

REGULATORY PROVISION: ADDRESSING THE COMMUNITY ENGAGEMENT IN NIGERIA MINING SECTOR

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PRESENTATION OUTLINE

1.0 Introduction

2.0 Regulatory Provisions

3.0 Community Engagements

- Avenues for Community Engagements
- Issues in Community Engagements
- Addressing the Issues in Community Engagements.

4.0 Conclusion

1.0 INTRODUCTION

- Nigeria is endowed with abundance of mineral resources, spread across the 36 States of the Federation, including the Federal Capital Territory (FCT)
- The exploration and exploitation of the mineral resources are controlled by the Nigerian Minerals and Mining Act (NMMA), 2007; the Nigerian Minerals and Mining Regulations 2014 and other auxiliary Environmental Laws.

1.0 REGULATORY PROVISIONS

○ **1.1 CONTROL OF MINING AND MINERALS IN NIGERIA**

- Mines and minerals are item 39 in the 2nd schedule of the 1999 Constitution of the Federal Republic of Nigeria (FRN), as amended captioned “exclusive legislative list”.
- Section 2 (1) of the NMMA, 2007 prohibits the exploration and mining in Nigeria without authority (permits/licenses).
- In Nigeria, the use of land for mining activities has priority over other uses of land.
- Licenses are granted by Mining Cadastre Office (MCO) on “First come, first served” basis.
- Section 9 of NMMA, 2007 also allows competitive bidding for some exploration licenses and mining leases to promote the expeditious and beneficial development of the mineral resources w.r.t the magnitude of the proposed programme of activities, financial and technical resources and experience of the applicants in mining.

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- **1.2 PRE-CONDITIONS FOR COMMENCEMENT OF MINING DEVELOPMENT AND OTHER OBLIGATIONS OF MINERAL TITLE HOLDERS**
- **1.2.1 Submission of Statutory Documents**
 - Environmental Impact Assessment (EIA)/ ESIA
 - Community Development Agreement (CDA)
 - Environmental Protection and Rehabilitation Programme (EPRP)
 - Annual Reclamation Statement (ARS)
 - Fuel Storage Plan (FSP)
 - Minimum Work Programme (MWP)

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1.3.2 Other Obligations

- Acquire and maintain a valid mineral title.
- Pay prescribed royalties for mineral exploited.
- Compensation to all users of land within the mining lease or mineral title area.
- Carryout mining operations in a skillful and efficient manner.
- Maintain the mining lease area and mining operations in a safe manner in compliance with the NMMR, 2011.
- Reclaim or rehabilitate mined out area.
- Make provision for environmental protection and rehabilitation programme.

3.0 COMMUNITY ENGAGEMENT

- Community are often engaged through the following stages:
 - Information
 - Sensitization
 - Consultation
 - Partnership
- Each of the above stages can be effective depending on the prevailing circumstance.

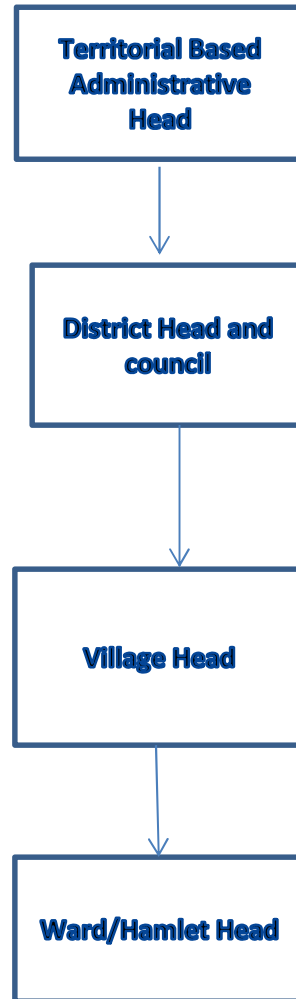


Figure 1: Political and Administrative Institutions in Nigeria

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3.1 AVENUES FOR COMMUNITY ENGAGEMENT

- The communities are usually engaged in mining during the following activities:
 - **Community Consent for the use of land for mining**
 - **Environmental Impact Assessment (EIA)/ ESIA**
 - **Community Development Agreement (CDA)**
 - **Planning for the payment of compensation**

3.1.1 Community Consent

- Community Consent for land is usually facilitated by the Village heads, Local Government Authorities and the State Mineral Resources and Environmental Management Committee.
- It is a prerequisite for the grant of mineral title.
- It is given by the land owner

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3.1.2 Community Engagement During EIA Process.

- It takes place throughout all the stages of EIA process.
- More pronounced during the public review of the draft EIA report.

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3.1.2 Community Engagement During CDA Process.

- CDA is a formal Memorandum of Understanding (MoU) signed between the Mining Company and the host Community for the purpose of transferring some socio-economic benefit to the Community from the profit made from mining project.
- The process entirely involves full and active participation of the Community
- Section 117 of the NMMA, 2007 provides that the CDA shall:
 - **specify appropriate consultative and monitoring frameworks between the Mineral Title Holder and the host community; and**
 - **the means by which the community may participate in the planning, implementation, management and monitoring of activities carried out under the agreement.**

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3.2 Issues in Community Engagements

- The following are typical issues during community engagement:
 - Plural societies and conflict of interests
 - Negotiation issues
 - Traditions
 - Externality

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3.3 ADDRESSING THE ISSUES IN COMMUNITY ENGAGEMENTS.

- Minister as the arbitrator of all conflicts arising from CDA (section 116(4)) .
- CDAs are co-ordinated by the Mines Environmental Compliance (MEC) Department of the Ministry of Mines and Steel Development. The Dept. sensitizes the Communities and witnesses the negotiations and signing of CDA as well as monitoring of CDA projects.
- MIREMCO established by section 19 of the NMMA, 2007 also assist in effective resolution of CDA related disputes as well as aid effective community engagements.
- There are now greater synergy between the 3 tiers of governments in Nigeria with the instrumentality of MIREMCO.

4.0 CONCLUSION

Nigeria has adequate mechanisms for effective community engagement for sustainable mineral resources development . Investors are urged to explore the mineral endowment in Nigeria.

Come one, come all.