

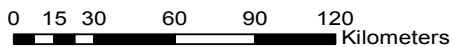
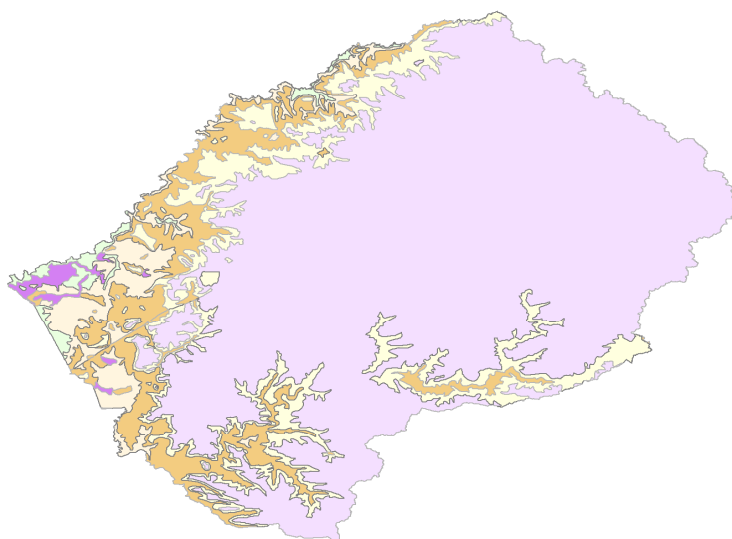
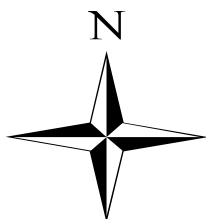
# THE MINERALS & MINING POLICY 2015



Government of Lesotho




# Lesotho Geological Map




## Legend

### Lesothogeology

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### Descriptio

 Burgersdorp (Beaufort)

 Clarens

 Dolerite

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## Foreword

Government recognizes the growing economic importance of the mining industry, driven by diamond-mining. The industry is poised to contribute an estimated growth of more than 10% to the GDP in years to come. Government has singled-out investments in diamond-mining and major water projects (the Metolong Dam and the LHDP Phase II) as the major 'accelerators of growth during the implementation period, 2012/13-2016/17, of the NSDP. During this period, Government estimates that it will need to attract investment of more than M 5 billion in diamond mining in order to achieve targets of increased diamond exports, higher GDP and faster growth in tax revenues. Government is taking measures to create a conducive climate for optimal development of the sector.

The first step Government has taken is to establish a fully-fledged Ministry of Mining. Previously, the mining sector was administered and regulated by the Department of Mining under the Ministry of Natural Resources. The Ministry of Mining is spearheading a number of initiatives designed to enable the sector play its role in the economy. Developing a Minerals and Mining Policy that provides a strategic direction and strategies for managing the exploitation of the country's finite mineral resources is an essential pre-requisite. It has, therefore, been accorded the highest priority.

The Minerals and Mining Policy is not only a product of Government. It has been developed following in-depth and inclusive consultation and participation of representatives of mining companies and civil society organizations. Using translated versions of the proposed policy measures, Government extended the process of informed consultation to local communities in all the 10 districts. The Policy is harmonized with the provisions of the National Strategic Development Plan (NSDP) and the Vision 2020, which provide measures and initiatives for economic growth and the social uplift of the living standards of all the Basotho people. The Policy also harmonizes with the Africa Mining Vision which is a continental roadmap for using the exploitation of mineral resources for socio-economic development. The policy incorporates the regional dimensions elaborated in the SADC Mining Protocol and the SADC Policy Harmonization Framework.

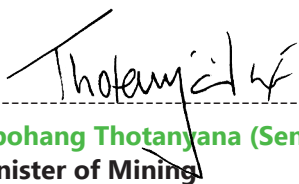
The Minerals and Mining Policy that Government has developed with support from UNDP and UNECA carefully balances the need to create conditions that attract high flows of mining investment with the requirement to have outcomes generated from mining investments produce sustainable social and economic progress for all the people of Lesotho. The vision for the sector is, therefore, to establish a socially and environmentally responsible mining industry which yields a competitive and fair return on investment on one hand and which, on the other hand, provides lasting and equitable socio-economic benefits to the country.

Large scale diamond mining and artisanal and small-scale mining are the two sub-sectors covered in the Policy. To promote uniformity of treatment and predictability in diamond-mining lease agreements, Government will restrict or substantially remove what can be negotiated by prescribing, to the extent possible, the terms and conditions governing lease agreements in mining regulations or gazetted/published model lease agreements. Government also requires holders of diamond-mining leases to abide by the tenets of full disclosure and provide for inclusive and informed consultation and participation of stakeholders in the processes of acquiring mineral rights and discharging their license obligations. Government, through the Decentralization Policy, aims to make the ASM sub-sector safe, orderly and environmentally sustainable. This will enable the ASM sub-sector fulfill its potential for alleviating poverty and contributing to development particularly in rural areas.

The policy requires consolidation of institutional arrangements for streamlining the compliance standards in health, safety and environmental management. In particular, the mining code and the NES will include regulatory procedures detailing the functional relationship between the NES and the Ministry of Mining covering environmental management in the mining sector.

In addition to the policy measures, the Policy defines the roles of key players. The role of Government is two-fold: a) to establish the rules, standards and guidelines on best practices in the mining sector; b) to monitor, supervise and regulate compliance. Holders of mining leases and permits have the primary role of demonstrating compliance with their license obligations. Civil society and other third parties play an important 'watch dog role' in the interests of the public at large. Government considers correct interpretation of these roles and responsibilities will greatly assist in providing transparency and accountability in mineral sector governance.

Ultimately the success of the Minerals and Mining Policy will rest on how well it repositions the mining industry for delivering outcomes that benefit mine investors and the Basotho Nation equitably and in a transparent manner. This will only happen if Government, mine operators and the public at large demonstrate steadfast commitment to the implementation of the legal and regulatory reforms, the institutional changes and governance practices recommended in the Policy.



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**Lebohang Thotanyana (Senator)**  
**Minister of Mining**

## ACRONYMS AND ABBREVIATIONS

<b>ADB</b>	African Development Bank
<b>AIDS</b>	Acquired Immunodeficiency Syndrome
<b>AMDC</b>	African Minerals Development Centre
<b>AMV</b>	Africa Mining Vision
<b>APRM</b>	African Peer Review Mechanism
<b>ASM</b>	Artisanal and Small-scale Mining
<b>AU</b>	African Union
<b>CBM</b>	Coal Bed Methane
<b>CITs</b>	Corporate Income Taxes
<b>CMA</b>	Common Monetary Area
<b>CSOs</b>	Civil Society Organizations
<b>CSP</b>	Country Strategy Paper
<b>CSR</b>	Corporate Social Responsibility
<b>EITI</b>	Extractive Industries Transparency Initiative
<b>EMPs</b>	Environmental Management Programmes
<b>NES</b>	National Environmental Secretariat
<b>ESIAs</b>	Environmental and Social Impact Assessments
<b>GDP</b>	Gross Domestic Product
<b>HDI</b>	Human Development Index
<b>HIV</b>	Human Immunodeficiency Virus
<b>IMF</b>	International Monetary Fund
<b>ITA</b>	Income Tax Act
<b>LHWP</b>	Lesotho Highland Water Project
<b>LRA</b>	Lesotho Revenue Authority
<b>METR<sub>s</sub></b>	Marginal Effective Taxation Rates
<b>NGOs</b>	Non Governmental Organizations
<b>NSDP</b>	National Strategic Development Plan
<b>RMDI</b>	Responsible Mineral Development Initiative
<b>SACU</b>	Southern African Customs Union
<b>SADC</b>	Southern African Development Community
<b>UNCSD</b>	United Nations Conference on Sustainable development
<b>USGS</b>	United States Geological Survey
<b>WEF</b>	World Economic Forum

# 1. INTRODUCTION

## 1.1. Background

In 2012, the Government of the Kingdom of Lesotho constituted a fully-fledged Ministry of Mining in recognition of the growing importance of the mining sector in the national economy. The mining industry, which is dominated by diamond mining, is expected to contribute an estimated growth of more than 10% to the country's GDP in years to come. The Government, through its new Ministry of Mining, has spearheaded the development of a Minerals and Mining Policy, aligned to the Africa Mining Vision, which also operates within the scope of the country's Vision 2020 and the National Strategic Development Plan, NSDP, 2012/13-2016/17. The policy incorporates the regional dimensions elaborated in the SADC Mining Protocol and the SADC Policy Harmonization Framework. Within this framework, the overriding goal is to deliver lasting socio-economic development gains centered on job creation from the exploitation of Lesotho's endowment in mineral resources, mainly diamond mining. Thus, the Minerals and Mining Policy provides a roadmap that will guide the development of mineral resources in Lesotho for the foreseeable future.

## 1.2. Challenges

**The challenges and obstacles that are hindering the realization of the country's socio-economic growth from its mineral resources are numerous. They include:**

- Insufficient knowledge of the country's mineral resources endowment. Geological mapping and mineral exploration are inadequate;
- The principal mining legislation, the 2005 Mining and Minerals Act, though relatively recent, has gaps and is limited in scope. It does not cater for socio-economic development goals and not incorporate present day mineral sector governance standards;
- Failure to articulate the principles governing the mining fiscal and taxation regime in the principal legislation for the sector; Income Tax Act (ITA) and other Lesotho Revenue Authority (LRA) legislation only supplement the mining law as sources of specific tax obligations of holders of rights in the sector;
- Lack of clarity on the position of Government on the artisanal and small-scale mining(ASM), sub-sector;
- Absence of Government policy positions in areas of importance such as value-addition, domestic empowerment, CSR guidelines and modern safety and occupational health standards;
- Absence of strategies for developing industrial clusters and generally economic diversification through infrastructure development and planned connectivity of the mining sector to other economic sectors such as agriculture, manufacturing, value-adding processing industries and tourism

The Minerals and Mining Policy articulates the vision for the sector and also elaborates the objectives and strategies for tackling these and other challenges that are hindering the development of a responsible, equitable and sustainable mining industry in Lesotho.

### 1.3. Vision

The Basotho Nation, through their Government, charge present and future governments of the Kingdom of Lesotho with the custodianship of the vision, which is:

“To provide for responsible and globally competitive exploitation of the country’s mineral resources in a manner that results in sustainable socio-economic benefits to the country.”

### 1.4. Principles

Principles of transparency, equitable distribution and responsible mining underpin the objectives and strategies for realizing this vision.

**The Minerals and Mining Policy will be implemented within the framework of the following Principles:**

- Sovereignty and ownership of mineral resources to vest in the Basotho Nation.
- Transparency and accountability in all aspects of administering and managing the country’s mining sector.
- Equitable, optimal and sustainable exploitation of the country’s mineral resources.
- Upholding Human Rights, Gender equality, Environmental sustainability, safety and occupational health standards.
- Domestic empowerment and integration of the Basotho Nation.
- Participatory and inclusive approach.

### 1.5. Objectives

**The policy objectives of the Government for the mining sector are as follows:**

- To ensure that the mineral wealth contributes to the national economic and social development.
- To mitigate the adverse social and environmental impacts of mineral development.
- To ensure equitable access, transparency and public participation in the sustainable development of the mining sector.
- To stimulate investment in the mining sector.

## 2. POLICY DIRECTION AND STRATEGIES FOR THEMATIC AREAS

### 2.1. Mineral Exploration

#### 2.1.1. Context

The discovery and quantification of mineral resources define and drive a country's mining potential. Mineral exploration is, therefore, an essential pre-requisite to the development of a mining industry.

Lesotho's mineral resources potential is not limited to diamonds. For example, the significant occurrences of clays offer potential for a clay industry. Significant deposits of heavy clays, white-firing clays and stoneware clays have been identified. Formations of attractive sandstones for the construction industry have been identified. The presence of fine-grained basalt and massive dolerites provide a good base for a dimension stones industry. Sporadic and small occurrences of a variety of semi-precious stones (agate, chert, rock crystal, amethyst, olivine, zircon and chrome diopside) are known to exist. There are possible occurrences of base metals, precious metals, rare earth minerals and hydrocarbons resources ascertained by the previous regional exploration programmes and the ongoing geochemical exploration which calls for further detailed exploration to confirm the viability of their commercial exploitation.

In general, low investor interest, inaccessibility of promising areas and inadequate geological information have inhibited the exploration for mineral resources needed to drive a vibrant and diversified mining industry.

The translation of mineral occurrences into commercially mineable deposits will require extensive and in-depth mineral exploration which is both risky and costly.

#### 2.1.2. Policy Statement

Government will promote the exploration and development of Lesotho's mineral resources.

#### 2.1.3. Objective

Ensure availability and dissemination of geological data necessary for the promotion of minerals sector investment.

#### 2.1.4. Strategies

- Establishing a well-resourced and empowered Geological Survey Department/Agency;
- Consolidating existing information on mineral deposit potential;
- Carrying out geological, geochemical and geophysical surveys of the entire country at various scales;
- Updating geological maps, regional geochemical and geophysical maps to desired scales;
- Setting-up and managing of the national geological data bank; and
- Investing in laboratory technologies and build human and institutional capacity for mineral sample analysis to be done within the country.

## 2.2. The Mining Sector Fiscal and Taxation Regime

### 2.2.1. Context

An essential component of the multi-faceted contribution of the mining sector to the national economy is its capacity to generate revenue for development. Government, in the NSDP, has identified diamond mining and water projects as target pillars for accelerating economic growth. Potential leakages of mining tax revenue present a major challenge to optimal revenue recovery in the sector. Transfer pricing, domestically, varying rates of CITs, external sourcing of mining requirements, excessively high provisions of tax allowances for capital depreciation, generous tax incentives, indefinite carry-forward losses and non ring fencing of mining projects owned by a mining company are some of the potential sources of tax avoidance in the mining sector. Dividend income from the Government's shareholding in mining companies, being profit-based, is also similarly affected.

A second major challenge for the Government is the asymmetry in the competence levels in mine taxation matters between the tax expertise possessed by mining companies and those in Government service. This competence gap undermines Government's ability to monitor/audit and effectively enforce tax compliance. Another major setback is the government failure to set aside some revenue realised from the mining sector for services such as audit, security, monitoring etc. under a special account in order to make sure that maximum royalties and minimum diamond theft measures are implemented. The mining sector contributes more than 10% of GDP but it is the least financed sector in the economy.

The need to provide for transparency and full disclosure in the tax dealings between mining companies and the Government has come to the fore in recent years. Through initiatives such as "Global Reporting Standards", the Extractive Industries Transparency Initiative, EITI, the "Publish what you Pay Campaign", and the African Peer Review Mechanism, the inclusion of full disclosure requirements in mining laws has become the norm.

The policy measures and strategies for the fiscal and taxation regime that Government has outlined in the Minerals and Mining Policy are, in large measure, a response to these challenges.

### 2.2.2. Policy Statement

Government will establish a fair and accountable mining fiscal and taxation regime.

### 2.2.3. Objective

Establish a mining fiscal and taxation regime that enables the country to realize a fair value from its non-renewable mineral resources while, concurrently, enabling mine investors to realize a competitive return on their investments.

### 2.2.4. Strategies

- Sustaining the flow of much-needed mining investment by maintaining a mining fiscal and taxation regime that is competitive, predictable and consistent;
- Enhancing the scope and effectiveness of revenue recovery from the mining sector by adopting a simpler and more equitable mine taxation model based on gross sales;
- Eliminating negotiability in mining agreements;
- Working towards achieving social consent to taxation proposals and changes through full disclosure and transparency;

- Putting in place measures aimed at arresting leakages of mineral revenue. The measures will include providing for transfer pricing control regulations; introducing procedures for closing loopholes embedded in accelerated capital depreciation, tax deductible interest payments on loans, etc.;
- Standardizing corporate income taxes, CITs, across sectors;
- Working towards limiting the debt to equity ratio in order to reduce over-reliance on debt capital whose interest service costs are often tax allowable;
- Establishing mechanisms for full disclosure of verifiable production and financial performance data;
- Enhancing transparency and accountability of mining transactions;
- Establishing mineral development fund;
- Developing capabilities and capacity to monitor, audit and evaluate production and financial performance of mining companies;
- Providing for double taxation agreements.

## 2.3. The Legal and Regulatory Framework

### 2.3.1. Context

Accommodating the developmental goals of the policy is a primary challenge that needs to be addressed in the legal and regulatory framework. The existing mining and minerals legislation contains no provisions relating to the responsibilities and obligations of Government, mine investors and mine operators, and other key actors, for realizing the developmental goals of the Policy.

Limited obligations for disclosure of information and lack of provisions for informed public participation and consultation in the sector's decision-making processes undermine transparency and accountability.

Lack of statutes in vital areas such as safety and occupational health, anti-hoarding measures, corporate social responsibility, legality of ASM activities and illegal trade compounded by inadequate regulations for implementing the Act lead to uncertainty and unpredictability in the sector. Consents and the associated prolonged procedures for securing them in investment transactions requiring mining title transfers are a hindrance to the flow of mining investment into the sector. Consequently, the existing legal and regulatory framework is fragmented and mostly out-dated.

### 2.3.2. Policy Statement

Government will revise and re-align the current legal and regulatory framework governing the mining sector.

### 2.3.3. Objective

Update the legal and regulatory framework to support the vision and statements of intent of the Minerals and Mining Policy.

### 2.3.4. Strategies

- Application of modern principles of transparency and accountability to the administration of mining laws and regulations;
- Inclusive and informed public participation and consultation in the governance of the sector;
- Introducing provision for minimal discretionary powers to officials implementing the Minerals Acts;
- Introducing provisions for Judicial review with respect to administrative decision.
- Developing dispute resolution mechanisms and ensuring adherence to the Rule of Law is rigorously observed;
- Providing for State participation and free carry shares in mining investments;
- Facilitating local participation in mining investments;
- Introducing provisions for existing license holders preferential rights;
- Introducing provisions for open and competitive tender for known mineral deposits while retaining the 'first come, first served' rule for unknown deposits.
- Providing for transferability of mining and mineral titles;
- Developing and formalising Artisanal Small Scale Mining;
- Updating and consolidation of all statutes in the mining sector for consistency and certainty;
- Providing regulations and guidelines on occupational health and safety requirements;
- Providing regulations and guidelines for Corporate Social Responsibility (CSR) commitments;
- Providing regulations on environmental protection including post mine closure rehabilitation.

## 2.4. Value-Addition

### 2.4.1. Context

Government recognizes the enormous economic value that value addition to raw mineral outputs can generate for the country. Diamond mining, the mainstay of Lesotho's mining industry has potential to act as a hub for creating upstream and downstream linkages. Value-adding linkages extend to industries which provide technological, human resources and infrastructure inputs. These are generally referred to as side-stream linkages. Value-addition can also derive from lateral linkages through shared technologies between mining and other business sectors. Earth-moving technologies are common to both mining and construction industries. Knowledge linkages can also evolve from value addition in the minerals sector and these can migrate to other sectors of the economy.

The Government, through the Minerals and Mining Policy, will direct the efforts of the mining industry towards harnessing its value-addition potential. The Government's policy direction is aimed at establishing linkages and using the linkages so created for developing economic diversification opportunities, enabling domestic integration, enhancing opportunities for value-adding downstream processing and upstream manufacture of mining inputs.

#### 2.4.2. Policy Statement

Government will explore opportunities for the promotion of value addition, investigate constraints and promote measures to address them.

#### 2.4.3. Objective

Removing obstacles to increasing levels of value addition in the mining industry.

#### 2.4.4. Strategies

- Developing a plan for facilitating beneficiation and value-adding industries linked to diamond mining and other minerals;
- Developing skills and technological base and enhancing capacity;
- Collaborating with the financial services sector in creating sources of much-needed domestic capital;
- Improving infrastructure;
- Promoting the growth of industrial clusters that have strong linkages with mining industry;
- Exploring the prospects of participating in regional mineral value chains.

### 2.5. Domestic Empowerment and Integration of the Mining Sector in the National Economy

#### 2.5.1. Context

The mining industry in Lesotho is in its early stages of development. This affords the Government a great opportunity to design the development of the industry in a manner that is consistent with the country's socio-economic plans.

It is a capital intensive industry which, inherently, does not generate large numbers of jobs. It does, however, have enormous capacity for generating secondary industries, stimulating business development in other economic sectors including value-adding processing industries, creating technology transfer opportunities, expanding the country's base of managerial and technical expertise, etc. Thus domestication of the mining industry holds the key to achieving durable and diversified economic gains.

#### 2.5.2. Policy Statement

Government will introduce policy measures on domestic empowerment and integration.

#### 2.5.3. Objective

Foster the development of a mining sector that is integrated with other sectors of the national economy in

order to contribute to the economic empowerment of the Basotho nation by generating opportunities for local entrepreneurship, employment and increased demand for local goods and services.

#### 2.5.4. Strategies

- Requiring applications for mineral rights to be accompanied by indigenous empowerment plans;
- Providing for technology transfer and skills training;
- Developing and executing a time-bound and well resourced localisation plan;
- Giving employment preference to Basotho;
- Maximizing the procurement of goods and services from local sources, by giving preference to Basotho suppliers;
- Maximising the use of locally-owned and indigenous mining service providers;
- Facilitating access to capital to enable Basotho to effectively participate in the minerals industry. This will require encouraging the broadening and deepening of financial intermediation instruments domestically and regionally;
- Ensuring that mining companies put aside a percentage of their profits to implement CSR for the upliftment of the host communities;
- Ensuring that mining investments infrastructure development is planned to service projects in other economic sectors;
- Forging effective communication linkages amongst Government Ministries and statutory agencies with roles in the mining sector.

## 2.6. The Artisanal and the Small Scale Mining, ASM Sub- Sector

### 2.6.1. Context

Artisanal and small-scale mining (ASM) is interpreted differently in different countries. In the absence of a common definition, Artisanal and Small-scale Mining (ASM) is often characterized by its key features, which include: Minimal machinery or technology used; instead, ASM mining relies on simple techniques and physical labour; Operates without legal mining titles (concession, claim) or a valid contract with the title holder; Low productivity since ASM often takes place in very small or marginal plots, it is limited to surface or alluvial mining, and uses inefficient techniques. (However, total recovery is improved by repetitive scavenging & reprocessing); Lack of safety measures, health care or environmental protections; May be practised seasonally (e.g., to supplement farm incomes) or temporarily in response to high commodity prices;

The absence of mining and business skills, finance, technology and marketing skills result in the sub-sector being characterized by downside consequences which include: low productivity; unsafe and hazardous working conditions; and environmental degradation. With practically no legal enforcement in most ASM areas, potential for human rights abuses of women and children also exists. Unplanned and unregulated ASM activities have a potential to sterilize rich mineral deposits.

Notwithstanding the formidable challenges, the potential of the sub-sector as a tool for addressing poverty, particularly in remote rural areas, is considerable. Well-managed and well-resourced, ASM can contribute to job creation, to increasing disposable income thereby increasing local purchasing power and stimulating economic growth in rural areas.

### 2.6.2. Policy Statement

Government will work towards recognizing and repositioning the ASM sub sector.

### 2.6.3. Objective

Transforming the ASM sub-sector from its poverty cycle trap and widespread negative and exploitative practices to a value-adding, poverty-reducing economic activity with special significance for rural development ensuring that the sector is part of integrated rural development plans.

### 2.6.4. Strategies

- Creating a legal and regulatory framework for enabling and providing for ASM activities
- Limiting ASM activities to Basotho nationals
- Transforming informal ASM into a well regulated industry;
- Capacitating and empowering ASM operators with skills, technology and finance;
- Capacitating miners with information on markets;
- Decentralizing the administration and support services for ASM to local authorities;
- Facilitating the graduation of ASM to large scale mining;
- Developing mechanisms for synergistic collaboration between large scale mining and ASM;
- Developing mechanisms to address child labour and human rights challenges in ASM;
- Ensuring ASM's adherence to gender equality, sustainable standards of safety, occupational health and environmental protection and mainstreaming HIV/AIDS;
- Taking affirmative action on ASM reform measures contained in a number of relevant reform platforms such as the Harare Guidelines of 1993, the Lagos Plan of Action of 1980, the Yaounde Declaration of 2002 and the Africa Mining Vision of 2009.

## 2.7. Creating Transparent and Accountable Mineral Sector Governance

### 2.7.1. Context

Most notably, provisions relating to yardsticks of good governance are absent in the existing Mines and Minerals Act of 2005. Good governance in modern day practice is characterized by:

- Inclusion of transparent and accountable public consultation and participation in the governance processes of the sector;
- Limited discretionary powers in decision-making by regulatory authorities;
- Requirement for checks and balances in the exercise of regulatory powers and functions;
- Information disclosure that is accurate and verifiable.

### 2.7.2. Policy Statement

Government will promote good governance characterized by transparency, accountability and inclusiveness.

### 2.7.3. Objective

To take concrete steps that promote inclusive, transparent and informed governance of the minerals sector for enhanced economic value and sustainability of the sector.

### 2.7.4. Strategies

- Taking steps that provide for open and accountable processes of governance;
- Limiting the discretionary framework to specified grounds in the mining law;
- Providing access to information at all levels;
- Subscribing to transparency initiatives including Extractive Industry Transparency Initiative (EITI) and others;
- Providing for informed public participation and consultation;

## 2.8. Environmental Social and Economic Sustainability

### 2.8.1. Context

Intrinsically, all mining imposes diverse adverse social and environmental consequences. It is important to ensure gender equality and equity to empower women in the mining sector as women tend to suffer disproportionately from the negative impact of mining /extractive industries. Similarly, the high prevalence rate of HIV/AIDS in the mining areas is a critical threat to the human resources of the nation. Thus, specific efforts need to be undertaken to reverse and halt the spread of the HIV epidemic. Mining may also:

- adversely affect the natural environment's biodiversity and ecosystems as well as causing air and water pollution, etc;
- pose threats to occupational health and safety;
- expose local communities in mining areas to adverse environmental and social consequences;
- impinge on other land uses, including agriculture;
- violate human rights particularly those of women and children.

### 2.8.2. Policy Statement

Government will work towards minimizing or eliminating the adverse social, health and environmental impacts of mining development.

### 2.8.3. Objective

To integrate sound environmental, cultural, social and health protection practices and values in mineral resources development and management through participatory processes that are inclusive, transparent and accountable

## 2.8.4. Strategies

### (i) Environmental protection

- Taking all steps necessary to ensure the mining industry of Lesotho upholds the highest standards of environmental protection;
- Drawing up comprehensive regulations and compliance monitoring and enforcement procedures for managing environmental responsibilities in the mining industry;
- Establishing a well-resourced and empowered Environmental Unit/Agency in the Ministry of Mining;
- Providing for mine closure obligations and procedures including provision of an Environmental Protection Fund together with its rules for securing funds for mine closure rehabilitation;
- Ensuring mine licensing procedures make the provision of Environmental and Social Impact Assessments (ESIAs) and Environmental Management Programmes (EMPs) mandatory.

### (ii) Mine health and safety

- Setting-up obligatory standards and the accompanying rules and compliance procedures for upholding the highest standards of mine health and safety;
- Strengthening monitoring, supervising and enforcing compliance with set standards in mine health and safety and develop appropriate institutional structures;
- Ensuring effective workplace prevention, care and support programmes to halt and reverse the HIV/AIDS epidemic and other communicable diseases within the mining communities;
- Ensuring set up of primary health care centres which service the host communities.

### (iii) Community participation and involvement in mining

- Empowerment of local people through skills and knowledge of the sector;
- Making inclusive and informed consultation and participation of local communities in issues and decisions of material interest to them;
- Requiring mining companies to work in strategic partnership with local communities during the planning, priority-setting and execution of CSR (including social sustainability plans contained in ESIAs) and other community development projects;
- Introduction of community development agreements for use in preparing socio-economic development plans at the local community level.

**(iv) Human rights**

- Promoting and facilitating employment and participation of women in mining through the removal of obstacles which are impeding their involvement;
- Development and implementation of programmes to increase women’s participation in the extractive sector and ensure the retention of skilled women in the sector;
- Curbing the incidence of child labour in Lesotho’s mining industry;
- Domesticating and enforcing International Labour Organization (ILO) Conventions on decent working conditions and regulations against child labour and human rights abuses;
- Providing for participation of people with disabilities;
- Developing a framework for the compensation and resettlement of land owners and communities affected by mining.

**2.9. Supporting Regional Integration and Co-operation****2.9.1. Context**

Regional integration and co-operation offer Lesotho the most viable strategy for sustainable growth. It is completely surrounded by South Africa and this presents the country with enormous opportunities for economic integration with South Africa’s economy. Lesotho is also a party and or signatory to a number of regional and international conventions which also need to be domesticated.

**2.9.2. Policy Statement**

Government will promote regional and international cooperation in the mining sector.

**2.9.3. Objective**

To domesticate regional and international conventions and other instruments and undertakings that are relevant to mining and to which the Kingdom of Lesotho is a party or a signatory.

**2.9.4. Strategies**

- Deepening and expanding Lesotho’s existing trading links that its membership makes possible (e.g the Southern African Customs Union (SACU), the Common Monetary Association (CMA), the Southern African Development Community (SADC), the African Union (AU), the United Nations (UN), in particular Kimberley Process Certification Scheme (KPCS) etc;
- Encouraging regional and sub-regional cooperation in on-going harmonization of policies and legal and regulatory frameworks and alignment to the AMV;
- Increasing opportunities for value-addition through improved economies of scale that larger sub-regional and regional markets facilitate (regional value chains/south-south cooperation).

## 2.10. Human Resources Development

### 2.10.1. context

Lesotho, like many other countries on the African continent, recognizes that all-encompassing capacity deficits in the entire mining chain covering geological exploration, mining, processing and marketing; scarcities of human resources; inadequate institutional capacities and under-developed and inaccessible financial markets for investment resources present formidable obstacles towards the realization of the vision of mineral resources for broadly-based socio-economic development. These constraints affect both the Government and the mining companies. Whilst the latter have capacity to retain foreign expertise to address the shortfalls, Government's capacity is far more limited. Consequently, capacity-building is a pre-requisite that Government is and will continue to address as a priority pre-condition to the successful implementation of the country's Minerals and Mining Policy. To establish a sustainable and competitive mining industry, Lesotho requires to invest in the development of mining and mining-related skills and expertise.

### 2.10.2. Policy Statement

Government will ensure and facilitate the development of human resource skills to meet the ultimate requirements and challenges of the mining sector.

### 2.10.3. Objective

To establish a sustainable and competitive mining industry by investing in the development of mining and mining-related skills and expertise.

### 2.10.4. Strategies

- Developing a holistic training strategy involving other sectors and other institutional players such as universities, specialized training institutions e.g. accounting and auditing, valuation skills, etc;
- Encouraging a collaborative approach directed at establishing effective and accountable networking in building the broad range of capacities and competences needed;
- Fostering partnerships between Government and mining companies in providing training to qualified Basotho in wide-ranging skills and expertise needed in Government and in mining and mineral sector industry;
- Exploiting regional capacities in training Basotho nationals for work in the minerals sector;

### 3. IMPLEMENTATION FRAMEWORK, MONITORING AND EVALUATION

Subsequent to the adoption of a Minerals and Mining Policy for Lesotho, it will be necessary to develop a strategic plan for its implementation. Using a logical framework approach an implementation plan covering: a) a plan for developing a revised legal and regulatory framework for enabling the Policy; b) a plan for policy-induced institutional reform; c) capacity and knowledge-building strategic plan; and d) a Monitoring and Evaluation (M & E) plan. Following the adoption of the Policy, the development of a revised and updated legal and regulatory framework will comprise the largest and most urgent requirement of the Implementation Plan

Capacity to implement the policy measures and strategies together with the ability to monitor and evaluate progress towards achieving the set goals are essential aspects of the policy. Very often, well-designed policies fail to achieve the desired results because implementation plans either do not exist or they are poorly designed and/or poorly executed. Though a strategic plan for implementing the Policy will be developed at a later stage, indicatively, the essential building blocks of the implementation framework are highlighted below.

Lesotho, like many other countries on the African continent, recognizes that all-encompassing capacity deficits in the entire mining chain covering geological exploration, mining, processing and marketing; scarcities of human resources; inadequate institutional capacities and under-developed and inaccessible financial markets for investment resources present formidable obstacles towards the realization of the vision of mineral resources for broad-based socio-economic development. These constraints affect both the Government and the mining companies. Whilst the latter have capacity to retain foreign expertise to meet the shortfalls, Government's capacity is far more limited. Consequently, capacity-building is a pre-requisite that Government is and will continue to address as a priority pre-condition to the successful implementation of the country's Minerals and Mining Policy. Government remedial strategies in critical areas of capacity-building needed for mining policy implementation include:

#### 3.1. Capacity Development

##### 3.1.1. Human Resources Development

To establish a sustainable and competitive mining industry, Lesotho requires to invest in the development of mining and mining-related skills and expertise.

##### 3.1.2. Institutional Capacity

Effective and sustainable implementation of Government policy directions and strategies contained in the new Minerals and Mining Policy requires extensive institutional reform. Policy reforms in mineral sector governance, in mining cadastral services, mine health and safety, in environmental management, etc, all require the building and strengthening of institutional capacity. Government will therefore, work towards reforming, building and strengthening the institutional capacity of the mining sector to ensure effective administration, management and monitoring of the mineral sector. Among some of the more significant institutional changes affecting the implementation of measures are in the following policy areas:

**(i) Geological data and information management**

A well-resourced and empowered Geological Survey Department or Agency is needed to spearhead the generation, storage and retrieval of geological data and information.

**(ii) Mining fiscal and tax administration**

- The administration, monitoring and evaluation of compliance with tax obligations together with auditing tasks requires Government to establish a specialized and dedicated Mine Tax Unit vested with the requisite capacity and varied competences.
- Establishment of Mineral Development Fund.

**(iii) Establish Mining Authority comprising the following:**

- Reconstitution of the Mining Board as part of a statutory Mining Authority that maintains an arms-length relationship with the approval authority, the Minister responsible for the mining sector;
- Establishment of an Inspectorate of Mines that superintends and enforces Mining Regulations governing occupational health and safety. The Inspectorate would absorb the functions of Government representatives attached to mines;
- Provision of a modern Mining Cadastre that also acts as a Registry for mineral title administration.

**(iv) Artisanal and small-scale mining, ASM**

In support of the decentralized administration of the sub-sector, establish district offices for regularization and provision of support services

**(v) Environmental management**

- NES, National Environmental Secretariat: a dedicated statutory agency responsible for environmental management at national level;
- Environmental Monitoring Unit within the Ministry of Mining discharging environmental responsibilities in the mining sector but functionally accountable to the NES;
- Environmental Protection Fund established to secure funding primarily for post-mine closure rehabilitation.

The potential institutional changes suggested above are not exhaustive. They, however, serve to underscore the need to match policy reforms with institutional capacities and competences.

Beyond the establishment of the institutional infrastructure for mining, Government acknowledges the need to provide for effective co-ordination with other Ministries and agencies for effective execution of the mining sector policy measures and strategies. Labour, health, education, taxation, security, law and order, are among the disciplines and regulatory services that have a governance impact on the sector.

Government has also recognized the asymmetry in knowledge and experience between Government officials responsible for overseeing the mining sector and mining operatives. It is heavily weighted in favour of operatives in the industry. Government is committed to putting in capacity-building measures towards addressing this imbalance.

### 3.2. Financial Policy Implementation

Capacity to mobilize financial resources affects policy implementation on two levels. On one level financial resources are needed for implementing the measures and strategies contained in the Policy. This requires a realistic assessment of the resources needed to drive policy implementation. Careful and comprehensive estimates needed to implement the goals and objectives of the sector policy help to quantify the cost of implementation. A financing plan, which on one side clearly shows what resources are available and the extent to which resources can be mobilised while the other side provides the estimated cost of the planned activities for implementing the policy is a necessary pre-condition to successful policy implementation.

The second level assesses the capacity of the economy to provide financial services required to supply investment funding and other financing throughout the capital intensive chain of exploring, developing and commissioning mining projects, conducting mining and processing operations and funding the transport and marketing logistics before mineral products are sold and revenue generated.

In addition, Government requires enormous resources to invest in developing the competence and capacities needed to knowledgeably oversee the mining sector activities. To service these financial needs, it is necessary for the financial services sector to collaborate with the mining sector in:

- Achieving full property rights of mineral titles in mining investments transaction flows. Reforms with respect to the removal of protracted consent approvals and evaluation and acceptance of mineral properties for collateral purposes are needed;
- Working with tax authorities in creating incentives and regulations which encourage and facilitate investments in highly risky but greatly needed geological exploration and other areas of mining development;
- Taking steps to elevate the bankability of the ASM sub-sector through business mentoring and provision of financing products specially suited for the sub-sector.

### 3.3. Monitoring and Evaluation

Government recognizes the importance of providing the means of monitoring and evaluating implementation progress. Government, therefore, plans to provide for the institutional capacity to assess and evaluate the effectiveness of the implementation of the Minerals and Mining Policy. If effectively done, it will assist in improving strategies for achieving set policy goals and objectives.

Following the adoption of the Policy, Government will alongside an implementation plan develop monitoring and evaluation plans. Using agreed indicators, the plans will not only allow Government to monitor implementation progress but will also enable Government to assess the adequacy of the budget.

Typically, several strategic actions are planned for accomplishing a given objective. The full implementation plan will itemize under each objective, the plan for implementing, monitoring and evaluating all the strategic actions. An effective and timely monitoring and evaluating plan provides an early warning system that enables early disclosure of bottlenecks and other limitations that may hamper implementation if left unattended.

In view of the role monitoring and evaluation plays in successful policy implementation Government is considering the merits of establishing Monitoring and Evaluation Office within the Ministry of Mining as a way of assisting it improve policy implementation capacity.



## 4. ROLE DEFINITION FOR KEY PLAYERS: THE GOVERNMENT, THE MINING COMPANIES and THE PUBLIC/CSOs

The development, execution and guardianship of Lesotho's Minerals and Mining Policy rests with the Government, the mining companies, civil society organizations, Parliament and the Basotho nation. While civil society organizations, CSOs and the public at large play a critical watchdog role of ensuring that the mining industry is operated and run and supervised in accordance with agreed policies, laws and regulations, clarity with regard to the interpretation of the roles and responsibilities of key stakeholders, the Government and the mining companies, who execute the plans, is critical.

### 4.1. Responsibilities of Government

As vision carrier, the Government, primarily through its Ministry of Mining but also through other relevant statutory agencies, plays multiple roles covering promotion and facilitation, capacitating and enabling the provision of services in addition to performing regulatory functions. In essence, Government's role is to direct and to enable the mining sector play its part in the national economy, manage resource risks and enhance the linkages between human development and the extractive industries

Specifically, Government is there to:

- Provide transparent and accountable oversight;
- Specify regulations and standards;
- Enforce compliance with set standards and regulations;
- Facilitate public participation in the development of the sector;
- Coordinate all ministries and statutory bodies with a role in the sector;
- Promote investment in mining sector.

### 4.2. Responsibilities of Holders of Mining Licenses

- To optimally mine the resource and to receive attractive returns on the investment whilst continuing investment and skills development;
- To adhere to the sector policy, mining law and regulations;
- To provide proof of compliance with: Government set standards and regulations including all statutory obligations attached to the licences they hold.

### 4.3. Role of Parliament, Civil Society organizations, the Media, other Oversight Institutions and the Public at Large

It is important to stress civil society organizations, the media and the public at large play a critical watchdog role of providing independent guardianship of the principle that the sector is being governed with the consent of the people in an environment of full disclosure and inclusive and transparent consultation and participation.

## 5. CONDITIONS FOR THE SUCCESSFUL IMPLEMENTATION OF THE POLICY

The conduciveness of the macro-economic and socio-political environment affects and may determine the success or failure of the mineral resources-based developmental strategy that is central to the mining policy. Among the critical considerations to factor in are:

### 5.1. The Macro-Economic Environment

The vulnerability of Lesotho's economy is significantly a result of its heavy dependence on South Africa for its imports and the United States for its textile exports. Macroeconomic stability which is essential to the country's ability to attract much-needed private mining investment will require Government to greatly enhance its efforts towards implementing prudent fiscal policies and improving public debt management. With rankings of 136 out of 185 countries in the 2013 World Bank Doing Business Report (from 143 in 2012), and 137 out of 144 countries in the 2012 Global Competitiveness Report Lesotho requires to redouble its efforts aimed attracting private investment at levels needed by the mining sector and other sectors in the economy.

### 5.2. Sustained Political Will and National Consensus

Social and economic change in Lesotho like in other African countries, are politically-driven; consequently, sustained political will and national consensus are vital for sustainable support of the aspirations, developmental goals and strategies articulated in the country's Minerals and Mining Policy. Currently, Lesotho is enjoying a precious window of opportunity through the formation of a coalition government which has brought together competing political interests in a government of national unity. The opportunity that this has presented for building a national consensus in support of the Policy is unparalleled. For the long-term, the political will in support of the Policy must be co-shared with the Basotho people, NGOs and other stakeholders who provide a sustainable and consistent watchdog role.

### 5.3. Inclusion on the Agenda for APRM Monitoring

The adherence of the key players i.e. mine investors and governments to rules of fair play in the minerals sectors of Africa are constantly under the spotlight. In addition to the Extractive Industries Transparency Initiative, EITI, and other non-governmental oversight agencies, the inclusion of Lesotho's Minerals and Mining Policy on the agenda for APRM monitoring would contribute to its adoption as the guiding instrument for achieving mineral resources-based development not only in Lesotho but in other African countries.

### 5.4. Sharing of Mining Knowledge and Experience with Similarly-Place African Countries

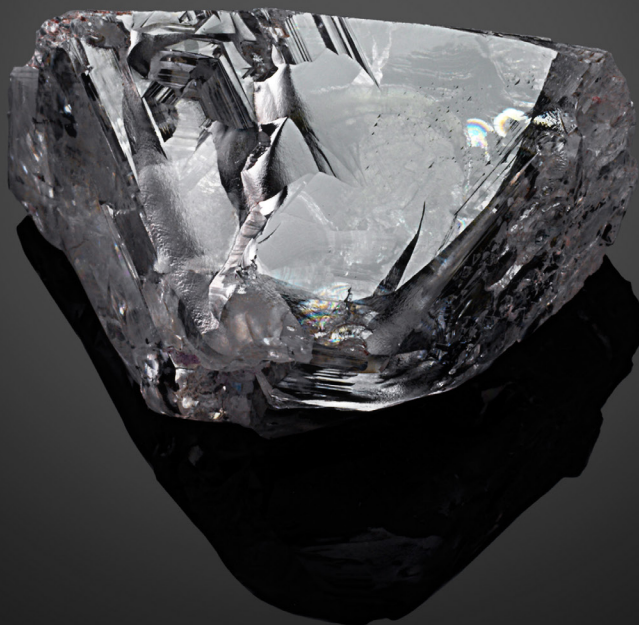
The primary value-adding advantage of a shared platform for mineral resources-based development is that it offers opportunities for sharing experiences of successful models and failed reform initiatives. The AU has established the African Minerals Development Centre (AMDC) which is positioned to offer a central repository of experiences and practices in different AU member states, Lesotho can, therefore, arrange bilateral or sub-regional exchange of practical experiences with various initiatives in different African countries; thereby be positioned to avoid pitfalls and build on successful models.

### 5.5. Institutional Stability and Robustness

Indications from rankings on global competitiveness and corruption perception indices demonstrate clearly that institutional stability and robustness which engender trust and reliability outweigh the advantages of well-conceived policies and laws which are, however, poorly implemented.

# LESOTHO PROMISE

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