



REPUBLIC OF MALAWI

MINES & MINERALS POLICY OF MALAWI

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December 2007

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ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
AMP	Africa Mining Partnership
ARV	Anti-retroviral
ASM	Artisanal and Small-scale Mining
COMESA	Common Market for Eastern and Southern Africa
DEVPOL	Statement of Development Policy
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
EMS	Environmental Management Systems
EPZ	Export Processing Zone
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
HIV	Human Immuno-Deficiency Virus
MDC	Malawi Development Corporation
MIDCOR	Mining Investment and Development Corporation
MIPA	Malawi Investment Promotion Agency
MPRSP	Malawi Poverty Reduction Strategy Paper
NEPAD	New Partnership for Africa's Development
R&D	Research and Development
SADC	Southern African Development Community
SAPP	Southern African Power Pool
SDI	Spatial Development Initiative
TEP	Temporary Employment Permit
VCT	Voluntary Counselling and Testing

FOREWORD

This Mines and Minerals Policy for Malawi reflects the realization by Government that the development of the Malawi mining industry can directly contribute to the economic growth of the country.

The Government of Malawi realizes that the economy of Malawi has a structural problem that results into perpetual imbalance between the supply and demand of foreign exchange. This originates from the fact that Malawi relies heavily on agriculture in order to generate foreign exchange, while at the same time there is high dependence on imports. Government recognizes that resources are limited and as such seeks to achieve higher growth rates by stimulating investment in productive sectors, and mining has been identified as having the highest growth potential. In order to achieve this, the Government's economic policy aims at ensuring that the country's financial, economic, natural and human resources are utilized efficiently and effectively so as to create new wealth through the production of goods and services for both domestic consumption and exports.

Malawi has abundant mineral resources that can be sustainably exploited to accomplish the Government's vision of transforming the country from being a predominantly importing and consuming nation into a predominantly producing and exporting nation. Currently, mining accounts for about 1 percent of Growth Domestic Product (GDP) and the contribution to export earnings is low. However, it is Government's conviction that if the mineral resources of Malawi are commercially mined, the contribution of mining to the GDP will increase at an average annual rate of 10 percent for the next 10 years.

Government is fully aware that the fight for attainment of sustainable development is a challenge which cannot be achieved by Government alone. There is need for mutually agreeable partnership between Government and other stakeholders, including our development partners. In pursuit of this goal, Government has created a conducive and enabling legislative, fiscal and institutional environment to attract private sector participation in exploration and exploitation, processing and utilization of Malawi's mineral resources. The Government of Malawi is doing everything it can to co-ordinate, facilitate and promote maximum participation of all stakeholders in sustainable development, utilization

and management of the mineral resources for socio-economic development of the country.

This Mines and Minerals Policy has been formulated through extensive consultations, and is aimed at guiding the exploration and exploitation of the mineral resources within the framework of the Macro-economic policy of the country. The Policy also aims at encouraging the development of mining in Malawi, following Government's realization that the mining sector has the potential to contribute substantially to our export earnings if properly organized. The Policy stresses private sector participation and the need to attract investment for large-scale mining.

I hope that potential investors and other interested parties in the Mining Sector will appreciate Government's commitments inherent in this policy document. I am confident that the mining industry in Malawi will prosper and will resuscitate the country's economic growth for the mutual benefit of the Malawi nation and the investor.

Dr. Bingu wa Mutharika
PRESIDENT OF THE REPUBLIC OF MALAWI

PREFACE

The Government of Malawi recognizes that the minerals sector has a significant potential to contribute towards the rapid economic growth and development of the country. Currently, the sector is still very small despite its favourable geology, and already identified mineral resources such as uranium, bauxite, base metals, heavy mineral sands, a wide variety of semi-precious stones and several types of dimension stones. This mineral resource potential is indeed abundant and needs detailed exploration for it to be fully tapped for the benefit of the nation.

The Ministry of Energy and Mines has taken steps to revitalize and promote the mining industry through reviews of mining legislation and the formulation of a Mines and Minerals Policy that will enhance Malawi as an attractive investment destination.

This Mines and Minerals Policy aims at guiding and directing mineral development and stresses private sector initiatives and the need to attract modern technology and necessary investment capital for large scale mining. The policy also sets out strategies for rationalizing artisanal and small scale mining in order to ensure gainful employment and poverty alleviation. It also aims at initiating actions to mitigate the adverse environmental and social aspects of mining.

Under this policy, the role of Government will be to stimulate and guide private mining investment by administering, regulating and facilitating the growth of the sector through a well organized and efficient institutional framework. The Government will also intensify on providing extension services to the artisanal and small scale miners.

The policy was formulated through wide consultation with all stakeholders ranging from small-scale miners, traditional authorities, government departments, parastatals, academic institutions, donors, service providers and private exploration and mining companies. Response and inputs were also received from many individuals and organizations, both verbally and written, and most of them have been taken into account and reflected in this policy document. We hope the policy represents well the aspirations of all the people of Malawi and potential private investors, and we invite the private sector to participate in our efforts to develop the minerals sector.

I wish to express my gratitude to all those who contributed to the development of this policy in various ways and it is my hope that this policy will provide a clear guidance towards sound exploitation of natural resources for the mutual benefit of the investors and the people of Malawi.

Henry Chimunthu Banda, MP
MINISTER OF ENERGY, MINES AND NATURAL RESOURCES

EXECUTIVE SUMMARY

In April 2002, the Government of Malawi, through the then Ministry of Energy, Mines and Natural Resources, appointed a Task Force to control and direct the development of a Mines and Minerals Policy for the country. The policy aims to guide and enhance the development of the minerals sector. The policy is expected to underpin socio-economic growth on a sustained basis, and is in line with the recommendations made in the Malawi Growth and Development Strategy produced by Government

The Mines and Minerals Policy is a product of consultations over a period of three years, with a wide range of stakeholders including mining industry, government departments, academic institutions, local government, mining associations, parastatal organizations, traditional leadership, donors and bilateral agencies. On the basis of several identified main issues, respective solutions have been formulated to address the various most important constraints, which affect and impede mineral sector development. These aspects and solutions are clustered into six main themes: mineral development, investment climate, governance of the sector, environmental management, social issues and regional and international cooperation.

On the basis of the identified favourable geological conditions and mineral potential, the Government of Malawi aims to raise the contribution of the minerals sector to the country's GDP from 1 per cent to 10% percent over the next 10 years, and fully acknowledges that to achieve such aim, the private sector must play a leading role. Since basic geological information and ensuing exploration is the lifeline for the development of the mineral industry, the Government is committed to work towards generating and making basic information available to the private sector. In addition it will also develop strategies to promote the sustainable development of the mineral sector.

Within the above context, since infrastructure and supporting services are crucial for mineral development, the Government will also focus on such type of constraints, including transport and power infrastructure, and development of capacity and necessary specialised skills. This will also include relevant Research and Development initiatives, with support to extend the research and development base. Additionally, the Government will support and encourage the formal development of the Artisanal and Small-scale Mining sub-sector (ASM) in which several Malawians participate. Finally, the Government in partnership with the private sector

will also promote opportunities for downstream value addition for some of the minerals produced in the country.

The Government of Malawi fully recognizes that to attract private investment, which should play a leading role in mineral development, it has to establish an integrated enabling environment which is attractive to potential investors, as done by other successful mining countries. Such an environment includes the need to consolidate investment rules. In this respect, the Government will ensure macro-economic stability and put in place a balanced fiscal regime that provides an overall competitive investment climate, which will provide confidence to the private sector.

The Ministry of Energy and Mines is the Government agency responsible for mineral development. This Ministry will consolidate its structures in order to coordinate and implement the new Mines and Minerals Policy, and it will also revise the Mines and Minerals Act of 1981, and related regulations applicable to the Mineral Sector, to account for changes that have occurred in this sector to date, and to reflect the new Policy. The Ministry will work closely with other ministries and agencies, private sector and stakeholders in the implementation of this policy.

The Government aims to develop the mineral sector in a socially and environmentally sustainable manner. It will therefore work towards ensuring that producers of minerals adhere to socially and environmentally sustainable principles during the exploration, mine development, operation and mine closure. In this context, the mining operators will be expected to adhere and comply with the social and environmental regimes, and incorporate sound health and safety standards in their mining operations.

The Government recognizes that mineral deposits occur mostly in rural areas, which lack basic services and facilities. The Government will examine, jointly with the private sector and relevant stakeholders, possible options and mechanisms to ensure that an adequate share of benefits from the mineral sector is provided to the communities impacted by mineral activities.

The Government subscribes to several regional and international initiatives related to the agenda of sustainable mineral sector development. The Government will examine the existing options and opportunities in such initiatives, and shall endeavour to fully participate in them.

The formulation of this Mines and Minerals Policy will be followed by the preparation of an implementation framework, to ensure that the above mentioned overall national aims are achieved.

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background

The Government of Malawi recognises the need to put into place an internationally competitive investment environment for the mineral sector in order for it to participate, fit in and benefit from the changed minerals industry. The development of the Mineral Sector in the past has been based on legislation and policy documents that are now outdated and are no longer consistent with the changes that have occurred in the minerals industry both locally and internationally since the 1980's.

The current country strategy for growth and poverty reduction over the medium term has been derived from the Malawi Poverty Reduction Strategy (MPRS), and from the Malawi Economic Growth Strategy (MEGS). The MPRS focused on improving income generating opportunities for the poor, enhancing human capital, improving service delivery and strengthening governance. The MEGS aimed at transforming the country's low-income economy to middle income economy and increasing annual economic growth to at least 6.0 per cent. The Government aims at achieving these improvements through the development of sectors with high potential for economic growth. Mining has been identified as one of these sectors, and has thus been assigned a high priority.

1.2 Justification for a Mines and Minerals Policy

The policy has been developed with the aim of inducing and guiding sustainable mineral development in the country. Malawi wants to develop the existing potential of the mining sector as outlined in the Malawi Economic Growth Strategy. The development of the mineral sector is considered as a main key for (a) the diversification of the country's economy, (b) economic growth and (c) sustainable development. Since the sector is an integral part of the national economy, the policy should be consistent with the overall Government's policies. This requires that appropriate frameworks for investment in this sector must be established. Consequently, during the development of the policy, there has been a wide recognition of the need to attract investors for the sector to grow, while delivering tangible social and economic benefits to the people of Malawi. Therefore, this policy reflects principles, issues and aspirations of stakeholders in these two areas.

Policy Goals

The goals of the Mines and Minerals Policy are:

- (i) To contribute to economic growth, development and poverty reduction; and
- (ii) To guide sustainable development of the mineral sector in an orderly manner.

1.4 Policy Objectives

The main objectives of this Mines and Minerals Policy are:

- (i) To attract investment in the mining sector
- (ii) To formalize and improve small-scale mining
- (iii) To contribute to self sufficiency in mineral products and increase foreign exchange earnings
- (iv) To promote measures to protect the environment
- (v) To create employment opportunities
- (vi) To foster economic diversification
- (vii) To incorporate social dimensions and empower women in mining

1.5 Approach to Mines and Minerals Policy Development

The policy document is the product of consultations with a wide range of stakeholders including mining industry, government departments, academic institutions, local assemblies, mining associations, parastatal organizations, traditional leaders, donors and bilateral agencies. The policy defines the developmental and supportive role of the Government for this sector. It recognizes the role of Government as regulator, and the role of the private sector as player in fulfilling the main objectives to enable the sustainable development of the mineral sector.

1.6 Structure of the Document

The Mines and Minerals Policy is presented in six themes: Mineral Development, Investment Climate, Governance of the Sector, Environmental Management, Social Issues, and Regional and International Cooperation. Each theme describes the background, emerging policy issues and their corresponding strategies.

CHAPTER TWO

2.0 MINERAL DEVELOPMENT

2.1 Background

The Government of Malawi wishes to increase the current contribution of the minerals sector to the economy from 1 per cent to 10 percent of the Gross Domestic Product (GDP). To achieve this goal, the Government aims at attracting both foreign and local investment in exploration and mining, and to place emphasis on economic diversification, employment opportunities, improved balance of trade, poverty reduction and economic growth.

2.2 Mineral Potential of Malawi

Malawi has a variety of known mineral resources that have potential for being developed into:

- Mineral concentrates mined essentially for export, such as uranium, heavy mineral sands, strontianite and monazite.
- Processed products for local consumption or export, such as phosphate, bauxite, gypsum, vermiculite, precious and semi-precious stones and ceramic clays.
- Semi-processed products, as feedstock for the existing or upcoming local industries such as limestone, dimension stone, talc, silica sand and sulphides.
- Minerals used with very little upgrade such as coal.

There is also favourable geological potential for discovery of other metallic minerals and high value minerals including gold, platinum group minerals, and diamonds.

2.3 Exploration and Mining

The full mineral potential of the country is not yet sufficiently known. Considerable basic geological work and ensuing exploration are required to respectively determine and confirm the potential. Much of the available geological information is either outdated or inadequate, while globally the technology and techniques currently used for exploration have advanced significantly. As a result, the known mineral occurrences, particularly for



metallic minerals, will need to be re-examined using modern exploration techniques.

There are indications of high value minerals such as gold, platinum and diamonds in Malawi. Also identified are a number of industrial minerals that could serve for local consumption needs. Adequate and up to date geological information is crucial for attracting investment in the sector. From the overall geological framework of the region, and Malawi in particular, there is little doubt that major economic deposits remain to be discovered. It is also well recognized that some existing concentrations of minerals, which have little economic value today, may at some time in future become valuable.

Several private companies have been actively engaged for several years in various mineral exploration and mining activities in Malawi. Their work has ranged from basic reconnaissance surveys to some detailed feasibility studies. A few companies have initiated mining activities. Additionally, artisanal and small-scale miners are also engaged in prospecting, gemstone mining, rock aggregate crushing, lime burning and salt mining.

2.3.1 Issues:

- (i) Inadequate geological data and information about the mineral resources of Malawi;
- (ii) Insufficient allocation of resources for the development of the mineral sector.

Policy Statement: Government will generate, collect and disseminate basic geological information.

Policy Strategies:

- (i) Support the compilation of available geological information and the generation and interpretation of basic geological data, to encourage the private sector to invest in the more detailed phases of mineral exploration;
- (ii) Strengthen the Geological Survey Department to enable it to compile, generate and interpret basic geological information, and to disseminate the resulting geo-scientific data to potential investors and the general public;
- (iii) Use available geological information to prepare and maintain a prioritised inventory of promising target areas, in order to plan and allocate available resources for geological investigations, to prepare

- and implement investment promotion programs, and to address mineral resources development in the short, medium, and long term;
- (iv) Undertake basic geological investigations of target areas with identified high value minerals in order to support promotional activities to attract investments;
 - (v) Enhance the collection and archiving of information submitted by holders of mineral rights;
 - (vi) Establish modern mineral information systems for all geoscientific information.

2.4 Promotion and Marketing

The mineral sector has not been adequately promoted and marketed; as a result the resources remain largely unexploited. There is therefore need to aggressively promote the minerals sector in order to attract investment so that the sector can significantly contribute to economic growth. The development of the sector can be accelerated by Government initiatives such as attracting Foreign Direct Investment (FDI).

Efforts by the Malawi Investment Promotion Agency (MIPA) and the Malawi Development Corporation (MDC) did not adequately help to promote and market the mineral sector because of the two institutions' emphasis on other sectors.

2.4.1 Issues:

- (i) Inadequate priority assigned for mineral sector development;
- (ii) Inadequate marketing and promotion of the minerals sector;
- (iii) Failure to include the minerals sector in International Protocols and Agreements and National Development Indicative Programmes;
- (iv) Lack of a body to spearhead mineral sector development, and adequate promotion and marketing of mining;
- (v) Lack of mining culture;
- (vi) Lack of geo-tourism.

Policy Statement: Government will promote and market the mineral sector.

Policy Strategies:

- (i) Develop geological and mineral information systems to ensure that all information relevant to exploration, mining and the mineral sector in general is openly available to the public;
- (ii) Allocate adequate resources for the promotion and marketing of the sector;
- (iii) Include the minerals sector in international protocols and agreements;
- (iv) Establish an institution to promote and market the mineral sector to develop linkages with markets worldwide;
- (v) Establish mechanisms to develop a mining culture amongst the general public;
- (vi) Promote linkages between tourism and geological resources.

2.5 MINING DEVELOPMENT

Malawi is endowed with a lot of mineral resources, however, it has traditionally been considered as an agricultural country because of the policies that Government pursued since attaining independence in 1964. As a result, there was very minimal mineral development in the country. Consequently, there was no mining culture and little technical capacity developed. Additionally, there has been little interest by local companies to venture into mining projects and this has also been partly as a result of lack of support from financing institutions.

ISSUES

- (i) Lack of local mining culture among local companies
- (ii) Lack of technical and financial capacity by local companies to participate in mining

Policy statement: Government will encourage and look favourably at joint ventures involving local and foreign companies in mining

POLICY STRATEGY

- (i) Encourage financial institutions to finance mining projects
- (ii) Encourage joint venture partnerships between local and foreign companies
- (iii) Establish mechanisms to develop a mining culture in Malawi

2.6 Infrastructure

Infrastructure is key to the growth of the mineral sector and Government is aware that the sector is unlikely to develop unless improvements are made to the existing infrastructure such as transport networks, telecommunication and electricity.

2.6.1 Issues:

- (i) Poor and inadequate infrastructure;
- (ii) Insufficient and intermittent electrical power supply.

Policy statement: Government will support initiatives to improve supporting infrastructure and essential services.

Policy Strategies:

- (i) Improve and develop the transport and telecommunication infrastructure;
- (ii) Assign high priority to support the improvement of the existing power supply;
- (iii) Continue to explore the use of alternative power sources, including energy minerals which are environmentally friendly.

2.7 Training and Research & Development

Sustainable development of the mineral sector requires considerable capacity building, training, and significant scientific research and technological development.

Mining is a skill-intensive industry, and the quality of the available human resources in Malawi constitutes an important key for the competitive growth of the mineral industry in the country. However, it is also recognized by the Government that because of development priorities, economic constraints and human constraints, the development of capacity and training will have to follow a phased approach.

Technological innovation is also central to the competitiveness of the mining sector. In particular, it is noted that large-scale mining is technologically intensive, with high capital costs, and with competitiveness based on the ability to use new and more efficient technologies.

2.7.1 Issues:

- (i) Inadequate facilities for training, and for Research and Development;
- (ii) Poor collaboration with training and research institutions.

Policy Statement: Government, in partnership with the private sector and stakeholders, will examine options to establish an Applied Research and Development facility for high-level skills development and capacity building, and for the development and application of mineral development technologies.

Policy Strategies:

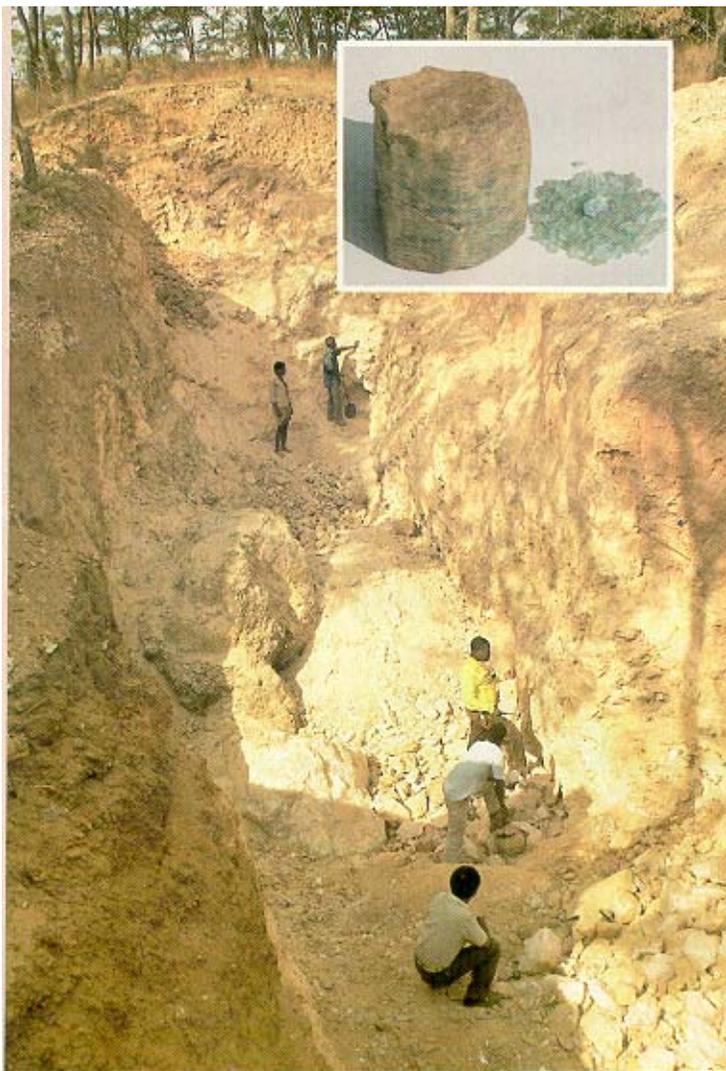
- (i) Support: a) programs for capacity building and specialised training, and b) facilities for Applied Research and Development required for the development of the mineral sector;
- (ii) Encourage Public-Private-Partnerships or joint ventures for Applied Research and Development activities;
- (iii) Explore Bi-lateral and Multi-lateral options and arrangements for undertaking joint applied research programmes;

- (iv) Strengthen collaboration with training and research institutions, and other stakeholders.

2.8 Artisanal and Small-Scale Mining (ASM)

Artisanal and Small-Scale Mining (ASM) activities in Malawi have grown considerably in recent years and are a source of livelihood for many families in rural areas. ASM has the potential to limit rural-urban migration and stimulate local processing and manufacturing industries. These encourage local entrepreneurship thereby creating employment and contributing to poverty reduction. This sub-sector has been identified as a key area to encourage economic growth to help the poor, which is in line with the results of the recent global Extractive Industries Review.

Most artisanal and small-scale miners exploit small deposits in remote areas from where it is generally difficult to get their products to the market. ASM operations often operate illegally and receive little supervision or support from the local or central government authorities. Their operations are labour intensive, low paying, hazardous, and largely unregulated. ASM cause significant damage to public health and the environment by destroying the landscape and spreading pollutants. However, with adequate support, ASM can contribute to economic and sustainable development, particularly in rural areas.



2.8.1 Issues:

- (i) Informal nature and unsustainable structure and practices of ASM sub-sector operations;
- (ii) Poor collaboration between medium to large-scale private mining companies and the ASM sub-sector;
- (iii) Limited role played so far, by ASM in Malawi, in poverty reduction despite its high potential;
- (iv) Lack of appropriate technology and equipment, resulting in reduced productivity;
- (v) Environmental degradation;

- (vi) Use of harmful mineral processing chemicals;
- (vii) Lack of capital;
- (viii) Lack of reliable and legitimate buyers, and easily accessible export markets, especially for gemstones;
- (ix) Smuggling of precious and semi-precious minerals;
- (x) Limited value-adding facilities.

Policy Statement: Government, with collaborating partners and stakeholders, will establish an enabling environment to develop the ASM sub-sector.

Policy Strategies:

- (i) Support the alleviation of constraints affecting the ASM sub-sector, in order to enable it to be sustainable;
- (ii) Encourage stakeholders to assist ASM miners, through sharing of technology and marketing services;
- (iii) Strengthen sectoral institutions, to assist in the identification of appropriate technologies for ASM, through applied research and development programs;
- (iv) Provide enhanced technical extension services to the artisanal and small-scale miners through its sectoral institutions and agencies;
- (v) Support arrangements through the Ministry of Energy and Mines, the Geological Survey Department, Department of Mines and other agencies, to develop capacity and train extension service officers;
- (vi) Encourage micro-finance institutions and consider establishing specific mineral fund arrangements to provide credit/loans to small-scale miners to purchase mining and beneficiation equipment;
- (vii) Encourage financing institutions to develop arrangements to accept mining claims and the value of deposits, as collateral for the provision of credit/loans;

- (viii) Encourage the formation of co-operatives to enhance collective bargaining power, adoption of systematic approaches, and better recognition from financing institutions;
- (ix) Support arrangements for the establishment and operation of marketing mechanisms for mineral products;
- (x) Encourage participation of artisanal and small-scale miners at trade fairs and exhibitions;
- (xi) Review the fiscal and taxation regime of the ASM sub-sector, with emphasis on its level of royalties and collection issues. It will also simplify the administrative procedures for ASM;
- (xii) Review and revise law enforcement procedures, and also undertake considerable capacity building within its sectoral institutions, agencies and departments, in order to enable the prevention of smuggling and the adequate monitoring of compliance with legislation and regulations;
- (xiii) Simplify ASM licensing procedures, and the issuing of respective mineral rights and related permits.

2.9 Value Addition

Mining in Malawi is primarily concerned with the production of mineral raw materials that are used elsewhere in downstream industries, thus achieving the addition of value in other places. While raw mineral commodity prices fluctuate widely, the prices of value-added products fetch higher prices. These prices tend to stabilize with each increasing stage of processing and fabrication.

2.9.1 Issues:

- (i) Inadequate value adding capacity;
- (ii) Compliance with international standards during value-addition.

Policy Statement: Government, with collaborating partners, will promote downstream value-addition of minerals.

Policy Strategies:

- (i) Design incentives to ensure gradual downstream value-addition to mineral production;
- (ii) Encourage value addition of precious and semi-precious stones to be undertaken at village level;
- (iii) Ensure that international and local firms work within national and recognised international standards;
- (iv) In partnership with the private sector, endeavour to train local Malawians in value addition;
- (v) Facilitate access to credit/loan schemes from cooperating partners, for downstream value addition.

CHAPTER THREE

3.0 INVESTMENT CLIMATE

3.1 Background

The key to developing and realising sustainable economic benefits from the minerals sector partly depends on creating a favourable investment climate including long-term political and macro-economic stability, with sound and equitable fiscal and taxation regime, and adequate royalty levels.

The above needs Government intervention in order to create an enabling environment to attract potential investors. This includes principally the restoration of macro-economic stability, the rationalisation of the fiscal and taxation policy, clear rules of the game, particularly in respect of mineral rights, establishment of adequate institutional capacity to monitor, and enable compliance and enforcement, and also the improvement of economic infrastructure.

3.2 Macro-economic Environment

Malawi has been experiencing macro-economic instability characterized by high interest rates and inflation. This has discouraged direct foreign investment.

In order to encourage investment, a set of macro-economic challenges that are relevant to investors need to be addressed.

3.2.1 Issue:

- (i) High inflation and interest rates and wide fluctuations in exchange rates.

Policy Statement: Government will improve the macro-economic environment in order to attract investment into the mineral sector, in addition to investments in other sectors.

Policy Strategy:

- (i) Restore and sustain macro economic stability.

3.3 Taxation Policy

The fiscal regime of a country is an important consideration for the investor because of its influence on bottom-line returns. Host countries can apply a range of fiscal instruments to control the amount and timing of their share of the revenue generated by the mining industry. These fiscal instruments are applied through various definitions of income and on different items of production. Taxes include corporate tax, import or export duties, value added or sales tax, fuel tax, income tax and other levies.

3.3.1 Issues:

- (i) Limited double taxation agreements;
- (ii) High import and export duties and surcharges have the potential to negatively affect the import of mining technology, the capital expenses for equipment, and also the levels of mineral exports;
- (iii) Inadequate investment incentives to develop mines in remote areas and to promote downstream value adding to mineral production;
- (iv) Discretionary incentives.

Policy Statement: Government will develop a fiscal and taxation regime that successfully attracts investment in the mineral sector and compares favourably with regional and international markets.

Policy Strategies:

- (i) Enter into tax treaty agreements with other appropriate countries and review existing tax treaties;
- (ii) Give the minerals sector automatic exemption from import duties and surcharges on essential mineral development capital items, in line with experience and practices from other mining countries;
- (iii) Introduce specific investment incentives to mineral investors in order to promote mineral development in remote areas of Malawi and encourage downstream value-addition to minerals, on basis of international experience and practices;
- (iv) Remove all discretionary clauses in legislation;

- (v) Review the accelerated depreciation for mining investments, in line with experience and practices from other mining countries;
- (vi) Periodically undertake tax reforms in order to attract investments.

3.4 Mineral Royalty

The state's ownership of mineral rights is non-negotiable, as is the state's right to collect exploration fees during prospecting as well as mineral royalties and ground rent during mining. The mineral royalty rates in Malawi are high in relation to others in the region and are generally applied to gross sales value. This may be a disincentive for foreign investment and may be one of the reasons for low investment in the sector

3.4.1 Issue:

- (i) High rates of mineral royalties.

Policy statement: Government will introduce realistic rates for mineral royalties

Policy Strategy:

- (i) Review the current mineral royalty rates and compare it with royalties used in other mining countries.

CHAPTER FOUR

4.0 GOVERNANCE OF THE SECTOR.

4.1 Background

The practices and institutions by which authority is exercised in the management of the mineral sector are crucial in attracting and retaining private investment. These include the process by which those in authority are selected. They also depend on the capacity of government to effectively manage the sector and its resources.

In Malawi, as in most countries, it is recognized that prospecting and mining are better managed by private enterprise than by Government bodies. This preference is due to the degree of flexibility, the wide range of specialised skills and, in particular, the high commercial risks involved both in prospecting and mining. Exceptions may be made for energy and other strategic minerals essential to the domestic economy. As a result of this, the main role of government should be to facilitate and regulate the growth of the sector.

The Mines and Minerals Act, 1981, regulates the exploration for, and exploitation of, Malawi's mineral resources. The policy embodied in the Act encourages the development of the mining industry by welcoming participation by reputable mining groups in medium to large scale prospecting and mining activities. With regard to artisanal and small-scale operations, the Act is biased in favour of Malawian entrepreneurs though outsiders are not excluded.

The Malawi Government's current role in the development of the mining industry is five-fold:

- (i) To formulate policy and create an enabling environment for investment;
- (ii) To provide the necessary background information covering country-wide geological, geochemical and geophysical surveys to enable companies to select target areas for exploration;

- (iii) To carry out sufficient preliminary prospecting and assessment work on potential mineral deposits to encourage the potential investors to take over;
- (iv) To provide assistance in mineral processing particularly to artisanal and small scale miners; and
- (v) To monitor and regulate the mining industry.

4.2 Institutional Arrangements

For policies to be successful, the Government must have the structures, capacity and resources to implement them. The Ministry of Energy and Mines is primarily responsible for the promotion of mineral resources by formulating appropriate policies to facilitate and accelerate sustainable mineral development in the country.

In 1982, the government established a Mineral Licensing Committee composed of professionals in mining, geology, environmental issues, physical planning, police and customs. The licensing committee is responsible for scrutinizing all applications for mineral rights and mining concessions and making recommendations to the Minister responsible for mining. With such composition, approvals for issuing of various licenses for mineral rights and mining concessions usually take very little time as this approach reduces inter-departmental consultations and ensures that applications are treated objectively and professionally.

4.2.1 Issues:

- (i) Inadequate institutional structures;
- (ii) Lack of legal mandate for the Mineral Licencing Committee;
- (iii) Inadequate institutional capacity.
- (vii) Delays in issuing licenses for mineral rights;

Policy statement: Government will restructure and co-ordinate the various mining related departments so that they become more effective in translating and implementing mines and minerals policy.

Policy Strategies:

- (i) Conduct reviews and diagnostics to improve the institutional capacity and structure for the mineral sector;
- (ii) Ensure allocation of adequate resources to institutions and agencies responsible for mineral issues;
- (iii) Establish an institution to spearhead and participate in mining in the country;
- (iv) Establish an independent Mineral Licensing body through legislation;
- (v) Establish a modern and efficient cadastral system for the award and management of mineral rights.

4.3 Legislative Framework

Three Acts regulate the mineral sector in Malawi. These are the Mines and Minerals Act 1981, the Petroleum (Exploration and Production) Act, 1983, and the Explosives Act. The Commissioner for Mines and Minerals who is appointed by the Minister responsible for mining matters administers the Mines and Minerals Act.

The Mines and Minerals Act defines the rules under which players in the mineral sector conduct business. It outlines the rights, duties and obligations of Government and of the exploration and mining companies as well as the applicable restrictions.

4.3.1 Issues:

- (i) Lack of harmonisation of the Mines and Minerals Act with other acts that affect the sector;
- (ii) Inadequate legal provisions;
- (iii) Inadequate mine safety provisions.

Policy statement: Government will revise the Minerals Legislation.

Policy Strategy:

- (i) Review the mineral legislation to make it in line with other sectoral legislations, while ensuring that it reflects best practice and procedures of other countries with important mineral sectors.

4.4 Regulatory Framework

The regulatory provisions of the Mines and Minerals Act, 1981 are in general adequate, and the principles underlying mineral rights ownership, security of tenure and the administration of licences are acceptable. However, they need to be modernized to incorporate the introduction of cadastral systems for the award and management of mineral rights. Additionally, the Government of Malawi also needs to review international experience in regulatory reform in order to enable putting in place an independent, transparent, lean and effective regulatory system.

4.4.1 Issues:

- (i) Security of tenure;
- (ii) Transparency and accountability.

Policy statement: Government will put in place a clear, transparent and equitable regulatory framework.

Policy Strategies:

- (i) Guarantee security of tenure;
- (ii) Put in place mechanisms to promote transparency and accountability in the mineral sector.

CHAPTER FIVE

5.0 ENVIRONMENTAL MANAGEMENT

5.1 Background

The National Environmental Policy (1996) provides an overall structure against which relevant sectoral environmental policies can be reviewed to ensure that the policies are consistent with the principles of sustainable development, while the Environment Management Act (1996) and the Mines and Minerals Act (1981) contain sections that specifically deal with the protection and management of the environment. Section 24 of the Environment Management Act outlines the requirements for projects, which an Environmental Impact Assessment (EIA) is needed.

Mining is not a benign activity and it is impossible to extract minerals from the earth and process them without impacting, in various degrees, on the air, land and water, as well as plant and animal life. The closure of a mine can also seriously impact on the local community. In these contexts, it must be recognised that mining must be committed to minimise the temporary disruption of the environment during exploration and production and to maximise the effectiveness of rehabilitation of land and closure measures, at the end of the mine's life.



5.1.1 Issues:

- (i) Environmental degradation during mining activities;
- (ii) Non-compliance of mining companies to the Environmental Management Plan (EMP);
- (iii) Non-Compliance with international standards in Occupational Health and Safety.

Policy Statement: Government will enforce environmentally sustainable mining practices.

Policy Strategies:

- (i) Enforce the carrying out of an EIA in accordance with existing guidelines;
- (ii) Ensure that an Environmental Management Plan (EMP) for each mine project is put in place and implemented accordingly;

- (iii) Develop a process for issuing of a mine closure certificate that indicates compliance with environmental regulations during and after decommissioning;
- (iv) Ensure that companies implement the prescribed Environmental Management Systems (EMS);
- (v) Require an environmental bond for each project to cover the cost of rehabilitation;
- (vi) Provide extension services for best practices in environmental management to ASM's;
- (vii) Formulate, enforce and monitor bylaws on environmental matters pertaining to small-scale mineral permits;
- (viii) Enforce compliance with local and international occupational health and safety standards;
- (ix) Establish mechanisms for appropriate compensation for the people and communities that are adversely affected by mining and related activities, and processing technologies.

CHAPTER SIX

6.0 SOCIAL ISSUES

6.1 Background

Mining can be associated with a number of social issues that need to be taken into consideration. Such challenges are social injustices, health and HIV/AIDS, job opportunities, education and gender imbalances.

6.1.1 Issues:

- (i) Inadequate empowerment of local people;
- (ii) Lack of articulated social responsibilities for mining companies;
- (iii) Impact of HIV/AIDS;
- (iv) Gender issues;
- (v) Child labour;
- (vi) Diseases and disruption of families and social structures;
- (vii) Disposal of mine assets on the closure of mining operations;
- (viii) Compensation of owners of land and communities affected by mining.

Policy Statement: Government will ensure that mining related social issues are addressed.

Policy Strategies:

- (i) Deliberately introduce mechanisms to empower Malawians to embark on mineral resource ventures;
- (ii) Work with investors to ensure that local communities benefit from mineral development;
- (iii) In partnership with the private sector, continue to address HIV/AIDS issues including reducing the spread of the disease and the provision of ARV's to mining communities;
- (iv) Address gender imbalance and other issues;

- (v) Ensure that legislation relating to the use of child labour is enforced.
- (vi) In partnership with investors, provide access to health and other social facilities for mining communities;
- (vii) In partnership with mine operators, develop training schemes for workers to provide them with alternative livelihoods after mine closure;
- (viii) Encourage the developer to give priority to local communities to acquire assets left by the company after mine closure;
- (ix) Enforce the legislation dealing with compensation of communities affected by mining operations.

CHAPTER SEVEN

7.0 REGIONAL AND INTERNATIONAL COOPERATION

7.1 Background

Throughout the world, countries are clustering into economic blocks. In southern Africa the main integration groupings to which Malawi is party are the Common Market for Eastern and Southern Africa (COMESA) and the Southern Africa Development Community (SADC). The former has historically been a trade model, while SADC has emphasized co-ordinated investment approach into areas of public goods, especially economic infrastructure. SADC is moving into becoming an integrated economic block, with mining playing a major role in current and projected economic growth.

Opportunities that have availed themselves within SADC are Corridors or Spatial Development Initiatives (SDI) and the Southern African Power Pool (SAPP). The SDI's have spurred the development of clusters in various sectors across national borders while the SAPP provides a mechanism for electricity utilities to trade electricity through interconnections. Mining is an energy intensive industry and the implementation of the SAPP should provide opportunities for access by Malawi to abundant and cheaper sources of energy.

Another initiative that was launched in 2002 by African Mining Ministers is the Africa Mining Partnership (AMP). This is part of the New Partnership for Africa's Development (NEPAD). The AMP aims at developing sustainable means of promoting increased socio-economic benefits from mineral development in Africa. Its objective is to enhance, concretise and implement the objectives of NEPAD, particularly those that relate to minerals.

Malawi needs to be active in participating and responding to these global and regional initiatives that address mineral sector issues and concerns.

7.1.1 Issues:

- (i) International protocols on mineral development;
- (ii) Harmonisation of policies;
- (iii) Sharing of mining technologies and skills;
- (iv) Environmental standards;
- (v) Regional and international cooperation.

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

Policy Strategies:

- (i) Actively participate in the implementation of regional and international protocols on mining and other initiatives;
- (ii) Ensure harmonisation of policies, standards and legislation.

CHAPTER EIGHT

8.0 STRATEGIC FRAMEWORK

A strategic framework is used for developing an implementation plan. An implementation plan is designed to ensure that the policy statements are implemented and the overall goals and objectives are achieved over time.

The Government recognises that failure of the minerals policy instruments would revolve around the lack of political will and/or the lack of an implementation plan. In this regard the Government is committed to delivery of the Mines and Minerals Policy intents.

Policy Statement: Government will develop an implementation plan consisting of a programme of action with time frames that indicates what needs to be done, by whom and when and the required resources.