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SAUDI ARABIA, ETHIOPIA AND EGYPT – NAVIGATING THE LEGAL MINEFIELD

By Rachel Speight and Jayne Backett

The mineral wealth of the Kingdom of Saudi Arabia, Egypt and Ethiopia is undisputedly vast. These countries are situated on the Arabian Nubian Shield which is geologically resource rich. The challenges do not lie so much in the discovery of natural resources, they lie in navigation of the legal and political systems within these territories and circumvention of the risks associated with investing in projects in the often volatile region of Northern Africa. This article outlines the legal framework in place for mining in these three jurisdictions.

Saudi Arabia

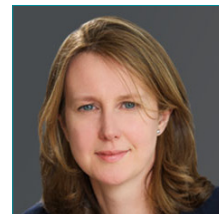
Whilst hydrocarbons and petrochemicals have, to date, dominated the economy in Saudi Arabia, the Saudi government has, in recent years, been prioritising the mining industry for investment and development. In 2004 revised legislation in the form of the Mining Investment Code (the “Code”) was implemented to encourage investment within the mining sector. The Deputy Ministry for Mineral Resources (an independent sector of the Ministry of Petroleum and Mineral Resources) administers mining licences under the Code. The Code has eliminated the need for a Royal Decree to exploit minerals and has streamlined licensing requirements.

It is possible for non-Saudi individuals and companies to apply for mining licences, however, they will also need to meet the criteria set out in the foreign investment licensing requirements which are overseen by

the Saudi Arabian General Investment Authority. Licence requirements under the Code additionally dictate (with the exception of the reconnaissance licence) that the licensee must be domiciled in Saudi Arabia. This will, amongst other things, entail the licensee having a permanent address and a delegate within the Kingdom.

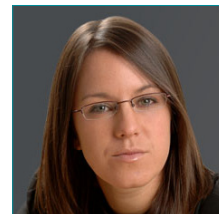
The seven types of licence available under the Code are as follows:

- Reconnaissance - allows examination of an area for a two year period and is renewable for a single term of a further two years;
- Exploration - confers the exclusive right to explore an area and an exclusive right to obtain a mining licence. It is issued for a five year term and may be renewed for up to a further five years;
- Material Collection - conveys a non-exclusive right to collect materials without the use of power tools;
- Exploitation Mining - allows the holder of a licence an exclusive right to extract certain Class 3 minerals for an initial period of 30 years in a licence area of not more than 50sq km with a possibility of renewal for a further 30 years;
- Raw Materials Quarry - allows the holder of a licence an exclusive right to extract certain Class 1 and 2 minerals for an initial period of 30 years in a licence area of not more than 50sq km with a possibility of renewal for a further 30 years;



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- Small Mine - allows the holder of a licence an exclusive right to extract certain Class 1 and 2 minerals for an initial period of 20 years in a licence area of not more than one sq km with a possibility of renewal for a further 30 years; and
- Building Materials Quarry - allows the holder of a licence an exclusive right to extract certain Class 1 minerals for a period of up to five years in a licence area of not more than 0.25 sq km.

With a reported \$11.9 billion dollars earmarked by the Saudi government for mining and mineral development through 2020 and the development of six new cities within the Kingdom, there is incredible potential for investment in this sector.

Ethiopia

The Ethiopian government has prioritised mining in its economic agenda. In 2010 Ethiopia's revised Modern Mining Act (the **"Mining Act"**) came into effect and broadened the range of mining licences available. In addition, new legislative incentives were introduced to facilitate and attract investment in the mining sector. Key features of the overhauled legal framework include exemption from customs duties, carry forward on losses for 10 years, government backed guarantees in respect of opening foreign currency accounts within Ethiopia, guarantees on retaining foreign currency earnings and guarantees on remittance of profits, dividends, principal and interest in foreign loans out of the country. As a result, the Ministry of Mines and Energy of Ethiopia (**"MOMEE"**) has confirmed a rise in applications from exploration companies for licences.

There are six types of licences available for issue by MOMEE:

- Non-exclusive reconnaissance - valid for up to eighteen months and non renewable, applicants must demonstrate the requisite technical and financial capabilities for proposed exploration;

- Exploration - valid for up to three years and may be renewed twice for a period of one year each time. This licence confers a right to apply for a retention or mining licence. The licensee must commence exploration within 60 days from the date of the licence and retain duplicate samples;
- Retention - granted for up to three years and renewable for up to three years. Applicants must demonstrate the discovery of a mineral deposit which is of commercial significance but which cannot be developed immediately. The licensee has the right to be granted a mining licence prior to the expiry of the retention licence;
- Small scale mining - valid for up to ten years and may be renewed for up to five years. This licence confers the right to exploit minerals extracted. Mining operations must commence within one year from the date of the licence;
- Large scale mining - valid for up to twenty years and renewable for up to ten years. This licence confers the right to exploit minerals extracted. Mining operations must commence within one year from the date of the licence; and
- Artisanal mining - grants an exclusive right to explore and mine for minerals within a specified area. This type of licence is valid for three years and can be renewed twice for up to three years in each case.

Ethiopia is keen to boost the percentage of minerals related GDP to 10% and has published a five year Growth and Transformation Plan including incentives proposing to offer a corporate tax reduction from the present level of 35% to 25%. Currently, the Mining Act mandates a 5% government free carried interest in mining projects in Ethiopia which is relatively generous in terms of its African counterparts. During 2013, a draft document has been placed before the House of Peoples' Representatives for approval aiming to further boost the competitive edge of the minerals sector.

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Egypt

The past two years have been dominated by political unrest in Egypt following the fall from power of autocrat Hosni Mubarak and the election of President Morsi. In July, continuous nationwide protests in Egypt led to the army overthrowing Islamist President Mohamed Morsi and an interim president, Adli Mansour, being sworn in until further presidential elections can be staged. Despite this civil disruption, the country has made several announcements over the last couple of years about its desire to draw investment into its mining industry. With significant gold, iron, coal and other mineral resources, including one of the world's largest reserves of tantalite, there should be no shortage of interest in the country from an exploration perspective but mining legislation remains bureaucratic and cumbersome. The primary legislation, the Mining and Quarries Law was introduced in 1956 (with amendments in 1957 and 1964).

Under the umbrella of the Ministry of Petroleum, Egypt operates the Egyptian Mineral Resources Authority (the “EMRA”) which is in charge of geological mapping of the country and the provision of technical advice to governments and mining companies. The EMRA oversees the issuance of all mineral licences.

There are three types of licences available for issue by the EMRA:

- Exploration - confers the exclusive right to explore within the permitted area and is issued for up to four years. Fifty percent of the licence area is lost by the licensee if they have not applied for (and been granted) an exploitation licence within two years;
- Exploitation - confers the exclusive right to explore, extract and exploit specified minerals in the licence area and is issued for up to 30 years. The licence may be renewed for an additional 30 years; and

- Protection - confers the right to explore areas surrounding the licensed area in order to protect the original licensed area.

A draft law to consolidate mining regulation in Egypt has been in the pipeline at the EMRA and proposals have been made to encourage foreign investment. However, this rhetoric will, almost certainly, need to be supported by a more stable political background before investor appetite in the Egyptian mining sector escalates.

There are hurdles to overcome in these territories, infrastructure remains under-developed and legal and judicial systems are untested on many of the fundamental issues relevant to a foreign investor but there have been clear foreign investment success stories in each of the three North African countries. In Saudi Arabia, Australian based Alara Resources has a 50% stake in the Khnaiguiyah Zinc-Copper Project which is nearing production stages and in Egypt, Centamin PLC has a 50% stake in the Al Sukari gold mine which is forecast to produce 320,000 ounces of gold in 2013 worth some \$224 million dollars. In Ethiopia Centamin PLC also has four licensed areas which it hopes to make as successful as Al Sukari. With a commitment to the region, some of the early investors are starting to see the pot of gold just across the North African rainbow.

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