survey and Mines (DGSM).

According to then Police Spokesperson, Asan Kasingye, the Unit was created to "handle issues such as illegal mining, unsafe mining methods and environmental protection." The Inspector General of Police at the time, Gen. Kale Kaihura, appointed Jessica Keigomba, formerly the Interpol Liaison Officer at Entebbe Airport, as the first PMPU Commandant. A statement released by his office outlined the roles of the

PMPU to include implementation of plans, policies and strategies for effective security of minerals in the country and conducting inspections surveillance and monitoring in order to detect and prevent illegal mining in the country.

Industry insiders were quick to point out that the Unit's roles had glaring similarities to those of the DGSM and expressed their concern on introducing armed people in Uganda's mines. "You can not have guns in mines," Don Binyina from the Africa Centre for Energy and Mineral Policy (ACEMP) said at the time. "The moment a serious investor sees any armed personnel at a mine site, they will never risk their money there." Mr. Binyina, then Chairperson of the ICGLR Mineral Audit Committee, was worried that deployment of the PMPU in Uganda's mines, particularly those producing conflict minerals (Tin, Tantalum, Tungsten and Gold) would be negatively interpreted by the industry which was increasingly speaking against State and Non-State armed groups in mining areas in the Great Lakes Region, particularly in the Democratic Republic of Congo (DRC).

Two years later, there are mixed feelings within the mining communities in Uganda regarding the work of the PMPU. Several incidents have shaken the Unit's credibility and cast doubt on their mandate in Uganda's mining sector.

Perhaps the first and most prominent incident was the controversial eviction of artisanal miners from Mubende in August 2017. The evictions were conducted jointly by both the national army (UPDF) and PMPU acting on the directives of the President of Uganda. Approximately seventy thousand people who included miners, workers and family members were given two hours to vacate their mines and homes within the gold mining camps. Property was destroyed, machinery confiscated, and livelihoods lost. That eviction, however devastating to the victims, is not the focus of this article. The events that followed are.

Extortion, illegal charges

According to residents in that area, following those evictions, personnel of the PMPU took over mining operations. Initially, some of the evicted artisanal miners who, possibly because they did not have anywhere else to go, were lurking around the trading centres in close proximity of the cleared area, started approaching some members of the PMPU to allow them to access their former mines in exchange for a cut from their earnings. For weeks, these artisans mined under the cover of darkness and duly shared their loot with some members of the PMPU. Later, reports emerged that some members of the PMPU had started mining for themselves.

In one of our visits late last year to what was formerly called Lujinji camp in Mubende's Kitumbi Sub-County, there was no visible sign of day-time mining activity. Overgrown grass surrounded the PMPU outpost. Visitors were not allowed beyond the outpost into the former mining areas.

Despite being denied access into the mining areas, we chanced upon some artisanal miners brave enough to talk about their ordeal. One of them, names withheld, stayed in Mubende for six months after the evictions before he called it quits.

PMPU officials charged him five million shillings every week to mine. He was lucky though and within two weeks, he had drilled up to 40 feet and hit a 400-gram deposit of gold, chanced on another 200 grams later and then 100 grams followed in a few days. He sold all the 700 grams at eighty million shillings. The landlord, seeing how much this miner was making, increased the fee for using his land to seven million shillings every week. This wasn't feasible as the miner was already paying the PMPU five million. He decided to move to another plot and dug up another pit, still paying the PMPU.

The second pit, however, did not yield as the first one had. Within a few weeks of paying the PMPU and harvesting nothing from the pit, the eighty million shillings had vanished. He then decided to move to Kaabong District where some of his mining colleagues had relocated after the evictions.

In Busia, another miner informed this publication that members of the PMPU charge illegal fees on mining equipment they find at mining sites. He said that the locals have adopted a survival strategy of befriending the PMPU in order to cope. When asked how much he pays to operate his mining equipment, he responded that there are no fixed amounts. "It depends on who you are and how well the police knows you," he said.

In a period of just two years, the tight grip of the PMPU has been felt across the country, from Mubende to Busia, Buhweju, Ntungamo and as far as Moroto in the Karamoja Region. The impact has specifically been felt by artisanal and small scale miners, who are responsible for at least 90 percent of Uganda's mineral production. ■

Commandant speaks out

PMPU Commandant, Jessica Keigomba, denied the claims against some members of her Unit, arguing that the sector is simply having a hard time adjusting to the newly created outfit.

"We have faced a challenge as police, because the sector has never had a police unit and I got the bad chance [sic] of being the first commandant," she said. "The PMPU is there to investigate, put things in order, streamline and enforce laws."

She denied that any members of her Unit were involved in mining in Mubende District. "When the PMPU raided Mubende, it was because artisanal miners were mining on an investor's licence and the President said we should protect the licence of the investor."

Keigomba added that her Unit was more concerned with maintaining law and order in the mining sector and all their deployments were in that pursuit. "The PMPU is there to protect minerals and stop smuggling," she explained. "In order to protect the minerals, we deploy at mine sites. We have to make sure people are in order, they are Ugandan, they have national IDs. If it is an investor, is it the right investor? Are they paying taxes?"

Tin miners in Ntungamo expressing their dissatisfaction to the District Local Government officials and the company leadership at a meeting in January 2020

Photo: Isabella Acomai, 2020

Ntungamo Tin miners strike over pay

Government ban on export of unprocessed mineral ores and closure of Rwanda border hitting the mining company hard, but the workers will hear none of that

BY MARTHA ACHOM

The Mwerasandu tin mines are an expansive maze of deep tunnels left behind by colonial miners four decades ago. They are located 27km from Ntungamo town, less than 20km from the Uganda-Rwanda border crossing at Mirama Hills. Tin mining in this area has been going on since 1926 and reached its peak in the sixties and seventies, favoured by good global prices. However, the foreign company abandoned the mines in the late seventies mainly due to the political insecurity in the country and the locals took over. The local artisanal miners remained in control of the mines until 2011 when Zarnack Holdings acquired the mining lease. The lease will run for twenty years-up to 2031.

However, the company did not commence any serious mining operations nor make any significant investment in the tunnels it found there at the time, preferring instead to enter an arrangement with the artisanal miners to buy all the tin they dug up. This arrangement is in place up to date. Although the miners repeatedly accused Zarnack of offering them low prices over time, they did not have many options given the restrictive export market of tin in the Great Lakes Region due to its designation as a 'conflict mineral.'

The relationship between the miners and the company severely deteriorated in late 2019, when the company started to gradually slash the tin prices eventually to more than half what they had been offering the miners.

According to Nabassa Jessica, the original price per Kilogram was twenty thousand shillings, then it was reduced to fifteen thousand shillings in October, cut further to ten thousand shillings in November and eventually seven thousand shillings in January. "On top of this, they were not paying us on time," added Jessica. "You would take your kilogram of tin and have to write in a book so they can pay you later."

> **What ultimately sparked off the strike was the failure by the company to pay 4.6 million shillings worth of tin ore to ten miners over two months after the miners had delivered it**

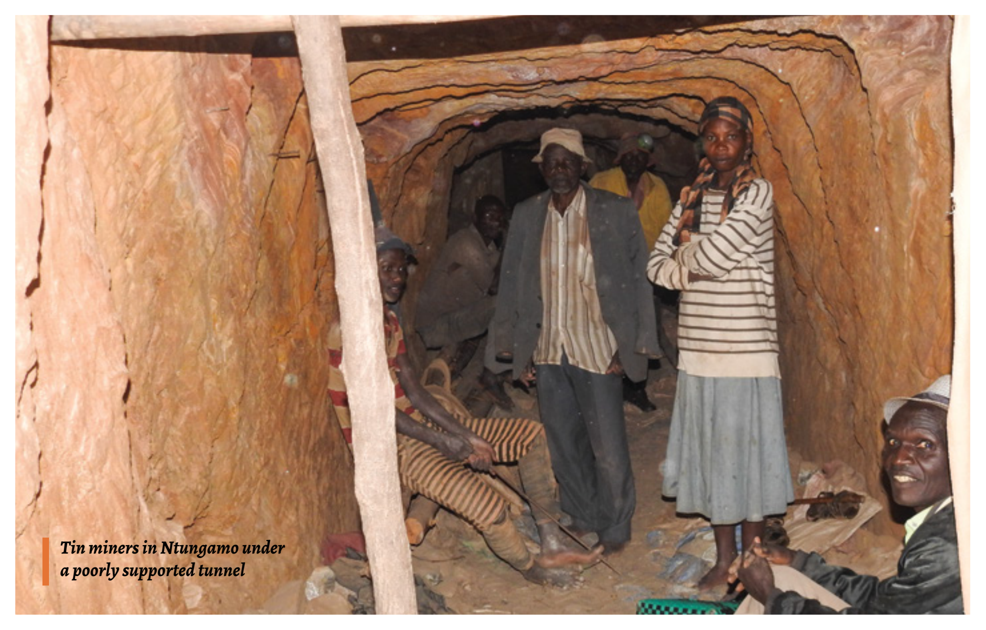
The price reduction angered the miners. However, according to Jessica, what ultimately sparked off the strike was the failure by the company to pay 4.6 million shillings worth of tin ore to ten miners over two months after the miners had delivered it. The miners supplied the tin to the company in December last year when the price was ten thousand shillings a kilogram and they were not paid until January. Worse still, the company wanted to pay them at the January price which meant they would incur a loss of three thousand shillings for every kilo. "We told them to either give us our tin, or the money," recounts Jessica.

The company is said to have settled its debt with the miners eventually, but that did not stop them from laying down their tools. They had had enough.

According to the Manager of Zarnarck Holdings, Moses Sserunjoji, the company's woes started with a directive from the Uganda Revenue Authority (URA) to stop all exports of unprocessed mineral ores. A *New Vision* report indicates that Dickson Kateshumbwa, URA 's Commissioner for Customs, in a letter dated 12th February 2019, directed all staff to block any exports of unprocessed mineral ores through any customs point.

This ban had a direct effect on Zarnarck, which, according to Mr. Sserunjonji, was processing an export permit to sell their tin to clients internationally. He further narrates that the company had not been making sales ever since the ban since their local clients who export to other countries after buying from the company could no longer do so and stopped buying the tin all together. "We had over 800 workers before, now they are less than 400. Production has gone down and we no longer even have the money to keep buying ore from miners," he said.

But the miners would hear none of that. They demanded that their money is paid irrespective of whatever the challenges the company was going through. Birakwatira Daburensio, a 64 year old miner argues that miners have the right to get their money instantly due to the hard work and effort invested during extraction. "We work so hard and risk our lives daily to put food on the table, why should they not pay us? It is unfair." ■



Tin miners in Ntungamo under a poorly supported tunnel

Photo: Martha Achom, 2019

Dying for Tin

Mwerasandu miners evacuate tin ore, and occasionally, corpses from the deadly underground mines

BY MARTHA ACHOM

Ntungamo miners literally risk their lives to extract tin from the belly of the treacherous Mwerasandu hills that have claimed possibly hundreds of lives in accidents over the decades.

Forty-year old Kyomukama Regina, describes the horrors encountered in the tunnels on a daily basis. "You enter the tunnels knowing you may or may not come out alive," she says. "One would think working down there (underground) is risky for women in regard to sexual violence from men, but there is no time for that. Everyone is trying to get as much as they can, and stay alive while at it. Because you can be buried by soil anytime."

When probed to reveal how many miners had died working in the mines, she pensively points at a far off hill while recalling the two most recent deaths that had occurred. "We buried two people from there just last week. So I cannot put a number to it. The deaths are too many."

"You enter in the morning after breakfast, and next see the light of day in the evening," adds Regina. She narrates that the work in itself is tedious, even without the hunger crawling in as the day progresses. And yet, one has to muster the strength to drag the

ore out of the tunnel at the end of the shift.

On some days, narrates Birakwate Daburensio, the miners do not only carry ore out of the deep tunnels, but dead bodies of their "unfortunate" colleagues as well. He reports that the company (Zanarck Holdings Ltd) caters for burial arrangements for workers that meet their death in mines, but does not offer any other form of support to the deceased's family. "Most men here have families who entirely depend on them. So when they die, the company should at least lend a helping hand to the family."

A *Daily Monitor* report in October 2019 indicated that at least 15 miners had died in the mines between 2017 and 2019, a space of just two years. Five of the dead could not be retrieved.

According to Daburensio, Zanarck gave the miners protective gear in 2018 but it is now worn out and useless. However, he notes that it is not possible to go into the mines with gum boots because they are slippery and make navigation through the tunnels difficult. "We prefer going into the tunnels light because of the heat." ■

Government yet to decide on controversial Mubende gold license

Demands by artisanal miners for a small portion of the gold rich license dealt a blow as new junior Minerals Minister backs 'investor'

BY PEARL ARIGYE

The Ministry of Energy and Mineral Development (MEMD) is yet to make a decision on the hotly contested renewal or award of Exploration License (EL) 1093 located in Kassanda District, formerly part of Mubende District. The EL was in the hands of AUC Mining Ltd for three years until its expiry on 26th February 2020. AUC's tenure was wrought with controversy and conflict, culminating in the violent eviction of artisanal miners who were working on the license by the Police Minerals Protection Unit in 2017.

Now the impending award of the licence has added fire into the long-standing feud between those artisanal miners and representatives of the company that evicted them. The dispute has subsequently sucked in the Parliament's Natural Resources Committee.

At the end of January, 2020, the Uganda Association of Artisanal and Small-scale Miners (UGAASM), led by their Chairman Bosco Bukya, submitted what they called a "fact file" to the Parliamentary Committee on Natural Resources. This file contained, among other documents, a letter requesting the Committee to prevail over MEMD not to award the license before considering their demands.

Key among those demands, is that the artisanal miners be awarded part of that license, 1 Sq. km to be exact. The entire EL measures 144 Sq. km.

The miners already received 30 percent of the same license through a Presidential Directive in 2018, but they claim that they got a raw deal because the area they were given has no gold.

President Museveni awarded 18.6 Sq. km of the EL to the miners as compensation for their eviction, from which they parcelled out 30 location licenses.

However, a few months into working on the different licenses, they established that the area did not have as much gold as where

they had been evicted from. Upon reporting their preliminary findings to the Directorate of Geological Survey and Mines (DGSM), the miners were told that the area had gold, but they just did not understand the mineralogy of the place. This pushed them to pool funds together, reportedly over 1.8 billion shillings according to Bukya, to procure the services of geological experts to conduct detailed exploration of the area. The exploration reports indicated that the area could hardly yield a measly gram of gold, which is unviable for an artisanal business venture.

The artisanal miners now want to be allocated a small piece of their original working area where they were evicted. Yet, according to a government source well versed with the matter, the area desired by the miners is the richest portion of the entire license. "That area is the heart of the AUC Mining Ltd's interest in the license," said the source.

Photo: Martha Achom, 2019

An artisanal gold processing facility in Kassanda.

MEMD is strongly opposed to granting the miners their wish, arguing that it is bad for the sector. According to newly appointed State Minister Sarah Opendi, such a precedent would scare aware investors. Her argument is that such an act would open the doors for other artisanal miners to believe that they can acquire any mining area without consideration of the law or legitimate license holder. "Investors should be protected," she told the Natural Resources Committee that had invited the different parties to a meeting on 10th March 2020 at the parliamentary buildings.

Photo: Martha Achom, 2019

At that meeting, Gertrude Njuba, a 10 percent shareholder in AUC Mining Ltd pointed out that the ASMs had been a big interruption to their exploration work, adding that it had taken Government five years to intervene. "This is why we expect the Ministry to make good on their word and give us the extra year as promised by the President." She explained that the additional year would compensate for the time lost due to the disruptions of the illegal miners. She said the President had hinted at a one-year extension at an earlier meeting with AUC Mining and MEMD officials.

The meeting with the Parliamentary Natural Resources Committee ended with Hon. Opendi requesting for more time to consult with her Cabinet colleagues before taking a decision. But for now, it appears the tide is not turning in favour of the artisanal miners.

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Lake Katwe salt miners depleting ‘mother’ salt rock

Hundreds of years of salt mining tradition could be at stake if the Lake Katwe salt miners continue to deplete the hard rock in the Lake that is essential in the salt formation process

BY MARTHA ACHOM

Over 2000 salt pans occupy the edges of the 10,000 year-old salt lake located at the bottom of Katwe-Kabatooro Town Council in Kasese District. More than 3000 people make a living here, more than half of them women.

This lake has supported generations of families over the years, but this legacy could come to a gradual halt in the not-too-distant future if the miners do not check a cropping bad mining practice that is steadily taking root.

Rather than harvest salt from the salt pans set up at the edges of the lake, the miners are now going deeper into the lake to encroach on the hard rocks in the middle of the lake – essentially destroying the very source of the salt.

Joseph Augustine, the Kasese District Environment Officer describes the mining process as unsustainable. “The big salt rocks in the main water source recharge the salt pans. These are supposed to be left untouched because they are the main source of salt,” he says. “The rocks heat up the water surface, which evaporates, forming crystals that sink into the bottom of the pans, the salt is the final product.”

He further warned that if miners continued mining from the big rocks within the main water source (Lake Katwe), they are bound to exhaust it and have no more salt to harvest in the near future.

According to Augustine, the miners are also mining from soft rock

Photo: PLEXII, 2019

A woman extracts salt ore from Lake Katwe

within the open water that has not fully developed into hard rock. "This is very dangerous because such rocks are supposed to develop enough to recharge the salt pans. But if they are being exhausted before they fully develop, then how long before the salt is no longer available in their pans?"

Katswera Joseph, the Kasese District Natural Resources Officer blames the practice on the ever increasing population of people engaged in salt mining, yet the salt pans are limited. "We had only 200 salt pans in those mines before, but they are now over 2000," he says. According to Katswera, the Town Council has put a licensing system in place to regulate the number of people working in the mines. This ensures that the Town Council is consulted before any pan is set up at the lake.

This system however does not seem to deter the miners. The number of salt pans continues to rise. According to some reports at the sub-county, there are over 6000 salt pans at the lake.

The pans, though safer for the lake than the hard rock mining, are in themselves destructive in the long term. They have gradually reduced the size of the lake and are also blocking the streams that bring in water from the mountain sides.

Katswera says locals had initially shunned efforts to plant vegetation around the area due to the perception that this would bring about rains that are unfavourable for salt harvesting. "They were worried the two annual seasons would become one, but we sensitised them and planted the trees anyway." He further explained this vegetation eventually helped filter rain water to prevent foreign bodies like sand from entering into salt pans. ■

Companies should treat artisanal miners as partners, not competitors

***Ojok Geoffrey Odur** is a Lawyer with Gem Advocates who has cut his teeth representing Artisanal and Small scale Miners (ASMs) in Uganda. He was central to the creation of the Rupa Community Development Trust (RUCODET), a community trust created in 2017 to protect communal land in the seven parishes of Rupa Sub County, Moroto District. He has also represented ASMs in Mubende and Buhweju Districts in cases involving evictions and conflicts with licence holders or so-called Large Scale Mining (LSM) companies. He talked to PLEXII's **Chris Musiime** about his work promoting ASMs and how his clients can be supported to co-exist meaningfully with LSM companies.*

Q *As a lawyer, what drew you to mining?*

In 2017, I participated in a study tour to Rwanda that was organised by the Africa Centre for Energy and Mineral Policy (ACEMP). While in Rwanda, I got to learn that communities can benefit from mining activities if they are supported. Rwanda's mining sector is so well organised and if we (Uganda) borrowed a leaf, it could be useful. I realised that mining is a virgin in area in Uganda and from then on, I picked interest in it.

Q *What is your niche in the mining sector?*

My focus is on Artisanal and Small scale Miners (ASMs) because they are not economically empowered and yet are in dire need of legal services. It Is hard for them to get qualified lawyers to represent them.

At the time I picked interest in mining, these artisanal miners were facing challenges because the large scale miners or licence holders were evicting them from their operational areas. You know, there can never be two persons occupying the same mining licence, and because of this, ASMs all over the country were facing evictions by companies that were legally holding mining licenses over the ASM operational areas. The first evictions were in Mubende District (2017) and later in Buhweju District (2019).

I initially started by representing those two groups, but before I could finish representing them, a group of artisanal miners in Karamoja also invited me. All of a sudden, I was overwhelmed by the need and desire by these ASMs to obtain my services.

Q *You say two entities cannot occupy the same licence, but you are finding yourself involved in cases that are exactly about that. Where is the problem?*

The conflict is emanating from the artisanal miners. They are informal in nature and in our legal jurisprudence, they have no place or protection. So you find that people who were deriving livelihoods through mining all of a sudden get locked out by the large scale miners. These large scale companies take up all mining licenses all over the country and nobody else can access those licensed areas. Remember that artisanal miners are informal, they lack knowledge, they lack resources and the process of applying for licences is complex in nature. So a conflict emerges because the artisanal miners cannot cope with the companies.

Q *But informality doesn't necessarily mean artisanal miners are illegal, what does Uganda's legislative framework say about that?*

In Uganda, if you are to engage in mining activities, the Constitution or the law of the land requires that you must obtain a licence depending on the nature of mining you are interested in. You are aware, all minerals belong to the Government, therefore for you to get permission to mine, you must get a licence from that very Government. That applies to prospecting, exploration, mining or retention licences. But for the artisanal miners, majorly what is provided for is the location license which does not require substantial expenditure, only ten million shillings. However, even this amount of money is still high for the artisanal miners.

Q *You have said that applying for mining licenses is a complex process, how are you helping the artisanal miners to acquire location licences?*

Our first approach has been to support them to organise themselves into associations in order to pool resources to be able to afford those licenses.

But the most critical has been to support them to enter into dialogue with large scale miners or license holders. Some of those companies have been able to surrender a portion of their licences to the artisanal miners to carry out their mining activities as well. A case in point is the Sun Belt Mining Group Ltd in Moroto District, they have been able to allow the artisanal miners in Rupa Sub-County to mine within their (the company) mining licence.

In Mubende District, some artisanal miners have been allowed to mine within the licences of other mining companies. But by and large, we go for dialogue although when there is opportunity to get licenses we organise the artisanal miners to pool resources and apply for them. Of course, we recognise that the ASM associations are not legal entities, that is why we look for options like companies or trusts or whatever legal vehicle that is available to enable them get a mining licence.

Q *What is the importance of having a trust especially in areas where minerals are found in land that is held communally?*

The importance of a trust is that it gives legal personalities to communal land owners. You realize that where land is owned communally, the best way is to get organised in an association under the Land Act. But whereas that organisation gives you the legal status, mining goes beyond land, it is a commercial venture.

If you are to consider an aspect of sustainability and investment for economic growth, you can get in a trust. All the Area Land Associations can come up together and form a trust which is a bigger organisation bringing together a wider range of stakeholders including elders, land owners and other people in the community. A trust has proper and democratic representation of all stakeholders that have a stake in ownership of the land.

Q *Can't investors bribe the few Trustees to gain access to mineral-rich land?*

The trust is governed under the Trustees Act which has parameters to check that kind of weakness. Most Trust members are elected by a wider community and the basis of the election is that the members

of the community democratically choose the people they believe have integrity. The Trustees have an obligation to work within the parameters of the interest of the community, guided by a Trust Deed.

The Trust Deed defines how the Trustees should carry out their activities. They also have a Board of Trustees Charter and Code of Ethics. But the most important thing with communal land ownership is that there is respect for customs and culture and that checks any potential excesses by the Trustees.

Q ***Some people argue that artisanal mining discourages large scale mining investment. Don't you think that by promoting ASMs, you are actually stalling growth of the sector?***

That argument may not be right in the sense that the artisans are the first persons who identify prospects for minerals. The challenge is that the large scale miners do not involve the artisanal miners in dialogue. Rather, they see them as competitors and that's where conflict starts.

The big picture should be to aim for a tripartite relationship involving the Government, the investors and the mining community. This would facilitate effective stakeholder engagement. Each party must respect the other and ensure that their interests are taken into consideration.

Now, if the Government formalizes the artisans, it becomes easy to know their extent, geographical coverage and their activities. Then Government can create special licences or zones for them such that there is a clear distinction and demarcations between the ASM operations and the large scale ones.

Government should also relax the process of surrender of mineral rights. Most investors do not allow surrendering the mineral rights to the artisans and yet they derive their livelihood from mining. If Government does not define artisans and handle them in a manner that promotes their mining operations, they have the capacity to curtail the work of the large-scale miners.

Q ***Finally, your firm, Gem Advocates, will be providing a pro bono legal aid clinic at the upcoming 2020 ASMQ conference. What should people expect?***

Expect that we will be armed with practical solutions for any scenario clients may be faced with because as a law firm, we have taken time to study this industry. We shall have a number of lawyers who are knowledgeable about the mining sector ready to receive conference participants at our booth. We are ready to give our services to the people. ■

Transcribed by Priscilla Apako

Can Regional Mineral Trading Hubs work in Uganda?

An analysis of similar trading hubs in three mining countries across Africa indicates that such schemes are good especially for artisanal and small scale miners, albeit with some challenges

BY PEARL ARIGYE

In the draft Mining and Mineral Bill, 2019, the Government of Uganda proposes the establishment of mineral buying and auctioning centers across the country.

The establishment of the buying centers will guarantee Artisanal and Small-scale Miners (ASMs) transparent and competitive selling prices and, to their advantage, cut out the middlemen who buy their minerals at prices much lower than the market price. Presently, the ASMs are at the mercy of middlemen who in effect are the 'market' and hence decide the daily market prices for the minerals supplied. The ASMs lack the bargaining power and must therefore accept what they are offered, sometimes not breaking even.

The Ugandan government believes that buying centers will be beneficial to ASMs if conditions for sale of minerals to the buying centers are made favourable for them. ASMs are responsible for about 90 percent of the mining activities undertaken in Uganda.

To promote these commodity trading hubs, the Government is opening up space for ASMs to acquire Mineral Dealers Licenses under Clause 138 of the Draft Mining and Minerals Bill, 2019. The Bill further caters for: (a) the type of minerals to be traded; (b) storage facilities for the minerals; (c) office location; and (d) financial and technical resources available.

The mineral trading hubs will also enable the traceability of both the actors and minerals along the entire mineral value chain; from point of origin to point of export. This will provide accurate records of different aspects of the mining sector which will open up the Ugandan mineral market and commodities to competitive international markets increasing output and revenue from the sector. Below we examine similar schemes in Tanzania, Ghana and Cameroon to understand if they are working well or not.

The Tanzanian Case

In March 2019, the Tanzanian Government set up 28 Mineral Trading Hubs in the booming mining districts across the nation to curb black market trade and smuggling of minerals, tax evasion as well as allow for transparency in the mineral sector. The hubs by law only buy minerals from licensed mineral dealers who are awarded a license after among other requirements, a payment of about one sixty thousand shillings.

In a space of just six months of operation, the hubs had made about 75 billion shillings. The country is realizing much more revenue than it was in the past years with the country's Central Bank reporting a 23 percent rise in gold exports in the year 2019.

Cameroonian Example

Cameroon established the Artisan Mining Support and Promotion Framework (CAPAM) in 2003 to improve the contribution of the artisanal mining sub sector for the growth of the country. In order to achieve this, one of the actions CAPAM adopted was to fight against smuggling. CAPAM's approach was to place mineral agents at mine sites who supervised and recorded the output of the mine sites. In 2017, this program saw over 255kgs of gold returned to Cameroon's Ministry of Finance.

Ghanaian Case

The Ghanaian Government in 1963 similarly set up the Precious Minerals Marketing Company (PMMC) which among other functions plays the role of buying and selling precious minerals as well as appointing licensed buying agents for the purchase of precious minerals produced by small-scale miners. The company operates in all the gold and diamond mining areas where they are able to engage the small-scale miners. ■

Photo: Isabella Acomai, 2019

Uganda Progresses on Certification of Conflict Minerals

Certification will help Ugandan miners access market for their Tin, Tantalum, Tungsten and Gold at standard prices, as opposed to illegally selling minerals at low prices to the black market

BY PEARL ARIGYE

The Regional Certification Mechanism (RCM) is one of six tools approved by the 12 Heads of State of the Great Lakes Region in accordance with the International Conference of the Great Lakes Region (ICGLR). It is part of the Regional Initiative against the Illegal Exploitation of Natural Resources (RINR) and is a compulsory Regional Standard for certification of the Tin, Tantalum, Tungsten and Gold (3Ts & G also collectively designated as conflict minerals) sourced from or transiting across ICGLR Member States.

RCM facilitates responsible mineral supply chains free of illegal trade, conflict, child labour and human rights abuses; while preventing non-state armed groups and public or private security forces from interfering illegally at any point along the mineral supply chain.

Uganda is one of the first countries to have domesticated the RCM and passed the ICGLR Act, 2017. Government has also advanced efforts to harmonize the relevant national laws with the ICGLR Model Law in order to give effect to those aspects of the ICGLR Protocol relating to the requirement of supply chain due diligence by the different entities dealing in the designated conflict minerals. Below, is a detailed assessment of the steps Government has taken to fully operationalise RCM in Uganda. ■

"The plan is to have an office at DGSM whose objective will be specifically to monitor the progress of the Regional Certification Mechanism and manpower requirements for the Chain of Custody are currently being worked out. DGSM will also hold a national stakeholder awareness and contribution meeting so that we can have everyone involved in this process,"

Morris Tabbaro, Inspector of Mines, DGSM.

STEP	ACTIVITY	STATUS
1. Domesticate the RCM	Enacting the protocol into law	The protocol was assented into the ICGLR Act in December, 2017
	Development of the RCM Regulations	The draft regulations were developed and submitted to the Ministry of Foreign Affairs) in December, 2019
2. Development of documentation for implementation	Development of a comprehensive mine site inspection manual and template	A mine site inspection manual, template and monitoring tool have been developed. These will be used by the DGSM officials and Mines Inspectors to ensure that the actors in the mining sector adhere to the protocols provided for under the Act
	Development of an export checklist and procedure	The export checklist and procedures have been developed
3. Establishment of partnerships with national institutions which have responsibility along the mineral supply chain as well as some of the certification procedures	Identification of key stakeholders	This is at 10 percent completion with key stakeholders identified including Uganda Revenue Authority, Police Minerals Protection Unit, Uganda Chamber of Mines and Petroleum, Ministry of Foreign Affairs, Ministry of Finance, Planning and Economic Development, Ministry of Gender, Labour and Social Development, Ministry of Internal Affairs, National Environment Management Authority, Local Governments, etc
4. Undertake a Peer Learning Mission	Contact relevant counterparts in other ICGLR member states	This is a recurring and ongoing activity involving regional trainings and benchmarking with other member states
5. Put in place the Chain of Custody (CoC) tracking system(s)	Evaluation and due diligence on the service providers	This is at 50 percent completion. The Ministry of Energy and Mineral Development has received and reviewed Expressions of Interest from ITRI, Geotraceability, Better Sourcing Program.
	Signing of MoUs with interested CoC service providers	This is currently ongoing
6. Work out the manpower, financing, data capturing and processing requirements for CoC tracking and the export certification	Undertake a human resource needs assessment and material costs	A cost implications assessment was undertaken and an RCM Implementation Baseline study is ongoing
7. Put the traceability and certification teams in place	Establishment of the traceability teams and the Certification Unit	This is currently ongoing and a consultant will be contracted to establish the Certification Unit and traceability teams
8. Plan for the designing and printing of certificates with the adequate security features	Design and Production of Certificates	This is currently ongoing and a plan for the design and production of 100 certificates has been put in place
9. Roll out the 1st certificate	Establishment of the certification system	The process is 60 percent complete with projections of the first Certificate to be rolled out in the 4th Quarter of 2020

How the draft Mining and Minerals Bill (2018) handles Development Minerals

The Bill seeks to formalise and regulate the Artisanal and Small-scale Mining sector, including the commercial exploitation of building and construction materials, collectively referred to as Development Minerals. It introduces three mineral rights for the exploitation of building substances, namely; large scale mineral rights, small-scale mineral rights and working permits for artisanal miners. ACEMP's ***Don Bwesigye*** *looked through this draft and made the following key observations:*

CLAUSE	WHAT THE BILL SAYS	IMPLICATIONS
101	It ring-fences the exploitation of building substances and or development minerals to only adult Ugandan citizens. Save for ASM activities, all rights of prospecting, exploration and exploitation of building substances of any nature shall only be granted to incorporated companies owned by Ugandans with 100 percent equity.	This is a welcome development because it recognizes the capacity of Ugandans to develop the sector. The draw-back though is that it locks out Foreign Direct Investment (FDI), technology and international expertise which are necessary when dealing will bulky supply of materials such as aggregates and burrow pit resources to highly technical sectors such as the petroleum sector. There should be room for joint ventures in exceptional circumstances and more so with the large scale commercial exploitation of building substances.
100	Empowers the Minister to license the exploitation of development minerals as earlier envisaged under the Mining Act, 2003. It further provides for sanctions against non-compliance for both Ugandans and non-citizens.	This settles the lingering question over which government agency has power to regulate the exploitation of Development Minerals.

103 & 104	Introduce a new licensing regime for the exploitation of building substances, creating three special mineral rights for the efficient regulation of the development minerals sub-sector. These clauses ensure that any form of prospecting, exploration or mining is subjected to the same standards required in the exploitation of precious minerals and metals. Mining activities will be licenced and endorsed by NEMA and licenses will only be granted after one has demonstrated financial and technical abilities and secured surface rights from land owners after due compensation.	This provision makes "due compensation" for surface rights mandatory and therefore deprives investors and land owners the opportunity to freely and openly negotiate for alternative shared benefits. These may include acquisition of equity by the land owners in investment by trading off their land rights as contribution to the investment, opting for mineral royalties as provided for under the current Mining Act, 2003 or any other form of negotiated trade-offs between the parties.
105	Introduces obligations of large-scale investors in building substances which may range from payment of prescribed mineral fees, rents, taxes and royalties, complying with the terms of their respective mineral rights to observing environmental standards conditioned to the award of their mineral rights.	This is a positive development. It can be strengthened by ensuring the Local Government plays a significant role in the collection, management and retention of a significant portion of these rents and taxes for local development.
107-109	Contrary to the introduction of competitive bidding for the large-scale exploitation of development minerals, the Bill alternates this with a first-come-first-served model of licensing for small-scale licenses.	The draw-back to the licencing of small-scale and large-scale mining activities is that these powers are retained by the Central Government under the Minister. Considering that almost every Local Government in Uganda is richly endowed with these building substances, it is better if their licensing (from exploration to exploitation) is a preserve for the Local governments. This not only reduces the human resource costs of managing these transactions across the entire country but would enable Local Governments to actively retain value at source within the respective districts while actively managing the heavy environmental footprint and other negative social externalities associated with the exploitation of Development Minerals.
108	Fixes the mining area for small-scale building substances at not more than 0.5 Sq. km. The obligations of holders of small-scale mineral rights are somewhat relaxed but fundamentally not different from those imposed on large-scale license holders. For example, they are required to observe health and safety standards of workers and report to Government their annual production and income.	Local Governments are also required to participate in the monitoring of small-scale mining activities though with limited powers. The 0.5 km^2 seems adequate considering that most of these building substances tend be concentrated in smaller areas within the stipulated range.

110	Stipulates that artisanal permits for building substances are issued on a first-come, first-served basis. Applications for such permits are to be lodged before the relevant Local Government as shall be laid out in the regulations. These permits shall be valid for 3 years, only be renewable once for an extra 2 years – just like the large-scale licenses. Applicants for artisanal permits are also expected to provide a work program clearly stipulating details of the building substances such as deposits, date of commencement of resource exploration or exploitation, estimated capacity of production and scale of operations, characteristics of substances and the envisaged marketing arrangements for sale of the substance.	All Development Minerals rights do not exceed 5 years. For large and small-scale minerals rights, this creates a resource mobilisation challenge due to the proposed project time frame within which companies are expected to raise capital, undertake prospecting, exploration and mining activities, recover their investment and wind up operations. This timeframe does not also consider the average project take-off for minerals and materials projects and neither does it address circumstances where the building materials and substances project lifelines exceed the 5 years. More than 21 years would be ideal. The requirements for a detailed work program are technical and might deter artisanal miners' full participation in the mining of these Development Minerals.
112	Imposes the same obligations on artisanal working permits applicants as the ones imposed on small-scale mineral rights holders. These include furnishing Local Government with all information relating to exploration or mining operations as well as their production, rehabilitating and reclaiming mined areas in accordance with the NEMA Act, maintaining health and safety standards for workers, among others.	Policy makers have long realised the technical and financial constraints faced by artisanal miners across all mineral commodities in Uganda. The Policy already provides for the zoning and management of artisanal working areas implying that such areas will have standard working guidelines meeting the environment, health and safety standards whose enforcement is the sole responsibility of the line Ministry. When it comes to building substances, the above model can be replicated. The same working conditions and standards put in place by the Central Government can also be applied by Local Governments. The Local Governments can zone out and monitor operations of artisanal miners in the building materials sector without subjecting the same artisanal working permit applicants to the same burden of undertaking prospecting, exploration, quantification of reserves and other highly technical and capital intensive requirements as alluded to in the Bill.

Are battery minerals the new gold?

Africa is bleeding value and wasting away an opportunity to cash in on a 'new' class of minerals that are driving the green energy transition

BY CHRIS MUSIIME

Battery minerals are a group of minerals and metals from which key components in the manufacture of batteries are derived. These include Nickel, Cobalt, Carbon, Lithium, Vanadium, Manganese, Graphite, Copper and others. Africa is said to have some of the highest grades of these minerals.

The ongoing Electric Vehicle (EV) revolution has caused huge demand for these minerals, fuelled by an increasing shift by the developed world towards green technologies.

Cobalt is the most expensive component of the rechargeable batteries that power the EVs, thanks in part to its thermal stability and high energy density properties. It is a key component in prolonging the life cycle of a battery cell, an important consideration for EV consumers in determining the cost efficiency of switching from petroleum-powered or hybrid vehicles to EVs.

Uganda has some Cobalt reserves in the Kasese area. Canada's M2 Cobalt Corporation has spent a considerable amount of time and money trying to determine just how much Cobalt is resting in those hills. That same Kasese area lies at the Uganda-DRC border and hosts a defunct historical copper mine, so one can understand M2 Cobalt's optimism because Cobalt is generally found associated with ores of copper or nickel.

However, in the Great Lakes Region, the DRC takes the trophy for its world class Cobalt reserves. About 70 percent of global Cobalt production happens in the DRC. That country exports at least 90 percent of all the Cobalt it produces; 70 percent of which goes to China.

China leads the pack in the production of EVs, with more than 100 EV brands, at least 10 of which are famous household names in car markets outside China. In addition to China itself being a large market for its own locally produced EVs, the populous nation also dominates the midstream and downstream markets in the EV production value chain.

According to *Bloomberg*, the battery market will be worth 160 billion dollars by 2030. Yet, if African producers continue to export raw battery minerals, they will only marginally tap into this huge potential.

According to *Bloomberg*, the battery market will be worth 160 billion dollars by 2030. Yet, if African producers continue to export raw battery minerals, they will only marginally tap into this huge potential

It is evident that DRC is losing a lot of value in their raw exports. In fact, Cobalt extraction seems to be going on at the expense of widespread human rights violations against the local artisanal miners, child labour (sometimes forced) and environment degradation. This is a stark contradiction given that the Cobalt is being imported to the developed world to build gadgets that promote a first-class lifestyle.

It is important therefore, that African Cobalt producers renegotiate with consumers in order to retain some value in-country. For example, DRC's plans to create a state-owned company to buy all the Cobalt mined by artisanal miners in the country can be a move in the right direction if the next step is to put in place a value addition facility, not to sell the raw material directly to consumers abroad. This could also help the Congolese government to control volatile Cobalt prices that are usually at the mercy of middle-men.

Potential producers like Uganda can, from the onset, enforce a minimum value addition rule or even go further and set up a production line for just one or two battery components. Miners and exporters will always argue that refining metals domestically is costly due to the high production costs, especially of electricity, but this is a deficit the Government can creatively fix.

Besides Cobalt, Copper is also re-emerging as a strategic mineral in the green energy transition. Before the deadly Corona Virus struck, the price of Copper had been projected to rise by 60 percent to ten thousand dollars per tonne by 2025. Other projections saw the demand for Copper steadily rising by 2.3 percent for the next 20 years!

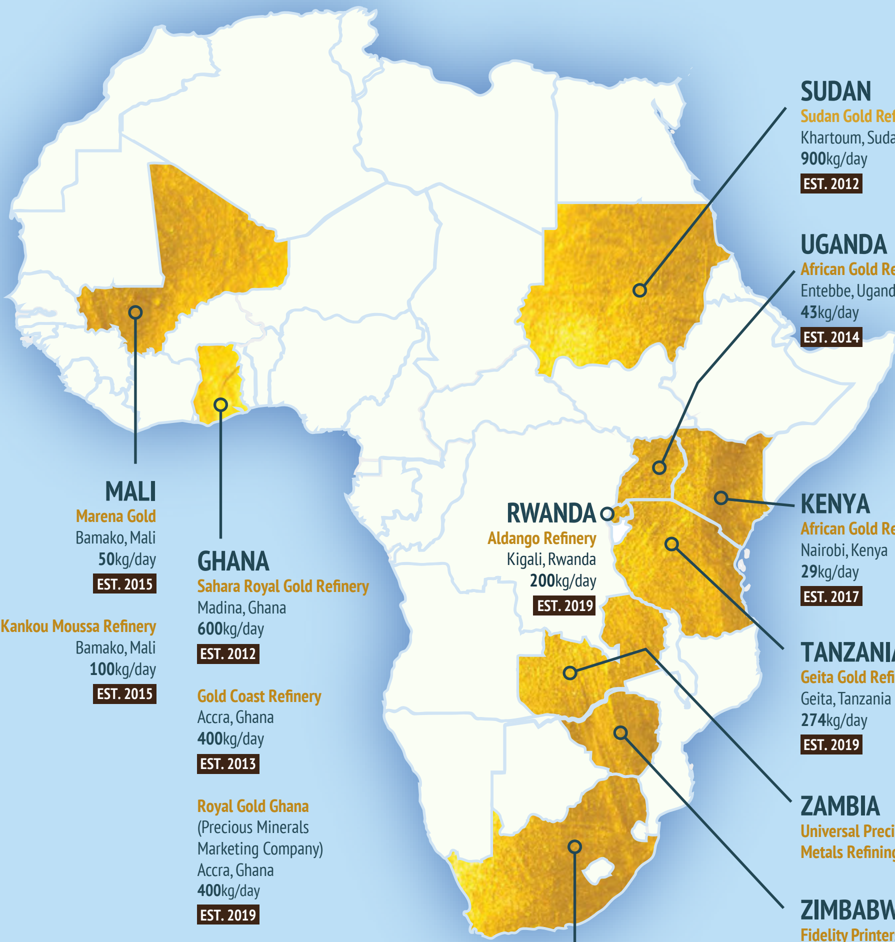
The ball, as they say, seems to be in our court. It is up to us to retain it and take the winning shot. ■

Africa can refine a third of the world's gold

According to business website Statista.com, Africa produced about 700,000kgs of gold in 2019. Interestingly, the continent has the capacity to refine more than twice that entire production. Different African countries appear to be ramping up refining capacity, the leading one being South Africa. According to a Reuters report, the South African Government approved 19 refining licenses between 2018 and March 2019.

The reports puts the number of operational or under construction refineries in Africa at 26 by 2019, across 14 African countries. Only 13 of those were willing to declare their refining data, reporting 1,400 tonnes every year – a third of the world's gold production, worth around 260 trillion shillings. Our researcher Pearl Arigye maps the locations of some those refineries and their volume of production, where information is available. This map (next page) is for medium to large scale refiners and does not include the smaller artisanal refineries that are scattered across Africa.

GOLD REFINERIES IN AFRICA



SUDAN
Sudan Gold Refinery
Khartoum, Sudan
900kg/day
EST. 2012

UGANDA
African Gold Refinery
Entebbe, Uganda
43kg/day
EST. 2014

MALI
Marena Gold
Bamako, Mali
50kg/day
EST. 2015

Kankou Moussa Refinery
Bamako, Mali
100kg/day
EST. 2015

GHANA
Sahara Royal Gold Refinery
Madina, Ghana
600kg/day
EST. 2012

Gold Coast Refinery
Accra, Ghana
400kg/day
EST. 2013

Royal Gold Ghana
(Precious Minerals Marketing Company)
Accra, Ghana
400kg/day
EST. 2019

Asap Vasa Gold Refinery
Accra, Ghana
100kg/day
EST. 2005

Asanska Gold Refinery
Accra, Ghana

RWANDA
Aldango Refinery
Kigali, Rwanda
200kg/day
EST. 2019

KENYA
African Gold Refineries
Nairobi, Kenya
29kg/day
EST. 2017

TANZANIA
Geita Gold Refinery
Geita, Tanzania
274kg/day
EST. 2019

ZAMBIA
Universal Precious Metals Refining

ZIMBABWE
Fidelity Printers and Refiners
Harare/Bulawayo, Zimbabwe
82kg/day
EST. 1978

SOUTH AFRICA
Rand Refinery
Germiston, South Africa
1644kg/day
EST. 1920

AU Traders and Refiners
Johannesburg, South Africa