



Godfried Ofori, chairman of the Concerned Citizens Association of Prestea, Ghana, 2007. Photo: Jane Hahn/Oxfam America

# FROM ASPIRATION TO REALITY

## Unpacking the Africa Mining Vision

**The Africa Mining Vision (AMV) is a policy framework that was created by the African Union in 2009 to ensure that Africa utilizes its mineral resources strategically for broad-based, inclusive development. However, eight years after its inception, implementation has been slow and there is a low level of awareness of the framework among key stakeholders in the mineral sector. Africa's leaders and citizens must act now to ensure that the goals of the AMV are realized. It is a transformative policy that can drive sustainable development on the continent.**

# SUMMARY

The Africa Mining Vision (AMV) was formally established in 2009 by the African Union (AU), to promote equitable, broad-based development through the prudent utilization of the continent's natural wealth. The AMV looks broadly and deeply at how development can be achieved through the creation of local value, driven by the strategic use of mineral resources in Africa. It charts a path for generating and realizing various types of linkages arising from the mineral sector through industrial development and technical upgrading. The AMV recognizes the contribution of artisanal and small-scale mining (ASM) to local economic development, and promotes women's rights and gender justice. It establishes a progressive fiscal regime that can curb the haemorrhaging of the continent's resources through tax evasion and avoidance and illicit financial flows from the mineral sector. It upholds the principle of free, prior and informed consent (FPIC)<sup>1</sup> for mining-affected communities, and addresses the social and environmental impacts of mining. It is designed to be flexible and dynamic; implemented through derivative policy instruments – the Country Mining Vision, African Mineral Governance Framework and Compact with the Private Sector – while maintaining an integrated, strategic vision for national development.

However, eight years after its inception, questions remain over the slow pace of implementation of the AMV, and whether it is meeting the purposes for which it was created. Although 24 out of the 54 AU member states are in various stages of nationally implementing the AMV, the progress has been slow and therefore out of step with the feverish expectations surrounding its creation. Only one country, Lesotho, has fully adopted the AMV through the development of a Country Mining Vision. Today, there is a general lack of awareness of the AMV, particularly among key stakeholders in Africa's mineral sector. Civil society, which could act as a champion for the AMV, has not been fully engaged in grassroots mobilization and policy advocacy which could influence its uptake and impact. Above all, there is insufficient independent analysis of the shortcomings in the AMV that should be addressed. There are also important lessons to be learned from the ongoing country experiences of implementing the framework.

The latest resource boom has ended. Growth in Africa's mineral-rich countries is slipping, and inequality and economic fragility are on the rise. States are under pressure to enter into unfair mining deals and contracts, and to hand out tax incentives to mining companies that hurt them in the long term.<sup>2</sup> The AMV could potentially be the game-changer in Africa's mineral sector. This is because it comprehensively addresses the challenges associated with harnessing Africa's mineral resources for sustainable development, while striving to reflect global norms for the equitable governance of mineral sectors. As such, it deserves more attention and commitment to enable it to deliver on its transformative potential.

This paper seeks to enrich the body of knowledge on the AMV. It offers a detailed analysis of the AMV, to determine its strengths and weaknesses and the challenges to its implementation, and by drawing on the experiences with its implementation in several African countries. It further outlines specific policy actions to be taken to improve the impact and effectiveness of the AMV in Africa's mineral sector. A summary of the key policy messages from the analysis is presented below.

# Recommendations

## To African Union (AU) member states:

- AU member states should expedite national implementation of the AMV by aligning mineral sector laws, policies and institutions with its provisions and derivative policy instruments, with the support of the African Minerals Development Centre, UNDP, African Development Bank, UNECA and other continental institutions.
- AU member states should ensure that national processes for the operationalization of the Country Mining Visions (CMVs) and African Mineral Governance Framework (AMGF) are inclusive for all citizens, with full representation and inclusion of non-state actors – civil society, affected communities, artisanal and small-scale miners, trade unions and women – throughout the policy cycle.

## To the African Minerals Development Centre (AMDC):

- The AMDC should ensure that as the continental facilitator of CMV and AMGF processes, non-state actors at the local level are fully integrated in their implementation and broader national decision-making on AMV–mineral sector policy alignment.
- The AMDC should invest in popular campaigns and awareness-raising initiatives on the AMV to build public support and buy-in for its national implementation. It should collaborate with civil society as an equal partner and stakeholder in building popular awareness of the AMV.

## To the private sector:

- Companies operating in Africa’s mineral sector should institute policies that comply with the provisions of the AMV on human rights, corporate accountability, gender justice, social and environmental impacts, as stakeholders in its implementation, and parties to the AMV Compact.
- Companies operating in Africa’s mineral sector should respect the AMV’s guidelines on tax evasion and avoidance by ensuring that they pay the right amount of tax in their host countries, and stop the use of aggressive tax planning, including the abuse of tax havens, to reduce their tax liabilities to African governments.

## To African civil society:

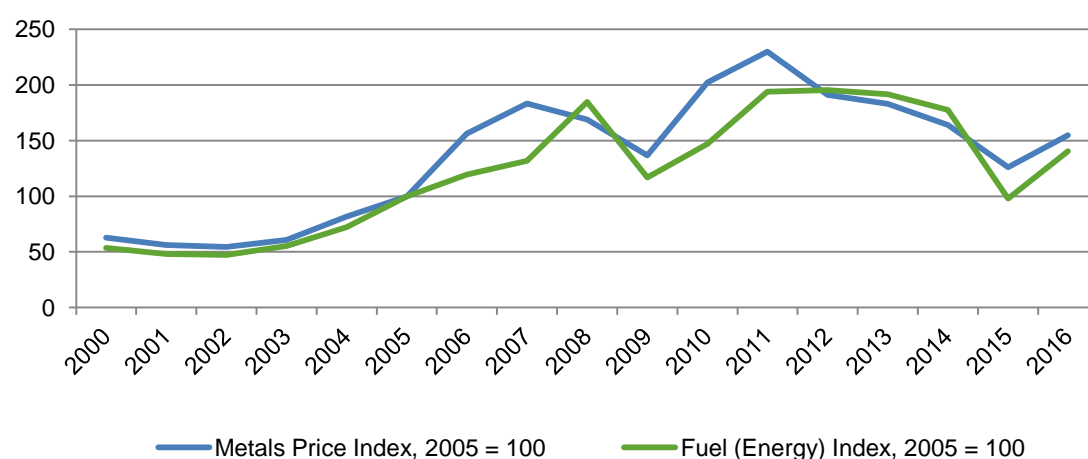
- Civil society should proactively engage in policy advocacy, research and analysis of the AMV, focused on civic space and social participation, women’s rights and gender justice and environmental sustainability, in order to elicit policy reforms by African governments and the Pan-African policy institutions to address the shortcomings in the framework.
- Civil society should create popular campaigns to raise awareness of the AMV and its benefits to African citizens and mining-affected communities, to ensure that the interests of non-state actors are addressed in the CMVs.

# 1 INTRODUCTION

Africa's vast mineral<sup>3</sup> wealth should be an important driver of its structural transformation. Instead, it has spawned gloomy tales of a 'natural resource curse'<sup>4</sup> on the continent. It is clear that Africa has not harnessed the full potential of its mineral endowments for sustainable, inclusive development. Mineral resources are extracted mainly for processing and use outside the continent, and mineral sectors have remained an enclave, disconnected from broader economies. The recent spell of very high commodity prices from 2000–2011 (or the 'commodity price supercycle') only served to benefit extractive companies and political elites at the expense of the majority of the continent's citizens. Around 56 percent of all illicit financial flows (IFFs) leaving Africa between 2000 and 2010 came out of the oil, metals, ores and precious minerals sectors.<sup>5</sup> The leaks from the International Consortium of Investigative Journalists (ICIJ) (or the 'Panama Papers') revealed that political elites in 44 out of 54 African countries hid wealth generated from the mineral sector through shell companies established to own or do business with oil, gas and mining operations.<sup>6</sup>

Boosted by large discoveries of oil, gas and minerals, Africa's economic growth was remarkable during the commodity supercycle, averaging around 5 percent annually,<sup>7</sup> but this growth was unevenly distributed. Of the 10 most unequal countries in the world today, seven are in Africa.<sup>8</sup> As host to 30 percent of the world's total mineral reserves,<sup>9</sup> the sharp contrast between natural abundance and poverty in Africa is troubling. Africa's commodity-backed growth has faltered in the wake of the steep collapse in global mineral prices. As shown in Figure 1 below, world metals and energy prices fell almost twofold between 2011 and 2015, with a slight recovery in 2016. The slowdown in growth is not unusual for commodity exporters, due to weak global commodity prices,<sup>10</sup> but for Africa, the impact is far reaching.

**Figure 1: Global commodity prices 2000–2016**



Metals Price Index includes copper, aluminium, iron ore, tin, nickel, zinc, lead and uranium price indices. Energy Price Index includes crude oil (petroleum), natural gas and coal price indices. 2016 data is for January to December.

Source: IMF Primary Commodity Price System

In several mineral-rich African countries – Zambia, Mozambique, Angola and Nigeria – public debt and fiscal stress are rising as governments seek to plug the huge gaps in national treasuries left by falling revenues.<sup>11</sup> Ghana, Zambia and Mozambique have already turned to the IMF for fiscal bailouts,<sup>12</sup> and Nigeria is facing a fiscal deficit of US\$11.1bn.<sup>13</sup> As countries scramble to renegotiate mineral contracts to raise tax income, there is a real fear of a renewed ‘race to the bottom’, with unfair contracts and tax incentives being granted to extractive companies.<sup>14</sup>

Africa’s latest resource boom also generated social and political conflicts. Research shows that the prevalence of conflicts linked to natural resources is now more than five times the level it was a decade ago.<sup>15</sup> The widening gap between the rich and poor, rise in the number of fragile and ungoverned territories, political struggles over the distribution of resource rents, and grievances held by local communities against extractive companies collectively resulted in an increase in resource-driven conflict in Africa.

Historically, there have been deep concerns over the lack of transparency in the management of revenues arising from mineral extraction, and the accountability of states and corporate actors in their relations with mining-affected communities and citizens of resource-rich countries. Transnational civil society advocacy on mineral revenue transparency and corporate accountability has resulted in the creation of various governance instruments, including the Extractive Industries Transparency Initiative (EITI), the Publish What You Pay Campaign, the Natural Resource Charter, the Responsible Minerals Development Initiative, the Open Government Partnership, the Open Contracting Partnership and the Kimberly Process Certification Scheme, among others.

These regulatory initiatives are complemented by new legislation in several jurisdictions that require domiciled extractive companies to increase the level of disclosure concerning their compliance with ethical standards on transparency and accountability: namely Sections 1502 and 1504 of the U.S. Dodd-Frank Act, the EU Accounting and Transparency Directive, and similar laws introduced by Norway, the United Kingdom and Canada. Other initiatives by multilateral institutions, such as the Equator Principles, the IFC Performance Standards, and the OECD Anti-Bribery Convention also monitor transparency in the financing of extractive industry projects.

On the African continent, the formal establishment of the African Union in 2002 led to a resurgence of Pan-African idealism and the collective will to champion Africa’s economic and political renaissance. Over time, it was recognized that existing global regimes for mineral sector governance were not fully addressing structural questions on low value addition, poor rent capture and the enclave nature of mining in Africa. Furthermore, the consequences of the liberalization of mining regimes had weakened the developmental role of the state in the mineral sector.<sup>16</sup> These factors collectively provoked a debate on the need to create an alternative policy framework that tied mineral extraction to structural transformation. This meant taking ownership of policies to add local value and integrate mineral sectors into broader development strategies. In short, there was a realization that Africa needed to create a ‘regime of responsibility’<sup>17</sup> for the extractive industries. In February 2009, the adoption of the Africa Mining Vision by AU Heads of State marked this paradigm shift towards a ‘regime of responsibility’ for natural resource extraction. The ambitious goal of the AMV is ‘to foster transparent, equitable and optimal exploitation of Africa’s mineral resources to underpin broad based

sustainable growth and socio-economic development.<sup>18</sup> AU member states are required to adopt the AMV fully and align national mineral sector policies with the provisions of the framework.

However, seven years after the AMV's inception, the slow pace of implementation is thwarting the goals for which it was created. Furthermore, there is not enough independent analysis of the shortcomings of the AMV and the obstacles to its implementation. Civil society, which has been at the forefront of struggles to put Africa's mineral sector at the heart of strategies for inclusive, equitable development, has not been fully mobilized to engage with the national implementation of the AMV. In communities experiencing the negative environmental and social effects of mineral extraction, there is low awareness of the potential opportunities for the AMV to address their grievances. The political will among the continent's leaders to implement the AMV, in the wake of the global commodity price collapse and the resulting slide into economic recession, is also under threat as fiscal stress and public debt rise sharply.

With economic fragility on the rise, the danger of a race to the bottom<sup>19</sup> in Africa to meet the demands of foreign investors remains very real. Tax avoidance and evasion by extractive companies is hurting Africa's ability to maximize mineral sector revenues and finance its development, given volatile global commodity prices.

#### **Box 1: Maximizing revenue from extractives**

Revenue from extractive industries accounts for one-third of the total tax taken in Africa. The number of new extractive finds in different countries has made these revenues relevant in ever more situations. The fall in commodity prices will affect this trend, but the revenue from Africa's natural resources will remain important for many years to come. Securing as much of this as possible for progressive social spending is a top priority.

Revenues from extractives come in a number of different ways: from the sale of mineral concessions and the royalties agreed, to the taxes paid by the companies extracting the natural resources. A huge amount depends on the contract that is signed, and on the honouring of that contract. Oxfam has worked with local partners, and civil society more widely, to support a number of such initiatives, for example in Burkina Faso, Ghana and Niger, covering new rules on taxes and royalties, contract negotiation and agreements about how revenues are used. In Burkina Faso, a successful '1% campaign' by civil society demanding that the country's new mining law require one percent of gross mining revenues be allocated to a community development fund has resulted in potentially US\$15m a year for local development projects. As this example demonstrates, better contracts and revenue sharing can be negotiated with strong citizen oversight.<sup>20</sup>

Sadly, there are also plenty of bad examples. The Africa Progress Panel found that the Democratic Republic of the Congo undervalued five deals with extractive companies by \$1.4bn over just two years, selling mining concessions for far less than their market price, only for them to be sold on for a much higher price soon afterwards.<sup>21</sup>

Companies often make use of their very strong bargaining position to negotiate extensive exemptions or reduced-rates royalty and corporate income tax. This led to Zambian miners paying higher rates of tax than the companies they were working for.

There is considerable variation between extractive industries, with mining companies tending to pay less tax than their counterparts in oil and gas; but all firms do their best to negotiate as favourable terms as possible. Often, corruption plays its part.

## Transfer mispricing

In addition to the reduction of tax liabilities through negotiated exemptions or reduced rates, extractive industry companies can also be well placed to take advantage of international tax rules and tax havens to avoid tax. This often involves the manipulation of trading between different parts of their company in an effort to reduce or eliminate profits in the country where they should be paying tax, and instead booking their profits in low-tax jurisdictions.

There are also indications from the recent Panama Papers that some companies may be involved in deliberately manipulating the value of goods to reduce tax liabilities in African countries. For example, Africa Confidential has reported<sup>22</sup> on the case of a company mining diamonds in Sierra Leone, which is now the subject of a legal investigation following government action. According to Africa Confidential, there are indications that there may be wide discrepancies in the prices per carat of diamonds valued in-country and the prices they are sold for abroad. If these concerns are validated, it would mean the country has been losing tens of millions of dollars from its diamond business. In 2006, a review of 105 natural resource concessions in Liberia recommended that 36 contracts should be cancelled and 14 renegotiated because the government did not receive fair value from them.<sup>23</sup>

Former South African president Thabo Mbeki, on a visit to the Democratic Republic of Congo in June 2013, stated: 'The extractive industries sector is central to the illicit outflow of money from Africa'. Building on civil society advocacy around the issues, a number of relevant official organizations have highlighted the problems related to profit-shifting, not least by extractive industry companies. Following the campaign victories of recent years, new mandatory reporting requirements from the EU, Canada, Norway and the US, mean that in countries where they operate, starting this year, extractive companies will have to report exactly what payments they are making to central and local governments, right down to project level. This is likely to have a transformative effect.

Source: Oxfam (2016) 'The Time is Now: Building a Human Economy for Africa', p. 18.

Mineral revenues are waning and Africa must be forward-looking in pursuing diversification and meeting the Sustainable Development Goals (SDGs) and AU Agenda 2063.<sup>24</sup> As the continent seeks to diversify its sources of development financing, the AMV can help realize the goals of the SDGs and the Agenda 2063 by ensuring that a greater share of resource rents are captured and used to tackle poverty and inequality, and that local value is created through local processing and supply of inputs, technical and skills upgrading and investments in education, research and development.

Catalysing broad-based debate around the AMV and mobilizing African citizens and communities to engage with broader mineral sector governance is vital. It is only through such popular awareness that African leaders will be held accountable for AMV implementation and the deeper question on how the continent is using its mineral resources to achieve sustainable development.

This paper looks at the AMV in detail, and critically examines its nature, structure, implementation mechanisms, strengths and weaknesses. It seeks to raise public awareness of the AMV against the backdrop of the well-known challenges to the effective management of Africa's mineral resources. Finally, the paper makes recommendations to relevant stakeholders, namely, AU member states, Pan-African policy institutions, the private sector and civil society, on the mainstreaming of the AMV, in order to turn it from aspiration to reality.

## 2 WHAT IS THE AFRICA MINING VISION?

The Africa Mining Vision (AMV) is a Pan-African policy framework established through a combined network of initiatives at the regional, continental and global levels to transform Africa's mineral sector for sustainable development. The creation of the AMV was informed by several sub-regional and continental policy initiatives that occurred between 1997 and 2009, including:<sup>25</sup>

- The Johannesburg Political Declaration and Plan of Implementation [chapter 46 and paragraphs (f and g) of chapter 62 (Sustainable development for Africa)] of the 2002 World Summit on Sustainable Development;
- The Yaoundé Vision on Artisanal and Small-Scale Mining;
- The Africa Mining Partnership's Sustainable Development Charter and Mining Policy Framework;
- The Southern Africa Development Community (SADC) Framework and Implementation Plan for Harmonisation of Mining Policies, Standards, Legislative and Regulatory Frameworks;
- Union Economique et Monétaire Ouest Africaine (UEMOA's) Common;
- Mining Policy and Code Minière Communautaire ;
- The Summary Report of the 2007 'Big Table' on 'Managing Africa's Natural Resources for Growth and Poverty Reduction' jointly organized by the United Nations Economic Commission for Africa (UNECA) and the African Development Bank (AfDB); and
- The International Study Group (ISG) Review of Africa's Mining Regimes.

### **What are the major intervention areas of the AMV?**

The AMV seeks to transform mineral sectors in an inclusive, sustainable way. As such, its ambitions are consistent with other Pan-African development initiatives such as the AU Agenda 2063. In particular, the Agenda 2063 proposes that extractive sectors will play an important role in domestic resource mobilization by capturing a greater share of resource rents.<sup>26</sup> The AMV is based on six major areas of intervention that guide the use of Africa's mineral endowments for sustainable development.<sup>27</sup> These are:

**Improving the quality of geological data:** Greater knowledge of the potential value of mineral resources leads to fairer deals and more equitable returns on mineral sector investments. This is to be achieved by building capacity for geological mapping and comprehensive geoscientific databases, including mining cadastral systems and self-adjusting, progressive tax regimes that change with increasing profitability (or the rate of return) and allow the state to earn windfall rents during resource booms. Increased knowledge of mineral endowments also allows for competitive bidding and differential rents according to the viability of resource terrains.



**Improving contract negotiation capacity:** The AMV encourages African states to negotiate contracts from the standpoint of existing and potential mineral sector linkages, by ensuring that a greater share of resource rents is captured through flexible fiscal regimes that are sensitive to commodity price movements, while ensuring that communities have access to resource infrastructure. Countries are further advised to identify critical resource linkages when designing mining contracts, leases and licenses, such as: local resource supplies; local processing through beneficiation; investing in training, research and development; and complying with safeguards on good governance, transparency, environmental stewardship, health and safety and affirmative action employment policies for nationals.

**Improving the capacity for mineral sector governance:** The AMV offers a combination of local and international strategies to enhance mineral governance capacities in Africa. These include an emphasis on skills transfer and capacity building during contract negotiations and on an ongoing basis; meeting skill shortages through pooled regulatory capacity at the sub-regional level for infrastructure and joint natural resource management; outsourcing regulatory capacity in the short term while domestic capacity is built; and ensuring compliance with regional and global mineral sector governance frameworks such as the AU African Peer Review Mechanism (APRM),<sup>28</sup> the Extractive Industries Transparency Initiative (EITI), the Equator Principles, the Global Reporting Initiative, the Kimberly Process and other relevant policy instruments. Furthermore, there is an emphasis on building institutional capacities in related areas such as the judiciary, the financial sector, tertiary education, research and development.

**Improving the capacity to manage mineral wealth:** The AMV advises African governments to capture a greater share of mineral rents either through direct commercial ownership or joint ventures with the private sector in mining projects, based on their capacities. The AMV encourages benefit sharing with local communities through revenue accruals, and non-income benefits such as local employment and the provision of social infrastructure, to ensure that there is a balance between local and national interests and that communities are well equipped to meet the post-mining challenge. It asks countries to establish Sovereign Wealth Funds (SWFs) that will effectively manage windfall revenues, provide infrastructure and set aside income for use by future generations.

**Addressing Africa's infrastructure constraints:** The AMV acknowledges that infrastructure gaps are the biggest constraint to mineral-based development – stating that Africa's relative logistics costs are 250 percent of the global average. The potential solution to these high transaction costs is the pooling of resources at the subregional level, through integrated multi-state resource Development Corridors. The Development Corridors (DCs) approach has been adopted in Southern Africa through the Spatial Development Initiatives (SDIs),<sup>29</sup> the New Partnership for African Development (NEPAD) and the African Development Bank as a strategy to promote trade, investment, infrastructure development and regional value chains. Around 13 potential DCs have been identified across Africa. The DCs are seen to strengthen 'collective self-reliance' by creating cross-border institutions for: investment promotion, electricity and energy utilities, transport concessions and border post administration. However, the creation of DCs requires political commitment and cooperation between African countries at the sub-regional and continental levels.

**Elevating artisanal and small-scale mining (ASM):** The AMV recognizes the developmental role of artisanal and small-scale mining (ASM). There are about eight million people employed in ASM across Africa who indirectly support another 30 million livelihoods.<sup>30</sup> Women are believed to make up a large portion of these numbers. Certainly, in Ghana and Malawi, women make up more than 50 percent of the ASM workforce.<sup>31</sup> In Zambia, a higher number of licenses are allocated to ASM than to corporate/large-scale mining.<sup>32</sup> ASM is labour intensive and provides more jobs than large-scale mining – almost 20 percent of Africa’s gold, and all of the continent’s gemstones, with the exclusion of diamonds, are produced in the ASM sector.<sup>33</sup> In spite of its potential contribution to local economic development, ASM firmly remains in the shadow economy: poorly regulated, beyond the reach of markets, and not integrated into national policies and institutions.

The AMV follows the 2002 Yaoundé Vision on ASM<sup>34</sup> adopted by the Communities and Small-Scale Mining (CASM) Africa Initiative in 2005 to call for a participatory ASM development strategy that focuses on the formalization of the ASM sector and its integration into local and regional economic development and land-use plans and strategies, especially Poverty Reduction Strategies; and reviewing mining policies to incorporate a poverty reduction dimension to ASM strategies. The AMV recognizes the vital role of civil society advocacy in highlighting the issues in the ASM sub-sector, and calls for the inclusion of civil society in the integration of ASM into national mineral-based development strategies.

## **Which institutions are responsible for AMV implementation?**

Following the establishment of the AMV in 2009, in December 2011, the Action Plan for its implementation was approved by AU Ministers responsible for Mineral Resources Development. The Action Plan had two important recommendations: a) the creation of a specialized technical agency of the AU Commission charged with the implementation of the AMV Action Plan, called the African Mineral Development Centre (AMDC), and b) a technical partnership between the key policy institutions operating in the Pan-African space: the AU, UNECA, African Development Bank, and UNDP, for the implementation of the AMV. The AMDC was formally established in December 2013 as a medium-term project hosted by the UNECA, and financed by international donors (mainly the governments of Canada and Australia) under the political leadership of the AU Commission.<sup>35</sup>

The AMV is structured around nine programme areas/’clusters’ set out in its Action Plan.<sup>36</sup> The clusters are designed to be work streams/units of the AMDC:

- Cluster 1: Mining revenues and mineral rents management
- Cluster 2: Geological and mining information systems
- Cluster 3: Building human and institutional capacities
- Cluster 4: Artisanal and small scale mining (ASM)
- Cluster 5: Mineral sector governance
- Cluster 6: Research and development
- Cluster 7: Environmental and social issues
- Cluster 8: Linkages and diversification
- Cluster 9: Mobilizing mining and infrastructure investment.

The AMDC provides technical support and limited financing to AU member states for the implementation of the AMV, on a demand-driven basis. This means that AU member states must formally approach the AMDC to request support on AMV

national implementation. UNDP and other donor agencies have directly financed AMV national implementation in several countries. The AMDC also plays a coordinating role with the Regional Economic Communities (RECs) to promote convergence between regional mining codes and the AMV. In 2015, an AU Summit Decision mandated that the AMDC should fully become a specialized agency of the AU Commission, to be physically hosted by an AU member state, and financed by member states' budgetary contributions. This transition process is currently underway, and the permanent location of the AMDC is expected to be decided shortly.

The institutional arrangements for the AMV's implementation immediately raise certain questions: how to ensure that there is strong coordination between the AMV oversight institutions; and the sustainability of AMV implementation, given the transition in the governance and funding arrangements of the AMDC.

The AMDC is participating in several global initiatives, such as: the African Mineral Geoscience Initiative (AMGI) or the 'Billion Dollar Map', which is funded by the World Bank; the G7 Initiative on Strengthening Assistance for Complex Contract Negotiations (CONNEX) supported by the Government of Germany; the African Mining Legislation Atlas (AMLA) project in collaboration with the World Bank and AfDB; the OECD Policy Forum on Value Addition and Local Development; and the UNDP African, Caribbean and Pacific (ACP)–EU Development Minerals Programme, focused on the Low Value Minerals and Materials (LVMM) sub-sector. In general, the AMV seeks to leverage partnerships with international donors, the private sector, global and regional mining associations and other stakeholders for its long-term implementation.

### **What are the key features of the AMV?**

The AMV sets out a framework of actions over the short-term (0 to 5 years), medium-term (5–20 years), and long-term (20–50 years) required for its achievement.<sup>37</sup> The bulk of activities are expected to be performed in the short-term, at the country, regional and continental levels. However, given its ambitious goals and the expectations placed on various policy actors, it is crucial to examine the AMV in several key areas: its transformative nature, and with respect to established normative principles for the governance of mineral sectors, namely, transparency and accountability, inclusivity (gender justice and women's rights), and environmental sustainability.

Given its core emphasis on creating local value, the AMV makes a radical departure from other policy frameworks for the mineral sector. It provides an array of linkages – backward, forward, spatial, knowledge and side-stream, that should be created in order to derive maximum value from mineral extraction. The processes for the creation and realization of these linkages are laid out in the AMV framework of action and the Action Plan for its implementation. The generation of linkages extends throughout the mineral value chain, from the stage of geological mapping, contracting and licensing, to mining sector operations, and the mobilization and allocation of mineral rents. The AMV goes a step further by setting a course of action to reduce mineral sector dependence in the medium to long terms.

While it is clear that Africa needs to create local value from mineral extraction, build industries and create jobs, it is equally important to recognize the influence of underlying structural factors in realizing the transformative ambitions of the AMV. These include the weak capacity in state regulatory institutions, the lack of effective, coordinated industrialization strategies in many African countries that link mining with manufacturing, agriculture and service sectors, and the shrinking policy space available to African states in the global political economy. In the aftermath of the Structural Adjustment Programmes (SAP) in the 1980s and 1990s, the policy space available to African states to be truly developmental and craft industrial policies that nurture local production, as embodied in the AMV, has shrunk, while domestic manufacturing capacity has declined in the long term, with high levels of aid dependence.<sup>38</sup>

This implies that state capacity for the design and implementation of industrial policies is limited. There are also sovereign commitments to World Trade Organization (WTO) treaties, Economic Partnership Agreements, Bilateral Investment Treaties and Free Trade Agreements that require tariff and market liberalization and unhindered access for foreign direct investment (FDI), which goes against the ambition of the AMV to nurture and support the growth of local industries through preferential trade and industrial policies.<sup>39</sup> Furthermore, and importantly, political economy factors constrain the AMV's transformative ambitions. The implication of Africa's political elites in tax evasion, corruption and mismanagement of mineral revenues shows that the continent cannot capture and strategically utilize resource rents without transparent, accountable and visionary political leadership.<sup>40</sup>

The AMV makes several important commitments to promote transparency and accountability in the management of mineral revenues, by asking AU member states to mainstream the Extractive Industries Transparency Initiative (EITI) and the Kimberly Process Certification Scheme, the Equator Principles and African Peer Review Mechanism (APRM). In the AMV Action Plan and derivative policy instruments such as the African Mineral Governance Framework (AMGF), there are requirements on the disaggregated reporting of revenues earned from mineral activities, auditing export volumes, contract transparency, the disclosure of beneficial ownership, and building the capacity of revenue authorities to tackle transfer pricing by extractive companies and illicit financial flows from the mineral sector.

The AMV further calls for community participation in mineral revenue management, equitable revenue allocations to mining communities, building communities' capacity to negotiate benefit agreements, and the provision of non-fiscal benefits (employment and social infrastructure). It additionally supports regional actions to implement the UN Guiding Principles on Business and Human Rights. However, the AMV does not contain explicit guidelines for public access to information on mineral revenues and contracts and disclosure of information on other areas such as geological surveys and mineral licensing processes. This suggests that the onus of civic participation and accountability is placed on AU member states, which may not have the appropriate laws and institutions to comply with such requirements.

The greatest challenge to the effectiveness of these transparency norms in the AMV is the shrinking space for non-state actors such as civil society and local communities to hold governments to account. Civil society space is shrinking across Africa,<sup>41</sup> as states use legal and non-legal tools to curtail civic advocacy,

repress political opposition and close the channels available for democratic accountability. The AMV does not fully come to terms with the unequal power relations between states and civic actors and the implications of shrinking civic space for transparency and accountability in the governance of mineral sectors.

The core AMV document makes a high-level commitment to inclusivity by promoting gender justice and women's rights, notably through the integration of gender equity in mining policies, laws and regulations, and the development of regional and continental gender charters for the extractive sector. While this is laudable, the AMV Action Plan does not contain detailed policy actions to promote women's empowerment and gender justice throughout the nine clusters of the AMV. A good illustration is the use of local content and beneficiation policies to support women's participation in the mineral sector by identifying the stages of the value chain where they can provide the greatest social and economic value. Furthermore, given the disproportionate role of state institutions and political elites in determining the process of national implementation through the Country Mining Visions, gender justice and women's rights issues have been inadequately addressed.

The final area to be examined is the role of the AMV in promoting environmental sustainability and responding to climate change. The AMV makes several recommendations on the mainstreaming of Strategic Environmental Assessments and Social Assessments (SESAs), Health Impact Assessments (HIAs) and Environmental and Social Impact Assessments (ESIAs) in national laws, policies and regulations, and calls for these processes to be mandatory for all mining project approvals. Chambers of Mines are expected to popularize the International Council on Mining and Metals (ICMM) Community Development Toolkit and the Global Reporting Initiative Mining and Metals Sector Supplement, and ensure that mining companies adhere to these instruments. Governments are asked to develop a sustainable environmental, health and safety plan to reduce or eliminate the adverse effects of artisanal and small-scale mining (ASM).

However, while impact assessments are a vital step in the mining project cycle, the AMV does not provide specific guidelines to address ongoing social and environmental disruptions caused by mining, such as the determination of fair compensation rates for the loss of property and farmland due to mining activities; common standards on resettlement action plans for dispossessed communities; and environmental remediation for air, land and water pollution. The AMV does not provide specific guidelines on the conservation of water sources and the prevention of acid mine drainage,<sup>42</sup> which is very damaging to the environment in the long term. Even if the burden of environmental regulation is placed on AU member states, these are specific gaps in the framework that should be addressed in its implementation.

A broader structural issue is the impact of climate change on the model of mineral-based development espoused by the AMV. Africa is faced with a dilemma – it has the right to development, but the heavy carbon footprint of mineral extraction and reliance on fossil fuel energy undermine environmental sustainability, although the continent has contributed the least to global warming.<sup>43</sup> It is also the most vulnerable continent and least prepared for climate change due to inequality, poverty and low adaptive capacity. Humanitarian disasters caused by extreme weather events linked to climate change (such as El Niño and La Niña) are growing,<sup>44</sup> further intensifying economic fragility. Thus, diversification away from

mineral-based development to green economies, and using cleaner energy sources for industrialization, is crucial for Africa. While the AMV supports economic diversification through the creation of linkages, the alarming effects of climate change in Africa call for a deliberate policy response to promote sustainable development and protect the environment and well-being of local populations. African countries have made binding commitments to reduce carbon emissions in line with Nationally Determined Contributions (NDCs) under the Paris Climate Change Treaty and the SDGs, and to fulfil the Climate Vulnerable Forum pledge of a transition to 100 percent renewable energy by 2050. Reconciling the competing demands of mineral-based transformation and long-term sustainable development requires strong political leadership, pragmatism and strategic choices on the future of Africa's mineral sector that are unavoidable.

The analysis presented here shows that the AMV makes some headway in reflecting global norms for the governance of mineral sectors. However, there are specific gaps that should be addressed; such as the need for detailed policy actions to promote gender justice and women's rights throughout its clusters, protecting civic space and the participation of non-state actors in its national implementation, and responding to environmental sustainability issues and climate change. It is also crucial to examine the AMV's derivative policy instruments and the actual experiences with its national implementation, which will reveal its potential impact on Africa's socio-economic development.

# 3 IMPLEMENTING THE AFRICA MINING VISION

Given its voluntary nature, and as a continental policy instrument, the Africa Mining Vision must be nationally implemented by African countries in order to become operational. The process of national implementation requires that the laws, policies and regulations applicable to the mineral sector and the national development planning system be aligned with the AMV. This in turn, requires building effective partnerships between policy actors in the national government, the private sector, mining-affected communities and civil society. The AMV also requires a dedicated framework to monitor its uptake as well as the broader management of mineral sectors in Africa. To this end, several policy instruments have been created by the AU and AMDC for the implementation of the AMV.

## **The Country Mining Vision (CMV)**

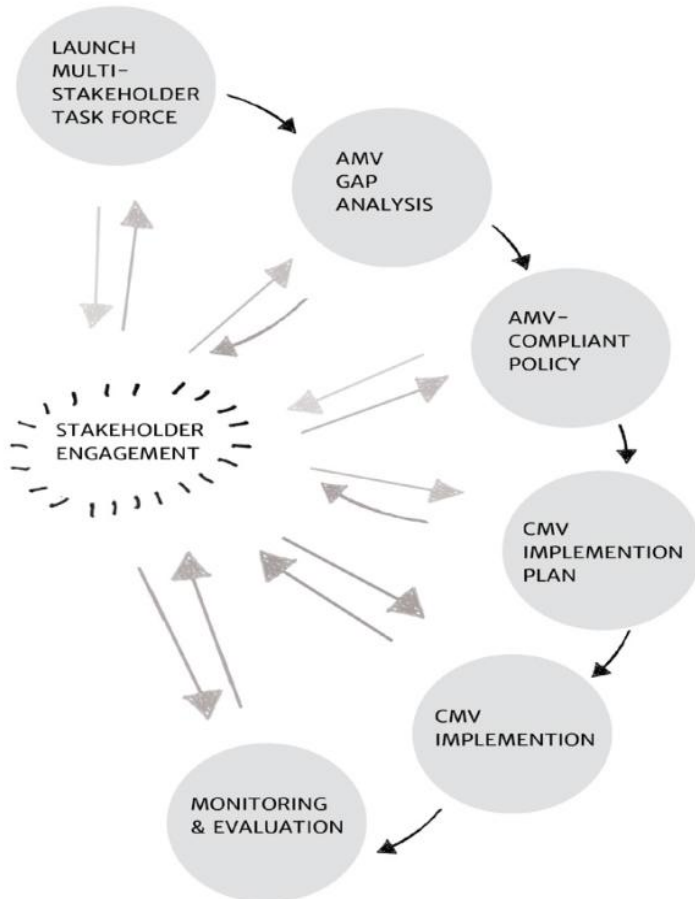
The CMV is arguably the most important instrument required for the full implementation of the AMV. Essentially, it is the mechanism for the national adoption of the AMV. The CMV builds national ownership by using multi-stakeholder processes for consultation and dialogue in determining priorities for the mineral sector, identifying roles and responsibilities of all stakeholders, and stimulating reforms to national laws, policies and regulations required for mineral-based development. The CMV focuses on seven programme areas/clusters of the AMV Action Plan: 1) fiscal regime and revenue management; 2) geological and mineral information systems; 3) building human and institutional capacity; 4) artisanal and small-scale mining; 5) mineral sector governance; 6) linkages, investment and diversification; and, 7) environmental and social issues.

In a nutshell, the CMV process involves the following steps:

- a) Establishment of a national (multi-stakeholder) coordinating body with the secretariat in the lead government agency or ministry with oversight of the mineral sector, and composed of representatives from civil society, the private sector, mining communities, trade unions and other social groups. The national multi-stakeholder body is responsible for coordinating the entire CMV implementation process. In some contexts, an inter-ministerial task force has played the role of the national coordinating body;
- b) Gap analysis of the mineral sector, composed of a local and regional/international scan to determine the gaps in the country's mineral sector laws, regulations and policies with respect to the AMV. The gap analysis is carried out using the Mineral Value Management (MVM) of the World Economic Forum, or the STEEP (Social, Technology, Economic, Environmental and Policy) framework;
- c) Development of an AMV-compliant policy following multi-stakeholder consultations to review the results of the gap analysis. This requires the convening of a high-level multi-stakeholder dialogue on the mineral sector to develop the CMV implementation plan, with clear roles and responsibilities assigned to all stakeholders;

- d) Implementation of the CMV through policy formulation, legislative reform and the creation or strengthening of institutions, overseen by the national multi-stakeholder coordinating body;
- e) Stakeholder engagement throughout the process; and
- f) Monitoring and evaluation of the CMV process, with clear timelines, roles and responsibilities for various stakeholders. Multi-stakeholder working groups can be set up to monitor specific aspects of the CMV. The CMV implementation process is shown in Figure 2 below.<sup>45</sup>

**Figure 2: The CMV process**



Source: African Minerals Development Centre (2014). Country Mining Vision Guidebook.

So far, there is ongoing policy engagement by the AMDC in 24 African countries (see Box 2 below), which are at different stages of CMV development and implementation. AU member states have followed two major approaches to the CMV. First is the *systematic* approach, which ties the CMV process to the entire clusters of the AMV. There is also a *targeted* approach to the CMV that is focused on a specific aspect of the AMV and minerals value chain. Mostly this has been in the area of creating linkages (forward, backward, fiscal, spatial, knowledge, etc.), and legal and regulatory reform of the mineral sector. Since the CMV process is demand-driven and based on requests to the AMDC from AU member states, CMV implementation has been influenced by domestic priorities, political and institutional factors at the national level. From the following discussion of country experiences with the CMV, Lesotho is the only country to have completed the full CMV process, and adopted the AMV into national legislation. At the subregional level, the AMDC has been engaged in various policy, research and capacity building activities with



Regional Economic Communities such as the Economic Community of West African States (ECOWAS) Mineral Development Policy and the Southern Africa Development Community (SADC) Mining Protocol.

**Box 2: CMV implementation in AU member states**

***The following AU member states are in various stages of implementing the AMV through CMV processes***

Angola  
Burkina Faso  
Central African Republic  
Chad  
Republic of Congo  
Côte d'Ivoire  
Democratic Republic of Congo  
Ethiopia  
Equatorial Guinea  
Gambia  
Ghana  
Guinea  
Kenya  
Lesotho  
Malawi  
Mali  
Mozambique  
Niger  
Nigeria  
Rwanda  
Sierra Leone  
Tanzania  
Zambia  
Zimbabwe

***Regional Economic Communities (RECs)***

Subregional engagement by the AMDC in four out of eight RECs and the ICGLR in the following areas: research and policy analysis on specific aspects of AMV, capacity building initiatives for policy makers/institutions, and full harmonization of regional mining policies with the AMV.

Common Market for East and Southern Africa (COMESA)  
East African Community (EAC)  
Economic Community of West African States (ECOWAS)  
Southern Africa Development Community (SADC), and the  
International Conference of the Great Lakes Region (ICGLR)

Source: African Minerals Development Centre.

The CMV process has been approached in different ways by various countries, largely defined by needs, capacities and contexts. In a short discussion on CMV development in Mozambique, Lesotho, and Tanzania, several important lessons for overall AMV implementation emerge, as outlined in the section below.

### **The Country Mining Vision in Mozambique<sup>46</sup>**

Mozambique introduced several mineral sector policy instruments between 2007 and 2012, including a Corporate Social Responsibility Policy for the extractive industries; training and capacity building policy for extractives; a strategy for petroleum concessions; adoption of EITI and revision of the 2001 Petroleum Act and 2002 Mining Law. At the regional level, the country also formally adopted the SADC Protocol on Mining and the AMV. To start the CMV process, the Mineral Value Management (MVM) tool developed by the World Economic Forum (WEF) was utilized by the AMDC and the Ministry of Mineral Resources for a local audit of the extractives sector. The MVM survey investigated drivers of value in the extractives sector and stakeholders' views on how to increase local value.

This was followed by the convening of a High Level Multi-Stakeholder Dialogue between the government, civil society and local communities in November 2013 to identify the key issues, opportunities and challenges for developing the mineral sector. This in turn led to the development of a Mineral Resources Strategy by the government of Mozambique, and the identification of five priority areas: 1) skills building through training programmes; 2) converting the EITI multi-stakeholder forum into a permanent platform; 3) local content policy; 4) a CMV communication strategy; and 5) better integrated land use and infrastructure planning. Afterwards, the AMDC supported the design of a CMV implementation plan in collaboration with UNDP and the Ministry for Mineral Resources. The Plan was designed to coordinate technical and financial contributions from donors, the national mineral sector, and other non-state actors such as civil society, local communities and small-scale miners. The UNDP continues to support the CMV implementation process, in collaboration with the Government of Mozambique and the AMDC.

### **The Country Mining Vision in Lesotho<sup>47</sup>**

After a review of the 1962 Mining and Mineral Policy, the Government of Lesotho identified several key issues in the governance of the mineral sector. The country needed to collect more mineral revenues, utilize collected revenues effectively, and increase the developmental impact of mining at the national and sub-national levels. Civil society groups in Lesotho had also approached the AMDC and expressed interest in participating in the CMV process. AMDC conducted a local scan of the economic and social context, mapping geological potentials for mining and a review of mining policies, and an international scan that analysed trends in the global mineral sector, key external factors and the implications for Lesotho's mineral sector. This was followed by the creation of a Multi-Stakeholder Working Group made up of 40 representatives from relevant government ministries, the private sector, local communities and small-scale miners.

In November 2013, a stakeholder's workshop reviewed both analyses and identified the key issues to guide the preparation of a draft AMV-compliant mining and minerals policy (MMP). This was followed by an extensive consultation process, supported by the Southern African Resource Watch (SARW) at the community and district levels from June to July 2014 to receive feedback on the

draft MMP. The consultations sought to gather a broad range of views and inputs into the MMP, but also to build support and buy-in for the implementation of the MMP and the CMV; 615 people were consulted in 10 districts. The Government of Lesotho adopted a participatory approach to developing the CMV that involved extensive consultations and inputs from a broad range of stakeholders such as civil society actors, mining-affected communities, small-scale miners, traditional rulers, mine workers, teachers, farmers, people with disabilities, trade unions, student activists, etc. A final validation workshop was held in August 2014 on the revised draft of the MMP, which was broadly accepted by stakeholders. The AMDC and UNDP continue to support the implementation of the MMP, which is fully aligned with the AMV and the Agenda 2063, but also embodies the needs and views of local stakeholders, and the governments' development plans – the Vision 2020 and National Strategic Development Plans.

### **The Country Mining Vision in Tanzania<sup>48</sup>**

Tanzania joined the EITI in 2006 and became fully compliant in 2011. The country's Vision 2030 foresees a central role for the extractives sector to drive structural transformation. In 2014, AMDC and UNDP were formally requested by the Ministry of Energy and Mining (MEM) to provide support in developing a CMV. In March 2015, the government, in collaboration with the AMV partner institutions, organized a High Level Roundtable and multi-stakeholder dialogue to launch the CMV. The MVM tool was also administered and the following priorities were identified: the fiscal, legal and regulatory environment; employment and skills building; and social, economic and cultural issues that affect the mineral sector. The CMV process in Tanzania involved; 1) a comprehensive, multi-sectoral review of existing legal, institutional, policy and regulatory frameworks with regards to compliance and alignment with the AMV and existing national development goals. 2) development of a CMV Action or Business Plan integrating mining into national development plans, poverty reduction strategies and visions for development in Tanzania, 3) building the capacity of MEM to design, implement and monitor an effective communication strategy for dialogue around issues on extractives and development in Tanzania and, 4) technical support to stakeholders at local and national levels to create an ongoing space for dialogue on extractives including, but not limited to, the Tanzania EITI and the APRM in order to facilitate consultations with local communities and national stakeholders.

Alongside the CMV process, as a result of the engagement with AMDC, the Tanzanian government has put in place capacity-building programmes to negotiate contracts and fiscal terms for the extractive sector and to monitor tax compliance. The country has also put in place structures to audit mineral production and exports by trained inspectors, and introduced a community development levy to allocate a portion of mineral revenues to mining-affected communities. Furthermore, Tanzania has taken steps to establish a Sovereign Wealth Fund (SWF) for its earnings from natural gas. In effect, the country has implemented several important principles relating to the management of mineral rents and fiscal regimes under the AMV.

The short discussion of three different experiences with CMVs shows that while some countries have adopted a systematic approach (Lesotho), others have followed a more targeted approach (Tanzania, Mozambique) to developing the CMV. However, the greater challenge is to sustain these processes beyond political regime transitions, which can often be destabilizing. It is vital to

institutionalize CMV/AMV national mechanisms, in order to anchor them in policy structures that extend beyond electoral cycles, and build political and broad-based support for the CMV. In addition, there is inadequate participation by civil society and mining communities in the CMVs, notably in Tanzania. In Mozambique, there is an opportunity to address, through the CMV, areas of priority to local communities and civil society, such as the mandatory application of the principle of free, prior and informed consent (FPIC) for mining-affected communities. As stated earlier, the AMV does not fully recognize the vital role of CSO space for the realization of its goals. CMV processes have been largely politically driven and state-centric, which reflects the limited CSO space for influencing mining sector policies. However, in Lesotho, CSOs triggered the development of the CMV through a bilateral conversation with the AMDC, while local communities and other social actors were fully engaged in the process of aligning the national mining policy with the AMV. The Lesotho example is a demonstration of best practice in fostering civic participation in the CMV, which should be adopted and scaled-up in other African countries by national governments and the AMV oversight institutions.

Lastly, the AMV could be nationally implemented through nuanced policy reforms that may occur outside of the CMV process. In the case of Tanzania, while the CMV process was ongoing, several important AMV principles had already been adopted. The discussion of the country experiences with CMVs shows that national priorities, political commitment and institutional capacities are collectively influencing national implementation of the AMV.

## **The African Mineral Governance Framework**

The African Mineral Governance Framework (AMGF) is the second prominent implementation instrument of the AMV. In December 2013, AU Ministers responsible for mineral resources development mandated the AU Commission to develop an African-owned monitoring framework for the governance of the mineral sector. The creation of the AMGF responds to this demand. It was developed by the AMDC in collaboration with civil society actors between 2014 and 2016, and formally endorsed by an AU Ministerial Decision in May 2016. The AMGF serves two purposes. First, it is a monitoring tool, with a series of indicators to assess the progress of African countries towards full implementation of the AMV; secondly, it serves as a broad governance instrument for the mineral sector.

The AMGF is structured around six 'pillars', which contain ten overarching principles found in the AMV, and loosely correspond to the clusters of the AMV Action Plan: Pillar 1: Fiscal Regime and Revenue Management; Pillar 2: Geological and Mineral Information Systems; Pillar 3: Artisanal and Small-Scale Mining; Pillar 4: Legal And Institutional Environment; Pillar 5: Linkages, Investment and Diversification; and Pillar 6: Environmental and Social Issues.

The AMGF adopts the approach of peer-learning to encourage countries to address gaps in the implementation of the AMV and broad management of mineral sectors, and promotes dialogue between governments, private sectors and civil society by leveraging on the national multi-stakeholder bodies created for the CMV processes. The AMGF is flexible enough to be used by various policy actors. It can be used as a diagnostic tool by AU member states to conduct policy and regulatory reforms and to assess the state of mineral governance in member countries. The AMGF can also be used by RECs, civil society organizations (CSOs), communities, investors, donors and academic institutions, and international stakeholders as a

starting point from which to decide what to monitor for their specific purposes.<sup>49</sup>

The AMGF is to be operationalized through periodic (triennial) assessments of mineral sectors in AMV implementing countries or other countries that choose to use it as a governance instrument. These assessments measure countries' progress towards achieving a specific principle of the AMV in each of the seven pillars. An overall ranking is produced from the weighting of countries' performance in the pillars. The country assessments are to be conducted by an independent researcher/institution, and are subject to a process of validation under the national multi-stakeholder platforms. These platforms act as the coordinating body for the AMGF, and monitor the implementation of country assessment reports by national governments. The AMGF assessment mechanism is distinct in several ways: it measures the performance of countries in neglected areas such as artisanal and small-scale mining, linkages and diversification, and mainstreams gender justice and women's rights throughout the constitutive pillars. The AMGF also measures countries' performance in tackling emerging global policy issues in the mineral sector such as tax evasion and avoidance, contract transparency, the disclosure of beneficial ownership, and transfer pricing by multinational firms.

Civil society has been involved in drafting the AMGF, and there is scope for the AU and AMDC to continuously engage with civil society in rolling out the framework. For instance, in September 2016, the AU and AMDC convened the first AMV-CSO Forum, with participation of 50 civil society groups from 20 African countries, to define a roadmap for partnership on the AMV. The Forum resulted in the creation of a Working Group of CSOs on the AMV, to coordinate all engagement by African civil society with the Pan-African institutions on AMV and AMGF implementation. Some African CSO coalitions, such as the Third World Network-Africa have partnered with the AMDC for advocacy on the AMV. This shows the potential for a deeper and more constructive engagement between the Pan-African institutions and non-state actors on the AMV and AMGF. However, it is important to ensure that there is space for CSOs to do multi-level advocacy on AMV implementation by creating similar relationships at the national and sub-regional levels.

Above all, the greatest challenge to the AMGF is its voluntary nature. As soft law, there is a need to create multi-level legal instruments that give some weight to the outcome of the AMGF's assessment, in order to hold national governments and political actors to account for its implementation and to abide by its guiding principles.

## **The Africa Mining Vision Compact with the Private Sector**

The third major implementation instrument of the AMV is the AMV Compact with the Private Sector. It was formally launched in February 2016 by the AU Commission, as a statement of intent between the AU and African private sector firms operating in the minerals sector,<sup>50</sup> under the umbrella of national and regional Chambers of Mines and Energy. The AMV Compact is modelled on the UN Global Compact for global businesses, which has been embraced by more than 8,000 firms in 162 countries. The AMV Compact seeks to build a public-private partnership for sustainable, responsible mineral sector development on the basis of 'shared benefits'. It identifies a set of principles based on nine areas drawn from the AMV Action Plan that corporate actors in the mineral sector should uphold: 1) Fiscal Regimes and Revenue Management; 2) Geological and Mineral Information Systems; 3) Building Human and Institutional Capacity; 4) Artisanal and Small

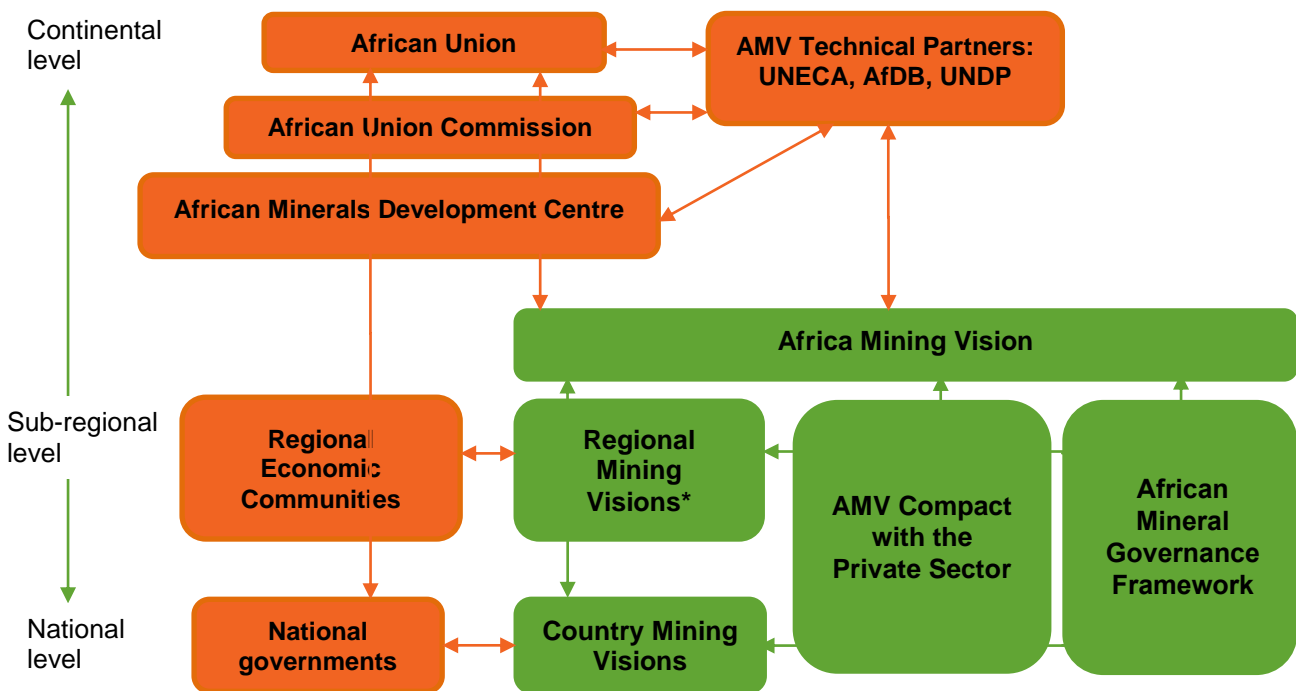
Scale Mining; 5) Mineral Sector Governance and Public Participation; 6) Linkages, Investment and Diversification; 7) Environmental and Social Issues; and 8) Regional Mining Visions.<sup>51</sup>

While the development of the AMV Compact has been inspired by the UN Global Compact, it does not follow the approach of the UN Compact to define a core set of values for the private sector on the basis of global legal instruments such as the Universal Declaration of Human Rights, the UN Guiding Principles on Business and Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the UN Convention against Corruption. At the regional level, the Compact should reflect the values and principles contained in important legal frameworks such as the African Charter on Human and People’s Rights, the AU Anti-Corruption Convention and the Maputo Protocol on the Rights of Women.

Of all the three implementation instruments, the Compact is at the earliest stage of development. It is crucial that the development of the Compact is backed by national, regional and continental legislation, to give it the required legitimacy and impact. Furthermore, the process of developing the Compact should be made open and inclusive, involving civil society and affected communities. The AU and AMDC should ensure that the principles espoused by the Compact effectively hold private companies in the mineral sector to account.

Figure 3 shows the different levels of engagement, institutions and policy instruments that make up the implementation structure of the AMV.

**Figure 3: The Africa Mining Vision Implementation Architecture**



\*Regional Mining Visions are to be established through the Regional Economic Communities (RECs)

## Implementing the AMV: What lessons have been learned?

If effectively implemented, the AMV has the potential to transform Africa's mineral sector. Therefore, it is important to draw lessons from current experiences with its implementation; and as a means to identifying the strengths, weaknesses, opportunities and challenges to the realization of its goals. By learning from countries' experiences with the CMVs and bridging the gaps in the overall framework, its overall impact and effectiveness in ensuring good management of mineral sectors in Africa will be enhanced.

The AMV has several key strengths: it upholds the principle of free, prior and informed consent (FPIC) for communities affected by mining projects. It was established by the AU, with political buy-in at the continental level. It could potentially transform Africa's mineral sector, given the emphasis on building an array of linkages, promoting local value addition and economic diversification. By covering the entire mineral value chain, it enables the utilization of natural resource wealth for sustainable development in a holistic way. It establishes a progressive fiscal regime that can curb the haemorrhaging of the continent's resources through tax avoidance, evasion, and illicit financial flows from the mineral sector. It makes a commitment to uphold and promote gender justice and women's rights.

The AMV elevates marginal social actors in ASM, and enhances policy coherence and stability through the alignment of national mining policies. It is flexible enough to be strengthened through derivative instruments created for its national implementation, such as the AMGF and CMVs; and it tries to address the negative environmental and social impacts of mining.

On the downside, the applicability of the AMV to oil and gas has not been fully explored – it has been geared primarily towards mining as a result of the technical background, networks and interests of its founders. However, there is much scope to apply the AMV to the oil and gas sectors, particularly in the area of linkages and local value addition. Furthermore, while the core AMV document makes a high-level commitment to uphold gender justice, the Action Plan for AMV implementation does not contain detailed policy actions to promote women's rights and gender justice throughout the nine clusters. AMV-derivative policy instruments such as the CMVs and the AMV Compact also need to be more inclusive and participatory for women. Environmental regulation in the AMV is too heavily focused on the early stages of mineral extraction, without prescribing measures to address ongoing social and ecological disruptions caused by mining, and long-term issues such as water conservation and acid mine drainage.

There are underlying concerns over limited space for non-state actors such as civil society and mining communities to influence AMV implementation; national-level processes have been highly state-centric and driven by political actors, which poses challenges for broad-based support, participation and sustainability of AMV national implementation. From the preceding discussion, civil society and community participation in CMVs in several countries, and in the design of the AMV Compact, has so far been inadequate. Furthermore, while there is a strong emphasis on transparency and accountability in managing mineral rents, less attention is paid to the free, public accessibility of information on mineral revenues, contracts, geological surveys and policies.

The AMV requires significant policy space for African governments to realize the ambitions of building linkages and creating local value through preferential trade and industrial policies, which is threatened by existing commitments to trade and market liberalization under economic and trade agreements. It also requires credible political leadership and well-resourced policy institutions to drive its national implementation.

Above all, the AMV is still not well known among key stakeholders in the mineral sector: including policy makers, civil society, mining-affected communities, mining labour unions, artisanal miners and parliaments. Broad-based participation is vital to holding governments to account for AMV implementation, and building social consensus on mineral sector governance in Africa. Without such broad-based awareness and buy-in to the Vision, it runs the risk of remaining the preserve of a small group of technocrats and political actors, far removed from the daily lives of Africans experiencing the effects of poorly managed mineral sectors.

**Table 1: A snapshot of the Africa Mining Vision**

Category	Issue
<i>Strengths</i>	<ul style="list-style-type: none"> <li>• The AMV has high-level political legitimacy at the continental level, as a Pan-African policy framework developed by the African Union.</li> <li>• The AMV is developmentalist in nature, focused on mineral sector development as a basis for structural transformation.</li> <li>• The AMV is comprehensive, and addresses vital policy areas such as linkages and diversification, artisanal and small-scale mining (ASM), and progressive fiscal regimes to address tax evasion and avoidance, and illicit financial flows from the extractives sector.</li> <li>• The AMV recognizes the principle of free, prior and informed consent (FPIC) for communities affected by mining projects.</li> <li>• It is flexible and dynamic enough to be further strengthened through its derivative instruments (CMVs, AMGF, AMV Compact).</li> <li>• It supports environmental justice for mining communities through mitigating actions at the start of the mining project cycle to minimize the negative effects of mineral extraction.</li> <li>• It encourages the mainstreaming of women’s rights and gender equity through the integration of gender equity in mining policies, laws and regulations, and the development of regional and continental gender charters for the mining sector.</li> <li>• By promoting the alignment of national mining policies with its provisions, the AMV enhances policy coherence and stability in mining sector regulation, which is important for transparency, competitiveness and promoting mining sector investments.</li> </ul>
<i>Weaknesses and challenges to implementation</i>	<ul style="list-style-type: none"> <li>• AMV could be regarded as ‘soft law’; it is voluntary in nature, and relies on national policy actors for regulation and enforcement of its principles.</li> <li>• The AMV has not been applied to oil and gas sectors. Its applicability to oil and gas governance has not been widely explored, in spite of the potential synergies.</li> <li>• The AMV requires substantial technical, financial and political resources for implementation that are lacking in many African countries.</li> <li>• The political and economic commitments to the AMV are also threatened by the commodity price downturn.</li> <li>• While the core AMV document makes a high-level commitment to women’s rights and gender equity, the Action Plan for AMV implementation does not contain detailed policy actions that can promote women’s rights and gender justice throughout its nine clusters. National-level processes for the CMVs, AMGF and AMV Compact need to be more inclusive and participatory for women.</li> </ul>



	<ul style="list-style-type: none"> <li>• The AMV is still not well known, and lacks popular awareness among key stakeholders in the mineral sector.</li> <li>• AMV implementation mechanisms (CMVs, AMV Compact) are too state-centric, and civil society does not have adequate space to influence national-level processes. Free, public access to vital policy information on the mineral sector is not directly supported by the AMV.</li> <li>• Reliance on donor funding for the AMDC is not sustainable in the long term, and could lead to bias and further delays in AMV implementation.</li> <li>• The policy space for AMV implementation is threatened by existing national commitments under the WTO, Economic Partnership Agreements (EPAs), Free Trade Agreements (FTAs) and Bilateral Investment Treaties (BITs).</li> <li>• Sustainability of mineral-based development should be given more prominence. Long-term environmental and climate change implications of mineral extraction should be elevated in national AMV implementation, with integrated policy actions to build resilient, green economies.</li> <li>• Existence of multiple global and regional policy initiatives targeting mineral sector governance leads to poor coordination, duplication of resources and substantial costs of compliance for African countries.</li> </ul>
<i>Opportunities</i>	<ul style="list-style-type: none"> <li>• There is rising demand from AU member states for mineral sector policy alignment with the AMV. This will create national-level opportunities to address identified gaps in the AMV, CMVs, AMV Compact and AMGF.</li> <li>• Climate change is affecting the sustainability of mineral-based development in Africa. AMV should be forward-looking and actively promote diversification to more sustainable, green economies in its national implementation.</li> <li>• AMDC has made efforts to engage civil society on AMV implementation at the continental level. Such civic engagement should also be done at the sub-regional, national and local levels.</li> <li>• The AU is exploring alternative means of financing its operations as part of a broader reform process. AMDC could benefit from new, Africa-based sources of financing as it moves towards being fully governed and managed by the AU Commission.</li> <li>• There is growing international awareness and recognition of the AMV that could be leveraged by the AMDC and AU member states to build new development financing partnerships.</li> <li>• National implementation of the AMV should be coordinated with complementary governance initiatives for the mineral sector, to minimize duplication of resources and create the right set of incentives for its broad-based adoption.</li> <li>• AMV creates opportunities for African countries to coordinate at the sub-regional/REC level on shared issues such as: local content and value addition through the creation of regional mineral value chains; tax evasion and avoidance and illicit financial flows from the mineral sector; and climate change.</li> </ul>

## 4 CONCLUSION: FROM ASPIRATION TO REALITY

Africa is at a critical juncture in its development trajectory. The recent commodity supercycle created expectations of prosperity and transformation. At the end of this resource boom, Africa has not realized significant benefits. Rather, inequality, fragility, poverty and social dislocation are on the rise.

The Africa Mining Vision was formally launched eight years ago in 2009, to ensure that the continent uses its mineral resources strategically to attain broad-based, inclusive social and economic development. It embodies Africa's aspiration to move from a norm-taker to a norm-setter in the governance of its mineral sector, and to overcome the pessimism surrounding the continent's mineral resources. The analysis presented here shows that the AMV has specific weaknesses that should be addressed through its national implementation, in order to enhance its benefits for African citizens. In general, there is still a low awareness of the AMV and how it could transform the lives of millions of people living in resource-rich countries in Africa. Furthermore, its national implementation has been slow and not very inclusive of civic actors in the mineral sector.

Going forward, national implementation of the AMV should be more inclusive and participatory for all citizens; promote women's rights and gender justice; comply with global norms on corporate accountability and environmental sustainability; and maximize resource rents strategically by curbing tax avoidance, evasion, and all forms of illicit financial flows from the extractive sector, in order to set the continent on a clear path towards sustainable development. Without coordinated policy actions that target the identified gaps in the AMV and the challenges to its implementation, its laudable aspirations will not be achieved. Given the transformative potential of the AMV, it surely deserves more attention and commitment from all stakeholders in Africa's mineral sector.

## RECOMMENDATIONS

### To African Union (AU) member states:

- AU member states should expedite national implementation of the AMV by aligning mineral sector laws, policies and institutions with its provisions and derivative policy instruments, with the support of the AMDC, UNDP, AfDB and other continental institutions.
- AU member states should ensure that the national implementation of the AMV and its derivative policy instruments (CMVs, AMGF) is institutionalized through national multi-stakeholder bodies; and provide adequate resources for AMV implementation through allocations from the national budget for the mineral sector, or dedicated financing, such as a fixed proportion of income raised from mineral rights licensing.
- AU member states should ensure that national processes for the operationalization of the CMVs and AMGF are inclusive for all citizens, with full representation and inclusion of non-state actors – civil society, affected communities, artisanal and small-scale miners, trade unions and women – throughout the policy cycle.
- AU member states should ensure that national implementation of the AMV through the CMVs, AMGF and AMV Compact is consistent with normative instruments such as the Universal Declaration on Human Rights, the African Charter on Human and Peoples' Rights, the UN Guiding Principles on Business and Human Rights, the Maputo Protocol on Women's Rights, the Rio Declaration on Environment and Development, the African Commission on Human and Peoples' Rights (ACHPR) Resolution on a Human Rights-Based Approach to Natural Resource Governance and the UN and AU Anti-Corruption Conventions.
- AU member states should ensure that policy mechanisms derived from the AMV, and national implementation structures under the CMVs and AMGF adopt the principle of free, prior and informed consent (FPIC) for mining-affected communities.
- AU member states should stop the 'race to the bottom' by not offering discretionary tax incentives to mining companies, and subject all new tax incentives to rigorous economic and risk assessments (including their contribution to regional and global races-to-the-bottom). All incentives should be regularly reviewed to limit private long-term benefits and public harm, and tax exemptions should be phased out where there is no clear evidence that they are effective.
- AU member states should create national action plans to capture a larger share of resource rents and tackle tax avoidance and evasion by mining companies, and the abuse of tax havens, as part of the CMVs.
- AU member states should ensure that national revenue authorities are properly trained and well-resourced to efficiently play their role, and establish common guidelines and criteria for the circumstances under which tax incentives and exemptions are acceptable at the subregional (REC) and continental level, working in coordination with the RECs, African Tax Administrators Forum (ATAF), the AU, UNECA and AfDB.

- AU member states should implement the AU Assembly Special Declaration on Illicit Financial Flows based on the findings of the High-Level Panel on Illicit Financial Flows (IFFs) from Africa led by H.E. Thabo Mbeki, by introducing a clear definition of IFFs and guidelines to address IFFs included in mineral fiscal regimes consistent with the AMV.
- AU member states should ensure that environmental policies adopted under the CMVs address immediate and future disruptions caused by mineral extraction such as fair compensation and resettlement of mining-displaced communities consistent with the IFC Performance Standard 5 on land acquisition and involuntary resettlement.<sup>52</sup> CMVs should also include strong regulatory measures to address water conservation and acid mine drainage.
- AU member states should ensure the adoption of national laws in the CMVs and AMGF that support free, public access to information on mineral revenues, contracts and geological data such as Freedom of Information Acts and Public Interest Legislation, in order to improve transparency and accountability in AMV implementation.
- AU member states should explore the applicability of the AMV to oil and gas by leveraging on emerging opportunities for sector reform across the continent.
- AU member states should guarantee the sustainability of the AMDC by providing adequate funding through fixed budgetary contributions to the AU Commission, given the possible exit of AMDC donors in the medium term.
- AU member states should integrate AMV implementation with national development strategies and complementary mineral governance frameworks, to enhance policy coordination and unlock new sources of development financing.
- AU member states should ensure that mining projects, contracts and investment agreements are consistent with AMV provisions that support the development of linkages through local value addition, procurement of supply inputs, beneficiation and skills upgrading. They should coordinate at the sub-regional/RECs level to boost local value addition through the development of regional mineral value chains.
- AU member states should follow the recommendations of the AMV on artisanal and small-scale mining by formalizing and providing technical support to the ASM sector, and situating ASM in national poverty reduction strategies.
- AU member states should recognize the implications of climate change for mineral-based development, by anchoring AMV-aligned mineral sector policies in national development strategies that promote economic diversification and just transitions to green economies.

**To the African Minerals Development Centre (AMDC):**

- The AMDC should address the identified weaknesses in the AMV on civic space and social participation, women's rights and gender justice and environmental sustainability, in the process of national implementation by AU member states, to improve the AMV's effectiveness and overall impact on Africa's mineral sector.
- The AMDC should ensure that as the continental facilitator of CMV and AMGF processes, non-state actors at the local level – civil society, women, trade unions, ASM and affected communities – are fully integrated in their implementation and broader national decision making on AMV–mineral sector policy alignment.

- Although AMV national implementation is designed to be demand-driven, AMDC should reach out to countries that require support for mineral sector reforms, by leveraging on its mandate as an AU specialized agency, the technical partnerships with other continental policy institutions (AfDB, UNECA and UNDP) and building stronger relationships with civil society.
- The AMDC should invest in popular campaigns and awareness-raising initiatives on the AMV to build public support and buy-in for its national implementation. It should collaborate with civil society as an equal partner and stakeholder in building popular awareness of the AMV.
- The AMDC should work with the AU Commission, RECs, the African Tax Administrators' Forum (ATAF), UNECA and AfDB to support AU member states on the coordination of tax policies, and particularly the coordinated design of mineral sector fiscal regimes that are consistent with the AMV.
- The AMDC should work with the AU Commission, RECs, UNECA and AfDB to ensure that AU member states implement the AU Assembly Special Declaration on Illicit Financial Flows based on the findings of the High-Level Panel on Illicit Financial Flows (IFFs) from Africa led by H.E. Thabo Mbeki, by introducing a clear definition of IFFs and guidelines to address IFFs included in mineral fiscal regimes consistent with the AMV.
- The AMDC should explore synergies with complementary mineral sector governance initiatives for the national implementation of the AMV, to enhance policy coordination and as a strategy to diversify sources of financing.
- The AMDC should create more space and flexibility for AU member states to design local content and beneficiation policies under the CMVs, by coordinating with the RECs to provide technical advice on the implications of AU member states' commitments to trade and investment treaties for mineral sector development.
- The AMDC should highlight the implications of climate change for mineral-based development in its engagement with AU member states and RECs, and promote just transitions to green economies as part of CMV implementation.

#### **To the private sector:**

- Companies operating in Africa's mineral sector should institute policies that comply with the provisions of the AMV on human rights, corporate accountability, gender justice, social and environmental impacts, as stakeholders in its implementation and parties to the AMV Compact.
- Companies operating in Africa's mineral sector should participate in the implementation of the AMV Compact, and support regional and national actions to adopt the UN Guiding Principles on Business and Human Rights.
- Companies operating in Africa's mineral sector should ensure that the civil, sociocultural and economic rights of affected communities are upheld and respected in mining sector operations. The principle of free, prior and informed consent should be applied in communities affected by mining, as recognized by the AMV and the African Charter on Human and Peoples' Rights.
- Companies operating in Africa's mineral sector should respect the AMV's guidelines on tax evasion and avoidance by ensuring that they pay the right amount of tax in their host countries, and stop the use of aggressive tax planning, including the abuse of tax havens, to reduce their tax liabilities to African governments.

- Companies operating in Africa’s mineral sector should publish all tax incentives, reliefs and rulings currently enjoyed in any jurisdiction where they operate – ranging from investment certificates granting tax holidays, to company-specific tax rulings – and the impact of each on the company’s tax charge and commit not to request or use company-specific tax incentives.
- Companies operating in Africa’s mineral sector should publish country-by-country information on the turnover, assets, full-time employees, profits and tax payments in each country in which they operate. They should publicly disclose information about beneficial ownership, company structure and purpose.
- Companies operating in Africa’s mineral sector should show their commitment to promoting gender justice and women’s rights by participating in the national and regional gender charters for the mineral sector, as prescribed by the AMV.
- Companies operating in Africa’s mineral sector should ensure full compliance with the AMV and national standards on the social, health and environmental impacts of mining, fair compensation and resettlement of mining-displaced communities. They should comply with the IFC Performance Standard 5 on land acquisition and involuntary resettlement. Companies should also introduce robust measures to address water conservation and acid mine drainage caused by mining operations.
- Companies operating in Africa’s mineral sector should ensure compliance with national laws and regulations that implement the AMV’s provisions on local value addition, input sourcing and procurement and skills building.

#### **To African civil society:**

- Civil society should proactively engage in policy advocacy, research and analysis of the AMV, focused on improving civic space and social participation, women’s rights and gender justice, and environmental sustainability, in order to elicit policy reforms by African governments and the Pan-African policy institutions to address the shortcomings in the framework.
- Civil society should create popular campaigns to raise awareness of the AMV and its benefits to African citizens and mining-affected communities, to ensure that the interests of non-state actors are addressed in the CMVs. It should explore strategic partnerships with the AMDC, UNDP and other Pan-African institutions to boost multi-level engagement with the implementation of the AMV.
- Civil society should monitor implementation of the AMV at the country, regional and continental levels to ensure that non-state actors are fully integrated in policy processes, and that AMV implementation (through the CMVs, AMGF and AMV Compact) is consistent with normative instruments such as Universal Declaration of Human Rights, the African Charter on Human and Peoples’ Rights, the UN Guiding Principles on Business and Human Rights, the Maputo Protocol to the African Charter on Women’s Rights, the Rio Declaration on Environment and Development, the African Commission on Human and Peoples’ Rights (ACHPR) Resolution on a Human Rights-Based Approach to Natural Resource Governance and the UN and AU Anti-Corruption Conventions.
- Civil society should monitor the compliance of governments and private sector companies with the AMV’s guidelines on tax avoidance and evasion, including the abuse of tax havens, in order to curb illicit financial flows from the mineral sector.

- Civil society should work with the AMDC, UNECA, AfDB, RECs and other multilateral actors to ensure that AU member states implement the AU Assembly Special Declaration on Illicit Financial Flows based on the findings of the High-Level Panel on Illicit Financial Flows (IFFs) from Africa led by H.E. Thabo Mbeki, by introducing a clear definition of IFFs and guidelines to address IFFs, included in mineral fiscal regimes consistent with the AMV.
- Civil society should monitor the compliance of governments, private sector and multilateral actors in the mineral sector in adopting the principle of free, prior and informed consent (FPIC) for mining-affected communities, in accordance with the AMV and the African Charter on Human and Peoples' Rights.
- Civil society should lobby for the adoption, in the CMVs and AMGF, of national laws that support free, public access to information on mineral revenues, contracts and geological data such as Freedom of Information Acts and Public Interest Legislation, in order to improve transparency and accountability in the national implementation of the AMV.
- Civil society should monitor the adherence of companies operating in the mineral sector to national laws and regulations that implement the AMV's provisions on local value addition, input sourcing and procurement and skills building.
- Civil society should focus more on the implications of climate change for mineral-based development in Africa, using the AMV as an entry-point for a broader dialogue with African governments and the private sector on diversification away from mineral dependence and a just transition to green economies.

## ANNEX: LIST OF ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
ACP	African, Caribbean and Pacific countries
AfDB	African Development Bank
AMDC	African Minerals Development Centre
AMGF	African Mineral Governance Framework
AMGI	African Mineral Geoscience Initiative
AMLA	African Mining Legislation Atlas
AMV	Africa Mining Vision
APRM	African Peer Review Mechanism
ASM	Artisanal and small-scale mining
ATAF	African Tax Administrators Forum
AU	African Union
BIT	Bilateral Investment Treaty
BRICS	Brazil, Russia, India, China, South Africa
CASM	Communities and Small Scale Mining Africa Initiative
CMV	Country Mining Vision
COMESA	Common Market for East and Southern Africa
CONNEX	G7 Initiative on Strengthening Assistance for Complex Contract Negotiations
CSO	Civil society organization
DC	Development corridors
EAC	East African Community
ECOWAS	Economic Community of West African States
EITI	Extractive Industries Transparency Initiative
EPA	Economic Partnership Agreement
ESIA	Environmental and social impact assessment
EU	European Union
FDI	Foreign direct investment
FPIC	Free, prior, and informed consent
FTA	Free trade agreement
HIA	Health impact assessment
ICGLR	International Conference of the Great Lakes Region
ICIJ	International Consortium of Investigative Journalists
ICMM	International Council on Mining and Metals
IFC	International Finance Corporation



IFFs	Illicit financial flows
ILO	International Labour Organization
IMF	International Monetary Fund
ISG	International Study Group
LVMM	Low value minerals and materials
MEM	Ministry of Energy and Mining
MMP	Mining and Minerals Policy
MVM	Mineral Value Management tool
NDC	Nationally determined contribution
NEPAD	New Partnership for Africa's Development
OECD	Organisation for Economic Cooperation and Development
RECs	Regional economic communities
RMV	Regional Mining Vision
SADC	Southern Africa Development Community
SARW	Southern Africa Resource Watch
SDGs	Sustainable Development Goals
SDIs	Spatial development initiatives
SESA	Strategic environmental and social assessments
SWFs	Sovereign wealth funds
UEMOA	Union Economique et Monétaire Ouest Africaine
UN	United Nations
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
WEF	World Economic Forum
WTO	World Trade Organization

# NOTES

- 1 Oxfam (2015). *Community Consent Index 2015: Oil, Gas and Mining Company Public Positions on Free, Prior, and Informed Consent*, [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp207-community-consent-index-230715-en.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp207-community-consent-index-230715-en.pdf).

Oxfam defines free, prior, and informed consent (FPIC) as ‘the principle that indigenous peoples and local communities must be adequately informed about projects that affect their lands in a timely manner, free of coercion and manipulation, and should be given the opportunity to approve or reject a project prior to the commencement of all activities’. The exclusion of local communities and indigenous peoples from decision making on the extraction of minerals from their territories, and failure of governments and mining companies to secure genuine community participation and consent for extractive activities is one of the key drivers of conflict in resource-rich countries. FPIC is recognized as a right for indigenous peoples under international and regional laws. It is emerging as global best practice for addressing the local impacts of natural resource extraction by ensuring the full participation, consent and legitimacy of mining projects in local communities.

- 2 C. Godfrey (2015). *Africa: Rising for the Few*. [https://www.oxfam.org/sites/www.oxfam.org/files/world\\_economic\\_forum\\_wef.africa\\_rising\\_for\\_the\\_few.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/world_economic_forum_wef.africa_rising_for_the_few.pdf) Oxfam, and Budget Advocacy Network and National Advocacy Coalition on Extractives, Tax Justice Network-Africa, IBIS, Christian Aid and Action Aid (2014). ‘Losing Out: Sierra Leone’s Massive Revenue Losses from Tax Incentives’, <http://www.christianaid.org.uk/images/Sierra-Leone-Report-tax-incentives-080414.pdf>.

Africa’s extractive sector is the site of a massive transfer of financial resources from the continent lost to unfair mining deals, overly generous tax incentives handed out by governments to promote mining investments, and aggressive tax planning by extractive companies to evade paying the right share of tax. Africa lost US\$11bn in 2010 alone due to trade mispricing by multinational companies operating in the mineral sector. In 2012, Sierra Leone’s tax incentives for just six firms were equivalent to 59 percent of the country’s entire budget; more than eight times the spending on health and seven times the spending on education.

- 3 ‘Mineral’ as used in this context broadly covers solid minerals (ores, gems, metals, phosphates and industrial minerals) and hydrocarbons (crude oil and natural gas). ‘Natural resources’ refer to minerals/non-renewable or exhaustible natural resources, and not renewable natural resources (e.g. solar energy and biofuels).
- 4 The contrast between natural resource abundance and poverty in resource-rich developing countries inspired narratives of a ‘natural resource curse’ within international development theory. The term was formally coined by British economist Richard Auty (1993). *Sustaining Development in Mineral Economies: The Resource Curse Thesis*. London: Routledge. Formal economic models of the natural resource curse explain the contrast between resource abundance and slow economic growth, typically found in Africa’s mineral-dependent economies, due to a combination of macroeconomic, political and institutional factors. However, contemporary views such as, P. Stevens, G. Lahn and J. Kooroshy (2015). *The Resource Curse Revisited, Energy, Environment and Resources*. Research Paper. Chatham House. August 2015. [https://www.chathamhouse.org/sites/files/chathamhouse/field/field\\_document/20150804ResourceCurseRevisitedStevensLahnKooroshy\\_0.pdf](https://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20150804ResourceCurseRevisitedStevensLahnKooroshy_0.pdf), question the inherent reductionism in resource curse theory and argue that country contexts and institutions play a central role in determining the long-term outcome of resource-based development. Pointing to notable exceptions such as Botswana, Chile, and Malaysia, it is argued that ‘natural resources provide poor countries with a significant development opportunity, although there are structural risks associated with growth policies based on the extraction, monetization and domestic consumption of natural resources.’
- 5 African Union and United Nations Economic Commission for Africa (2015). *Report of the High-Level Panel on Illicit Financial Flows from Africa*. February 2015. [http://www.uneca.org/sites/default/files/PublicationFiles/iff\\_main\\_report\\_26feb\\_en.pdf](http://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf)
- 6 S. Shane (2016). Panama Papers Reveal Wide Use of Shell Companies by African Officials. *New York Times*. 25 July 2016. <http://www.nytimes.com/2016/07/25/world/americas/panama-papers-reveal-wide-use-of-shell-companies-by-african-officials.html>
- 7 World Bank (2016). World Development Indicators Database, <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=ZG>. 2000–2011 data on GDP growth rates for sub-Saharan Africa in percent.
- 8 K. Beele, L. Christiaensen, A. Dabalen and I. Gaddis (2016). *Poverty in a Rising Africa*. Washington, D.C.: The World Bank. <https://openknowledge.worldbank.org/handle/10986/22575> License: CC BY 3.0 IGO
- 9 School of Mining Engineering and Centre for Sustainability in Mining and Industry (CSMI), University of the Witwatersrand (2012). *EI Sourcebook – Resources Corridors: Experiences, Economics and Engagement; A Typology of Sub-Saharan African Corridors*. <http://www.eisourcebook.org/cms/files/EISB%20Resources%20Corridors.pdf>
- 10 International Monetary Fund (2015). *Where are Commodity Exporters Headed? Output Growth in the Aftermath of the Commodity Boom*. World Economic Outlook. October 2015. <https://www.imf.org/external/pubs/ft/weo/2015/02/pdf/c2.pdf>
- 11 World Bank (2016). *Global Economic Prospects: Sub-Saharan Africa*. January 2016. Washington, D.C.: The World Bank. <https://www.worldbank.org/content/dam/Worldbank/GEP/GEP2016a/Global-Economic-Prospects-January-2016-Sub-Saharan-Africa-analysis.pdf>

- 12 D. Pilling (2016). Bad Times send African borrowers back to the IMF, *Financial Times*, 11 May 2016, <https://next.ft.com/content/922195fa-175d-11e6-9d98-00386a18e39d>, and P. Fabricius (2016). *The Resource Curse Comes to Mozambique*. Institute for Security Studies (ISS) Weekly. 9 June 2016. <https://www.issafrica.org/iss-today/the-resource-curse-comes-to-mozambique>. In the case of Mozambique, the discovery of over US\$1.4bn in 'hidden debts' to state-backed companies led to a suspension of the IMF loan agreement
- 13 King and Wood Malleasons (2016). *Made in Africa: Exploring International and Local Legal Considerations for Investors in, and from Africa*, Issue 15 July 2016, [http://www.kwm.com/~/\\_media/SjBerwin/Files/PDF/2016/07/18/KWM-Made-In-Africa-Issue-15\\_b.pdf](http://www.kwm.com/~/_media/SjBerwin/Files/PDF/2016/07/18/KWM-Made-In-Africa-Issue-15_b.pdf)
- 14 Third World Network Africa (2016). Ghana Government's Development Agreements with Goldfields Illegal. <http://twnafrica.org/Goldfields%20development%20agreement%20with%20Ghana%20illegal-pr-2016.pdf> and O. H. Fjeldstad, C. Fundanga and L. Rakner (2016). *The Rise and Fall of the Mining Royalty Regime in Zambia*. CMI Brief 15:2. Bergen: Chr. Michelsen Institute <http://www.cmi.no/publications/file/5730-the-rise-and-fall-of-the-mining-royalty-regime-in.pdf>.
- There is growing evidence of an ongoing race-to-the-bottom in Africa's mineral sector. In Ghana, a mining agreement between Goldfields, a South African mining firm, and the government of Ghana for the Tarkwa and Damang gold mines was heavily criticized by civil society and declared illegal under the country's Minerals and Mining Act (2006) because it gave Goldfields a lower corporate tax and royalty rate than that set out in the legislation, on the basis of applying a fiscal stability clause, which is ordinarily reserved for new investments. There was no indication that Goldfields would be making a significant investment of over US\$500m, which could attract a reduction in its fiscal obligations. Zambia has also revised its mining regime six times in the last eight years, successively tinkering with corporate income taxes and royalty rates. The latest revision was in April/May 2016 as mines threatened to close down.
- 15 Data from the Armed Conflict Location and Event Data Project (ACLED) <http://www.crisis.acleddata.com/resource-related-conflict-in-africa/>
- 16 H. Besada and P. Martin (2013). *Mining Codes in Africa: Emergence of a Fourth Generation?*. North-South Institute Research Report. May 2013. <http://www.nsi-ins.ca/wp-content/uploads/2013/03/Mining-Codes-in-Africa-Report-Hany.pdf>. The study traces the evolution of mining regimes in Africa, which are seen to have gone through four waves of liberalization since the 1980s, conforming to neoliberal policies to attract foreign investors and to meet the conditionalities set by the International Financial Institutions (IFIs) for development assistance while constraining the space available to the state to foster the creation of local value through mineral-based development. The most recent wave of mining reforms seek to increase compliance and consistency between the regulation of Africa's mining sector and transnational normative frameworks on transparency and (good) governance.
- 17 The narrative of a transition to a *regime of responsibility* in the governance of Africa's extractive sector was adopted by G. M. Khadiagala, (2014). *Global and Regional Mechanisms for Governing the Resource Curse in Africa*, Southern African Resource Watch Resource Insight, Issue #12, July 2014. <https://eiti.org/files/Global%20and%20Regional%20Mechanisms%20Resource%20Governance%20Africa.pdf>
- 18 African Union (2009). *Africa Mining Vision*. Addis Ababa: African Union Commission and United Nations Economic Commission for Africa.
- 19 E. Berkhout (2016). *Tax Battles: The Global Race to the Bottom on Corporate Tax*. Oxfam. <https://www.oxfam.org/sites/www.oxfam.org/files/bp-race-to-bottom-corporate-tax-121216-en.pdf>. The report cites several examples of African governments being pressured to maintain tax incentives for extractive companies. 'In October 2014, the government of Zambia introduced a bill that would increase its royalties on copper and other minerals. The representative organization Chamber of Mines of Zambia warned that it would hurt investment; Glencore PLC, First Quantum Minerals Ltd. and Barrick Gold Corp all threatened to close their operations or stop investments. After talks with the companies in 2015, the government dropped the new bill and replaced it with a sliding-scale royalty system that has much lower rates. In 2007, the Nigerian government introduced a draft petroleum industry bill, proposing a new 10 percent tax on profits to go to local communities, and an increase in royalty rates. The legislative ratification of the draft bill met heavy resistance and was delayed for several years. In 2014, the finance minister claimed that the delays were due to intensive lobbying by interest groups. In 2016, the government announced it would split the bill into three sections to speed up the process. The bill has not yet passed. In 2011, the government of Ghana announced that it was planning to reintroduce a windfall tax on mining profits. It was badly received by mining companies operating in the country, and the Ghana Chamber of Mines publicly opposed it. Despite this resistance, the tax was brought before parliament in November 2013. However, in 2014, it was put on hold. Later, the president claimed that the mining companies did not allow the government to implement the tax because they threatened to fire employees or move elsewhere.'
- 20 There is a need to widen the tax base through encouraging secondary industries related to extractives. For example, Local Content Provisions in countries such as Nigeria, Ghana, and Angola have been used to stimulate domestic participation in the oil and gas industry by providing specialized services and equipment (e.g. locally fabricated pipes, provision of marine vessels for lifting oil cargos, etc.) to larger multinational oil and gas companies. If properly harnessed, local content policy can drive innovation by local manufacturers, create more jobs (particularly for women), and be scaled upwards at the regional level to create pooled infrastructure and industrial value chains. It is important, nonetheless, to ensure that local content policies are not another avenue to distribute state patronage to political elites, and that women-owned business benefit from

these policies.

- 21 Africa Progress Panel (2013). *Equity in Extractives: Stewarding Africa's Natural Resources for All*. [http://africaprogresspanel.org/wp-content/uploads/2013/08/2013\\_APR\\_Equity\\_in\\_Extractives\\_25062013\\_ENG\\_LR.pdf](http://africaprogresspanel.org/wp-content/uploads/2013/08/2013_APR_Equity_in_Extractives_25062013_ENG_LR.pdf).
- 22 Africa Confidential (2016). Africa Probes the Panama Connection. [http://www.africa-confidential.com/article/id/11619/Africa\\_probes\\_the\\_Panama\\_connection](http://www.africa-confidential.com/article/id/11619/Africa_probes_the_Panama_connection), April 15, 2016.
- 23 Revenue Watch (2009). *Getting a Better Deal from the Extractive Sector: concession negotiation in Liberia 2006-08*. <http://www.resourcegovernance.org/sites/default/files/RWI-Getting-a-Better-Deal-final0226.pdf>
- 24 African Union (2014). *Agenda 2063: The Africa We Want, Popular Version*. <http://archive.au.int/assets/images/agenda2063.pdf>. The Agenda 2063 is a long-term development framework developed by the African Union that seeks to transform Africa into a strong, resilient, prosperous player on the global stage. It sets out seven overarching aspirations and provides strategies for their attainment, in the following areas: inclusive, sustainable development; regional integration; democracy and the rule of law; peace and security; strong cultural identity; people-centred development; and strong global role and influence for Africa. The Agenda 2063 is seen as the regional counterpart to the global Sustainable Development Goals (SDGs).
- 25 African Union (2009). Africa Mining Vision. [http://www.africaminingvision.org/amv\\_resources/AMV/Africa\\_Mining\\_Vision\\_English.pdf](http://www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf). The full list and description of initiatives that informed the development of the Africa Mining Vision can be found in its appendix.
- 26 African Union (2014). *Agenda 2063: The Africa We Want*. Op. cit. See p. 18 on the call to action, and the role of domestic resource mobilization from various sources, including the extractive sector.
- 27 African Union (2009). Africa Mining Vision. pp. 15–30.
- 28 The African Peer Review Mechanism (APRM) is a self-assessment tool introduced by AU member states in 2003 to monitor governance in the political, economic and corporate arenas. The APRM adopts the method of peer review and peer learning to encourage countries to conform to normative principles to enhance political, social and economic development. While its objectivity and efficacy as a governance instrument has been questioned, the APRM has the political backing of Africa's leaders, and receives funding from the AU. There have been recent attempts to extend the areas monitored by the APRM to extractive industries governance, and assessment questions have been developed by the APRM Secretariat for this purpose.
- 29 African Union (2009). Africa Mining Vision p.45. The AMV notes that under the SDI, the 1995 Maputo Development Corridor between South Africa and Mozambique generated over US\$5bn in private sector investments in regional infrastructure, industrial development, and natural resource extraction and beneficiation.
- 30 African Union (2009). Africa Mining Vision p. 26.
- 31 African Minerals Development Centre (2015). African women in artisanal and small-scale mining: A Special Report. [http://www.uneca.org/sites/default/files/PublicationFiles/women\\_in\\_artisanal\\_and\\_small\\_scale\\_minig2015\\_en.pdf](http://www.uneca.org/sites/default/files/PublicationFiles/women_in_artisanal_and_small_scale_minig2015_en.pdf)
- 32 Oxfam (2016). Scoping Study of the Mineral Extractive Sector in Zambia. Internal report on extractive industries programme development prepared by J.A. Consultancy Services, Lusaka.
- 33 African Union (2009). Africa Mining Vision p. 26.
- 34 The Yaoundé Vision on Artisanal and Small Scale Mining (ASM), which was adopted in November 2002, is one of the main blueprints for the development of ASM in Africa. It recognizes the role of ASM as a poverty driver and poverty alleviator, and calls for its integration in local and regional economic development and poverty reduction strategies, and in mining codes and laws.
- 35 African Union (2014). *Report on the Proposed Concept/Structure of the African Minerals Development Centre*. Department of Trade and Industry. [http://www.au.int/en/sites/default/files/newsevents/conceptnotes/14601-cn-ti12932\\_e\\_original\\_docx\\_rev\\_final.pdf](http://www.au.int/en/sites/default/files/newsevents/conceptnotes/14601-cn-ti12932_e_original_docx_rev_final.pdf)
- 36 Africa Mining Vision Implementation Action Plan (2011), p. 10.
- 37 African Union (2009). Africa Mining Vision, pp. 31–8.
- 38 J. Page and A. Shimeles (2015). Aid, Employment and Poverty Reduction in Africa, *African Development Review* 27 (1), pp. 17–30, <http://onlinelibrary.wiley.com/doi/10.1111/1467-8268.12136/full>, October 2015. The authors find no evidence of long-term structural change in Africa's manufacturing sector since 1995, and a weak export sector that is not integrated in global value chains. In 2010, manufacturing contributed to less than 10% of Africa's GDP. They further argue that Africa depends too much on development assistance to fund its development policies and budgets, and aid has not been effectively used to drive structural change, including job creation.
- 39 See for instance, I. Ramdoo (2015). *Resource Based Industrialisation in Africa: Optimising Linkages and Value Chains in the Extractive Sector*. European Centre for Development Policy Management Discussion Paper No. 179. September 2015. <http://ecdpm.org/wp-content/uploads/DP-179-Resource-Based-Industrialisation-Africa-September-2015-ECDPM.pdf>. The paper argues that industrialization is imperative for Africa's transformation. Africa's participation in global value chains has been inadequate, but this is a necessary requirement for successful resource-based industrialization, which depends on the realization of various linkages related to the mineral sector. There are signals that African countries are being more strategic in crafting trade and industrial

- policies. Tanzania and Nigeria recently backed out of Economic Partnership Agreements (EPAs) between the EU and Regional Economic Communities in East and West Africa, due to the rules that would give tariff-free access for about 80% of EU exports into African markets. Both countries have launched ambitious industrialization plans that involve the protection of local industry, and there are concerns that such free trade deals will undermine intra-African trade.  
<http://www.thisisafricaonline.com/News/Tanzania-Nigeria-and-the-EU-Free-trade-discord>.
- 40 S. Shane (2016). African Union and United Nations Economic Commission for Africa (2015). Op cit.
  - 41 Oxfam (2016). Putting Citizens' Voice at the Centre of Development: Challenging Shrinking Civic Space across Africa, [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/oxfam-policy-brief-civil-society-nov16\\_en.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/oxfam-policy-brief-civil-society-nov16_en.pdf), and CIVICUS (2016). Civic Space: Rights in Retreat, Civil Society Fighting Back, State of Civil Society Report 2016, [http://www.civicus.org/documents/reports-and-publications/SOCS/2016/summaries/YIR\\_Civic-Space.pdf](http://www.civicus.org/documents/reports-and-publications/SOCS/2016/summaries/YIR_Civic-Space.pdf). There is evidence of shrinking civil society space across Africa. Oxfam research shows that 29 restrictive laws on civic space were introduced by African governments between 2012 and 2016. Governments have used public order and non-government organization laws to clamp down on rights to free speech and assembly. In other cases restrictions have been placed on the funding structure and operations of civil society organizations. Governments have also used anti-terror legislation to suppress public criticism and political dissent.
  - 42 Acid mine drainage (AMD) refers to the creation of acidic water through natural chemical processes, when sulphide minerals are exposed to air and water. It is typically associated with mining due to the high levels of rock exposure to air and water, and the high levels of sulphur found in most metal and coal deposits. AMD leads to mine water pollution, which must be treated before disposal, and could prevent environmental reclamation after the end of mining by obstructing the growth of plants and vegetation. AMD causes higher levels of acidity and dissolved metals in water bodies, which destroys aquatic life and ecosystems, and poisons water sources used by communities living close to mines. In Africa, AMD has not received much attention from governments and mining companies. However, there is a need to design and enforce strong regulations for mining companies to prevent AMD during and after the mining life cycle.
  - 43 C. Pettengell (2015). *Africa's Smallholders Adapting to Climate Change: The Need for National Governments and International Climate Finance to Support Women Producers*. Oxfam. [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bn-african-smallholders-climate-change-141015-en.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bn-african-smallholders-climate-change-141015-en.pdf). Climate change is affecting rain-fed agriculture and food security in Africa, and smallholder farmers, especially women, are worst hit, given the high dependence of food production on the weather. See also G. C. Acharya (2015). Those who contributed the Least to Climate Change are now fighting for Survival. *The Guardian*. 2 December 2015. <https://www.theguardian.com/global-development/2015/dec/02/climate-change-paris-talks-those-who-contributed-least-fighting-for-survival>.
  - 44 In 2015 and 2016, extreme weather events caused a severe humanitarian crisis in Africa. More than 50 million people face food shortages across Eastern, the Horn and Southern Africa due to poor harvests and extreme El Niño weather. In East and Southern Africa, some one million children already require treatment for severe acute malnutrition due to El Niño-linked drought. <https://blogs.oxfam.org/en/blogs/16-09-22-el-nino-humanitarian-crisis-didnt-have-be>
  - 45 African Minerals Development Centre (2014). *A Country Mining Vision Guidebook: Domesticating the Africa Mining Vision*. [http://www.uneca.org/sites/default/files/PublicationFiles/country\\_mining\\_vision\\_guidebook.pdf](http://www.uneca.org/sites/default/files/PublicationFiles/country_mining_vision_guidebook.pdf)
  - 46 Excerpt from V. Bosco (2014). *The Africa Mining Vision and Country Mining Visions*. Ethiopia Extractive Industries Forum, 7–8 October 2014. Addis Ababa. [http://www.worldbank.org/content/dam/Worldbank/Event/Africa/Ethiopia%20Extractive%20Industries%20Forum%202014/9\\_AMV.pdf](http://www.worldbank.org/content/dam/Worldbank/Event/Africa/Ethiopia%20Extractive%20Industries%20Forum%202014/9_AMV.pdf). See also K. Busia (2015). *The Africa Mining Vision and Country Mining Visions: Mainstreaming Mineral Resources for Development*. High Level Expert Group Meeting, 24 February 2015. New York. <http://www.un.org/en/africa/osaa/pdf/events/20150224/busia.pdf>
  - 47 V. Bosco (2014), and K. Busia (2015). Ibid.
  - 48 K. Busia (2015). Op. cit., and Tax Justice Network Africa (2015). *Africa Mining Vision Mapping Analysis Research: The Case of Ghana and ECOWAS, Tanzania and EAC, Zambia and SADC*. Nairobi: Tax Justice Network Africa.
  - 49 African Union (2016). *The Africa Mining Vision: African Mineral Governance Monitoring Framework (AMGF)*. Addis Ababa: African Minerals Development Centre.
  - 50 United Nations Economic Commission for Africa (2016). *Africa Mining Vision: A Compact between Business and Governments*. 5 February 2016. <http://www.uneca.org/stories/africa-mining-vision-compact-between-business-and-governments>
  - 51 African Union Commission and African Minerals Development Centre (2015). *Africa Mining Vision: Looking Beyond the Vision: An AMV Compact with Private Sector Leaders*. Addis Ababa: African Union Commission.
  - 52 The IFC Performance Standards on Environmental and Social Sustainability [https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC\\_Performance\\_Standards.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES) are a set of eight global standards for the management of environmental and social risks of large-scale development projects, including oil, gas and mining projects. IFC client/borrower countries and financial intermediaries in the private sector are expected to apply the Standards in project design and implementation. Performance Standard 5 gives detailed guidance on remedial measures to be taken to address the wide-ranging adverse impacts of the acquisition of land for development projects, or restriction of land use on communities and individual livelihoods.

'Involuntary resettlement' is defined as 'physical displacement (relocation or loss of shelter) and economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood), as a result of project-related land acquisition and/or restrictions on land use.'



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