

# A review of mineral development and investment policies of Botswana

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Received 5 June 2004; received in revised form 21 June 2005; accepted 9 August 2005

## Abstract

Botswana's mineral policy objective is primarily to maximize the national economic benefit from the development of mineral resources. In 1999, the government replaced the old mining code of 1977, which was out of tune with prevailing economic philosophies with a new mining code. Although, the old act had its shortcomings it served the country reasonably well for 20 years, during which time the country was transformed from being one of the poorest of the world's poor to a middle income country. One of the cornerstones of the new and old mining codes is that government does not subscribe to privately owned minerals rights. The Botswana government attempts to provide a fair balance between the various stakeholders. There are, however, areas in the mineral policy and mining codes that need to be critically reviewed as outlined in this paper. © 2005 Elsevier Ltd. All rights reserved.

*Keywords:* Mineral development; Mining investment; Mineral resource; Mineral policies; Mining codes

## Introduction

The mining sector makes a significant contribution to the economy of Botswana. During the last [National Development Plan 8 \(1997/1998–2002/2003\)](#) the sector contributed about a third of the Gross Domestic Product, over 70% of export earnings and over 55% of total government revenues ([Mining Development Plan 9, 2003/2004–2008/2009](#)). Since, diamond mining began in the early seventies the country has posted commendable economic growth. Although, the country has made significant progress since independence, economic diversification has not been well rooted. This is a major concern to Botswana especially against the fact that no significant growth impetus is expected to originate from the mineral sector in the near future.

This paper reviews the mineral development and investment policies of Botswana. The paper focuses on the impact of mineral and fiscal legislation in attracting investors. It highlights the information most crucial to the investor during the exploration and exploitation phases including mineral potential, mineral legislation, fiscal regime, business environment and political risk. Mining involves an element of speculation and is particularly susceptible to risk. Investors would normally carry out a risk analysis of prospective

countries prior to making investment decisions. There are many types of mining project risks including management, political and security risks, ore reserves, production (technology), construction, commodity (price and market) and environmental risks. This paper however confines itself to political and security risks since government authorities may influence them.

## Investment environment in Botswana

Botswana has created a reasonably acceptable environment for private sector investment in the mineral sector. The government has allowed a mixed economy to flourish and has offered a liberal exchange control regime, which has permitted relatively free repatriation of dividends and profits and virtually unrestricted freedom to import goods and services. Botswana has been pragmatic and maintained high levels of foreign exchange reserves. The government of Botswana continues to actively encourage private sector development through an attractive tax system and ensuring macroeconomic stability. The government actively encourages the development of the private sector, through various investment incentives. The general infrastructure in the country is fairly well developed. However, the distance to the coast sometimes hampers business, as the country is landlocked. A 'one stop service center', Botswana Export Development and Investment Authority has been established to improve service delivery. [Table 1](#) depicts a summary of the investment environment of Botswana.

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Table 1  
Investment environment of Botswana

Category	Rate/rank	Remarks
<b>Risk</b>		
Political security	Low insignificant	Member of the Multilateral Investment Guarantee Agency. Both the Political and Security Risk in the country are rated as low and insignificant respectively. Botswana offers a democratic and stable political framework
Corruption	Low	Low corruption levels
Mineral potential	Good	Although Botswana has good mineral potential there is a limited variety of prospective minerals. Mineral deposits include diamonds, gold, copper/nickel/cobalt, soda ash, gemstones and coal
<b>Mineral legislation</b>		
Mineral ownership	State	Government is entitled to participate in companies undertaking mining
Institution		Department of Mines and Geological Survey under the Ministry of Mineral Resources, Energy and Water Affairs
Equity	15–25%	The level of equity participation is a function of the specific nature of a project
Mining policy		The key objective is to maximize the mineral sectors benefit to the country
Licensing system	Act of 1999	This Act governs the disposition and regulation of mineral development in Botswana The law provides for the acquisition of mineral rights including reconnaissance permit, prospecting licence and a mining lease
<b>Environmental management</b>		
		It is Botswana Government's policy to safeguard the environment. However, the Mining Act of 1976 vaguely covers environmental protection during mining operations
<b>Fiscal regime</b>		
Corporate tax	25–35%	There is a two-tier tax system for company tax. Companies pay at the rate of 35% of their taxable income but this is broken down as company tax 25% of taxable income; additional company tax 10% of taxable income, linked to withholding tax; non-resident company tax 35% of taxable income
Royalty	3–10%	Royalty is payable on building and industrial minerals—3%; coal—5%; precious stones—10%; semi-precious stones—5%; precious metals—5%; and 3% for other minerals. Royalty is determined as a percentage of the gross market value
Infrastructure	4 <sup>4</sup>	The country has good infrastructure including all weather roads, railway and telecommunication system

Sources: Control Risk Group; The Africa Competitiveness Report; Mining Journal, 1999; Botswana Mines and Minerals Act, 1999; Mining Journal, 1995; www.mines2000.com.

## A review of mineral development policies of Botswana

Botswana has enjoyed rapid economic and social development since diamond mining began in the early 1970s. Despite its phenomenal economic growth, the country has not seen a positive cascading down in terms of job creation and expansion of mining associated industries. There has been little diversification from mining. The country needs to diversify the economy and move away from its reliance on diamonds. The Act (*Mines and Minerals Act, 1976*), although reasonably modern, had features that required revision in order to provide investor-friendly laws and policy and to reduce bureaucracy. These features principally pertained to the following:

- (1) The casting aside of ministerial discretion in favour of more transparent procedures for acquiring and transferring mining properties;
- (2) The revision of the taxation regime;
- (3) The inclusion of environmental policies;
- (4) The ease of transition from a prospecting licence to a mining licence, dependent on meeting the necessary work schedule.
- (5) The introduction of a retention licence

The government made a number of revisions to its investment codes to attract foreign investment into the country. A new Act (*Mines and Minerals Act, 1999*) reflecting the changed policies of mineral development and disposition in Botswana was promulgated in 1999 after extensive consultation with other role-players and after studying of the policies of successful mining nations. The government addressed aspects of property tenure and ministerial discretion that were not investor friendly in the previous legislation. The main feature of this new legislation is that it seeks to address the shortcomings of *Mines and Minerals Act of 1976* by

streamlining it to encourage investment. Furthermore, ministerial discretion has been cast aside in favour of more transparent procedures for acquiring and transferring mining properties; taxes and royalties have been revised, and environmental policies have been included in the legislation for the first time (*Mining Journal, 1999*).

Outlined below is a review of the new mining investment environment in Botswana.

### *Institutional framework*

The ministry of minerals, energy and water resources (MMEWR) is responsible for developing and implementing the fiscal, legal and policy framework for mineral exploration and exploitation. MMEWR also administers various mineral agreements, carries out mineral investment promotion activities and liaises with bilateral and multilateral partners on mineral related matters (*Mining Development Plan 9, 2003/2004–2008/2009*). MMEWR is supported by two technical departments, which have statutory responsibilities for various technical and operational matters in the mineral sector.

### *Geology and mineral potential*

The country has a fairly good geological database and the exploration effort is reasonably effective. Exploration activity in Botswana has been fluctuating for the period 1997–2001 (*Table 2*). Diamond exploration has attracted the most attention for the said period. Exploration for energy minerals, precious metals, and industrial minerals continued to be subdued for the period under examination.

In the late 1990s, the Department of Geological Survey continued with the program of gathering basic geological information for mineral investment promotion. This entailed

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