

The Future and Fate of the EAC Mining Bill

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Abstract: The EAC Mining Bill represents a significant legislative initiative by the EAC to establish a unified regional mining legal framework and promote sustainable mining development. This paper examines the prospects and fate of the EAC Mining Bill, beginning with an analysis of its context: amid robust economic growth yet sluggish structural transformation, and a mismatch between mineral resource potential and contribution, the EAC urgently requires legal coordination to optimize mining governance and advance regional integration. Second, the paper elaborates on the EAC Mining Bill's core objectives and provisions, including establishing principles of mineral resource ownership, standardizing mining concession processes, building transparency and accountability mechanisms, strengthening environmental protection and community rights, and integrating artisanal and small-scale mining into regulatory frameworks. Subsequently, the paper analyzes the EAC Mining Bill's current stagnation since its first reading in 2017, dissecting underlying causes such as member states' legal disparities, concerns over sovereignty transfer, and insufficient political consensus. Finally, the paper projects the potential impacts should the EAC Mining Bill be implemented, arguing it would yield profound positive effects on regional mining governance, investment environment improvement, and inclusive economic growth. It highlights that future efforts to advance the EAC Mining Bill's enactment require breakthroughs in political dialogue, technical coordination, and leveraging international experience. Research indicates that the EAC Mining Bill represents the correct direction for regional resource governance, and its ultimate fate will profoundly influence the EAC's integration process and the realization of sustainable development.

Keywords: EAC Mining Bill 2017; Regional integration; Legal harmonization; Natural resource governance; Sustainable development

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1. Introduction

The East African Community (EAC), as one of Africa's most dynamic regional organizations, has achieved significant accomplishments in economic growth and integration in recent years. However, member states collectively face challenges such as slow structural transformation and persistent poverty. Against this backdrop, the mining sector is viewed as a key area with substantial potential to drive economic development and regional

integration.

Currently, EAC member states exhibit significant disparities in their mining legal frameworks. This fragmented state not only increases compliance costs for investors but also hinders the formation of a unified mining market. To address this issue, EAC Parliamentarian Chris Opuka Okum proposed the East African Community Mining Bill in 2017, aiming to establish a unified regional mining legal framework. Although the EAC Mining Bill has passed its first reading, it has stalled in subsequent legislative procedures.

This paper systematically analyzes the EAC Mining Bill's development context, core provisions, current progress, and future prospects. It explores its value and challenges as a regional mining governance tool, offering insights into legal coordination within the EAC integration process.

2. Background of the EAC Mining Bill

In recent years, the EAC has demonstrated robust economic growth, with high and rapid GDP expansion rates, making it the fastest-growing region in Africa. The EAC's economic growth is projected to maintain this positive trajectory. Among EAC member states, Rwanda has achieved the highest economic growth rate, followed by Tanzania and Kenya. Rwanda's real GDP growth has been driven by industrial and service sectors; in Tanzania and Kenya, services also serve as primary growth drivers, supplemented by the agricultural sector as the main supply-side growth engine.

Regarding regional integration, the EAC has ratified the protocol establishing a monetary union and is nearing its final stages. The EAC has made significant progress in regional integration, and its intraregional trade in recent years has been the highest among all African regional economic communities, accounting for over 20% of exports—significantly above the continental average ^[1]. Kenya and Tanzania maintain active and substantial import-export trade with each other, while Uganda engages in significant trade with South Sudan.

Despite these developments, it is evident that the task of structural transformation for EAC member states remains formidable. According to African Development Bank statistics, services dominate the region's GDP, averaging 59.0%, followed by agriculture at 25.7%. Industry, including construction, is very small, averaging 15%; similarly, the average share of manufactured goods exports is only about 14.6% ^[2]. Member states of the EAC have frequently revised their mining acts, significantly increased investment in the mining sector, and greatly elevated its priority. However, mining has consistently failed to shoulder the responsibility of driving substantial domestic economic growth or promoting inclusive economic development. The overall economic and social development of the mining sector remains disproportionately low compared to the EAC member states' abundant mineral reserves and the substantial investments made in mining.

It is noteworthy that robust economic growth within EAC member states has not correspondingly led to substantial reductions in poverty and inequality. Poverty remains prevalent across all countries in the region, with Burundi and Rwanda exhibiting extremely high poverty rates, while Tanzania has a relatively lower rate. The state fragility demonstrated by South Sudan poses significant adverse impacts on regional security and economic progress.

In fact, the mining sector is not only an excellent growth driver for domestic economies but also a powerful lever for expanding intra-EAC trade, effectively enhancing the complementarity of various mineral products among member states. Only by properly addressing the positioning and structural arrangement of the mining sector within the national economy, closing legal loopholes in mining development, reducing gray areas and rent-seeking

activities across mining operations, and enhancing transparency in the mining economy can structural adjustments within member states become more feasible. Only through legally grounded, comprehensive adjustments to the mining sector—regulating the operations of major mining corporations, artisanal miners, and small-scale mining entities—can substantial job creation, poverty reduction, and enhanced economic resilience be achieved. This is essential for realizing mining’s role in sustainable and inclusive growth within national economies. Furthermore, the ECOWAS region’s recent robust economic development owes much to its advancing regional integration.

How can mining serve as a lever to consolidate existing achievements and enhance outcomes? How can the legal framework be further refined to eliminate regulatory disparities among member states and establish a unified investment environment? How can a highly competitive mining investment market be created to boost EAC’s competitiveness across all African nations and regions, thereby deepening regional economic integration? The introduction of the EAC Mining Bill provides a legal solution to address these challenges.

3. Objectives of the EAC Mining Bill

Against the backdrop described above, the EAC introduced the EAC Mining Bill. Article 2 of the EAC Mining Bill clearly states its overarching objective:

First, to provide a uniform legal framework for the mining sector in member states. Any project involving the extraction of mineral resources within a member state must comply with the relevant laws and regulations of that state. These rules are collectively referred to as the legal framework or legal architecture. Who participates in formulating these rules and what documents define them varies by country. A well-designed legal architecture should include rules governing the structure of national institutions, how companies obtain and manage permits, fiscal terms for payments between companies and the state, environmental management, the relationship between extraction projects and neighboring communities, the conduct of government officials active in the sector, public information disclosure and accountability, and how the government will manage natural resource revenues^[3]. The primary objective of the EAC Mining Bill is to provide a unified legal framework for the mining sector in member states, promoting common standards and regulations for mining activities within the region to govern mining operations across the community.

Second, it aims to ensure the establishment of transparent and accountable mechanisms for mining-related activities or operations in member states. Accountability, transparency, and openness are the pillars of good governance^[4]. Therefore, to ensure transparency for the public regarding mining activities and related operations, member states bear full responsibility toward stakeholder groups involved in mining activities. EAC aims to assist member states in fully incorporating international organizations’ benchmarks and standards through the provision of a legal framework, thereby establishing sound governance to demonstrate their commitment to accountability and transparency.

Third, protecting affected communities and mining environments to promote sustainable development in the mining industry. Mining provides most of the materials used by human society to build infrastructure, manufacture everyday tools, generate vast amounts of energy, and produce fertilizers essential for agriculture. At the same time, mining activities cause significant environmental disruption and are associated with substantial social impacts and inequalities^[5]. The future of ECOWAS nations and indeed African countries as a whole remains heavily dependent on the development of the mining sector. Consequently, the sustainable development of mining is an imperative issue for ECOWAS nations over the foreseeable long term. The ECOWAS Mining Bill was introduced precisely

with this objective in mind.

Fourth, reducing disparities in the mining operating environment to establish a unified mining investment market. “Rationalizing investments, fully leveraging existing industries to enhance production efficiency, and harmonizing trade policies, investment incentives, and product standards to promote the formation of a unified and single investment area within the EAC” was the very purpose for which the EAC was established ^[6]. The EAC Mining Bill aims to establish a consistent mining legal environment by eliminating measures detrimental to member states, thereby preventing harmful competition among them. This will create a unified mining investment market and foster the optimal investment climate for attracting foreign capital.

4. Core provisions and principles of the EAC Mining Bill

The EAC Mining Bill comprises twelve sections and seventeen specific provisions, covering multiple aspects including mineral resource ownership, mining rights management, transparency mechanisms, environmental protection, and artisanal mining regulations. This legislation aims to establish a unified, transparent, and sustainable legal framework for the mining sector, promoting coordinated development among EAC member states in the mining industry.

4.1. Ownership arrangements for mineral resources

The ownership of mineral resources lies at the heart of mining legislation. In many African countries, disputes over resource ownership frequently arise due to historical legacies, colonial legacies, and differences in legal systems. The EAC Mining Bill explicitly adopts the principle of permanent sovereignty over natural resources under international law, stipulating that all mineral resources located within the territory, waters, exclusive economic zones, continental shelves, and territorial seas of member states belong to the state. These resources are managed and developed by the state in trust for the benefit of its citizens. Member states shall establish appropriate, transparent, and accountable legal and administrative frameworks to ensure the sustainable development of mineral resources and guarantee that mining rights holders obtain corresponding ownership or usage rights after lawful extraction. The EAC Mining Bill further emphasizes that it does not restrict the rights of member states and their citizens to participate in mineral prospecting, exploration, and extraction activities.

4.2. Application and granting mechanism for mining rights

The EAC Mining Bill requires member states to establish a unified mining rights management system, clearly defining the types of mining rights, their validity periods, territorial restrictions, and associated rights and obligations. Mineral rights are granted on a “first-come, first-served” basis, while also permitting the awarding of rights through public bidding in areas with sufficient geological data or clear mineral potential. The bidding process must be transparent, open, and competitive.

Furthermore, the EAC Mining Bill imposes strict limitations on the use of mineral agreements, investment agreements, or mining agreements. Such agreements are generally discouraged unless member state laws explicitly stipulate their applicability conditions—such as an initial capital investment of no less than US\$750 million—and their terms must comply with the country’s general laws. For agreements signed before the EAC Mining Bill’s entry into force, the principle of non-retroactivity applies, recognizing their continued validity.

Regarding mining rights management, the EAC Mining Bill further stipulates obligations for mining

rights holders concerning environmental protection, community relations, health and safety, mine closure, and rehabilitation. It emphasizes the establishment of a computerized mining cadastre system and a transparent tax regime to ensure equitable returns for both the government and investors.

4.3. Transparency and accountability mechanisms

The EAC Mining Bill specifically emphasizes the introduction of transparency and accountability mechanisms in mining governance. It requires member states to establish public information platforms, ensuring the disclosure and accessibility of key information such as mining rights grants, financial plans, environmental impact assessments, and tax and royalty payments. Furthermore, the EAC Mining Bill encourages member states to adopt standards from international organizations like the EITI to enhance mining governance and prevent corruption and rent-seeking.

4.4. Environmental protection and community rights

Mining development often leads to environmental degradation and social conflicts. To address this, the EAC Mining Bill mandates that mining rights holders must conduct environmental impact assessments, develop mine closure and ecological restoration plans, and assume corresponding financial liabilities. Simultaneously, the EAC Mining Bill requires mining operations to consider the interests of affected communities, including employment opportunities, local procurement, and community development funds, to achieve a balance between mining development and community well-being.

4.5. Regulation of artisanal and small-scale mining

Artisanal and small-scale mining is widespread across the EAC region but has long operated in a legal gray area. This Bill establishes it within a unified legal framework for the first time, requiring Member States to provide legal status, technical support, and financing channels to promote its transition toward formalization and sustainability.

5. Current progress and status of the EAC Mining Bill

Following its completion of the first reading on May 31, 2017, the EAC Mining Bill did not proceed as anticipated into subsequent legislative stages and remains stalled. Although initially viewed as a crucial legal instrument for advancing regional mining integration, its legislative process has been constrained by multiple factors.

5.1. Reasons for legislative stagnation

First, divergent laws and policies among member states constitute the primary obstacle to the EAC Mining Bill's advancement. Significant differences exist across EAC member states in mining governance structures, resource ownership frameworks, and taxation systems. For instance, Tanzania emphasizes state control over resources, while Kenya leans toward market-oriented reforms. These disparities result in varying degrees of acceptance for a unified mining code among nations, making consensus difficult to achieve.

Second, some member states express concerns that the EAC Mining Bill may undermine their national sovereignty over mining policies. Particularly concerning mining rights allocation, tax distribution, and environmental standards, nations are reluctant to cede excessive authority to regional bodies.

Furthermore, a lack of political will significantly impedes the EAC Mining Bill's advancement. The agenda-setting of EAC legislative bodies is heavily influenced by member states' domestic political dynamics. Regional

crises such as South Sudan's civil war and Burundi's political turmoil have diverted legislative attention in recent years, preventing the mining bill from becoming a priority.

5.2. Current legal vacuum and alternative mechanisms

With the EAC Mining Bill failing to come into effect, member states continue to rely on their national mining acts for regulation. This has resulted in a fragmented mining investment environment, subjecting transnational mining companies to multiple regulatory burdens and hindering regional mining integration. To address this gap, the EAC has promoted partial coordination in trade and investment through mechanisms such as the EAC Common Market Agreement and the EAC Customs Union. However, these frameworks do not specifically target the mining sector.

5.3. Possibility of legislation revival

Although the EAC Mining Bill is currently stalled, calls for its revival persist as EAC economic integration deepens, particularly with the advancement of the monetary union. Should higher-level political consensus emerge among member states and technical consultations narrow legal discrepancies, the EAC Mining Bill could be reintroduced. Additionally, international focus on responsible mining and sustainable development may accelerate EAC's mining legislative process.

6. Potential impacts and outlook of the EAC Mining Bill

Should the EAC Mining Bill ultimately be adopted and implemented, it will exert profound effects on regional mining governance, economic development, and social integration. Despite current challenges, its long-term value remains undeniable.

6.1. Advancing regional mining governance

The EAC Mining Bill will provide EAC member states with a unified, transparent legal framework for mining, reducing conflicts and duplications in legal application across nations while lowering compliance costs for investors. A standardized mining rights management system, transparent taxation mechanisms, and stringent environmental standards will collectively enhance the EAC's overall competitiveness as a mining investment destination.

Furthermore, the EAC Mining Bill's emphasis on accountability mechanisms and information disclosure will help curb corruption in the mining sector, strengthen trust between governments and citizens, and promote fairer distribution of mining revenues toward national development and livelihood improvements.

6.2. Promoting economic development

Mining represents a potential engine for economic growth in EAC countries. By advancing mining integration, the EAC Mining Bill is expected to attract more foreign investment to the region, facilitating large-scale, modernized development of mineral resources. This will not only directly create jobs but also drive the development of upstream and downstream industrial chains, such as mineral processing, equipment manufacturing, and logistics services, thereby advancing industrialization and economic restructuring.

Simultaneously, a unified mining investment market will help reduce unhealthy competition among member states, prevent a race to the bottom, and ensure fairer economic returns for all countries involved in mining development.

6.3. Social and environmental impacts

The EAC Mining Bill emphasizes community participation and environmental protection, mandating that mining operations balance local residents' rights with ecological sustainability. This will help reduce social conflicts and environmental disputes triggered by mining activities, thereby enhancing public acceptance of the mining sector.

Regulations for artisanal and small-scale mining will assist this vast community in transitioning from illegal and unsafe production practices into the formal economy, promoting inclusive growth.

6.4. Future outlook: Challenges and pathways

Despite the significant advantages of the EAC Mining Bill, its implementation faces multiple challenges at the political, legal, and institutional levels. Future efforts to advance the EAC Mining Bill should focus on the following areas: Strengthening political dialogue and consensus-building by re-establishing the Bill as a priority agenda item at high-level platforms such as EAC Summits; Establishing a dedicated technical working group to coordinate national mining policies and draft compromise provisions; Drawing on international experiences, such as the mining governance model of the Southern African Development Community, and adapting it to EAC realities through localization; Promoting pilot projects to test core provisions in select member states or specific mineral types, followed by broader implementation after accumulating experience.

In summary, while the EAC Mining Bill faces challenges ahead, the direction it represents—regional integration and modernization of mining governance—remains the essential path for EAC nations to achieve sustainable and inclusive growth. Only through cooperation and compromise can the EAC secure a more advantageous position in global competition and truly realize the development vision of 'mining for all.'

7. Conclusion

The EAC Mining Bill represents a significant effort by the EAC in regional mining governance and legal harmonization. The EAC Mining Bill aims to address core issues in member states' mining management—including institutional disparities, insufficient transparency, and sustainable development challenges—by establishing a unified legal framework. Although the EAC Mining Bill stalled after its first reading in 2017 due to factors including member states' legal divergences, concerns over sovereignty transfer, and insufficient political consensus, the principles and mechanisms it proposes remain remarkably forward-looking and regionally applicable.

Currently, the absence of a unified legal framework constrains the enhancement of regional mining competitiveness and limits the sector's potential contribution to ECOWAS's economic growth and structural transformation. Looking ahead, advancing the EAC Mining Bill's implementation requires breakthroughs in political dialogue, technical coordination, and leveraging international experience. Despite the challenges ahead, establishing a unified, transparent, and sustainable mining governance system remains an inevitable choice for EAC to achieve optimal resource allocation and regional coordinated development.

Only through continuous institutional innovation and cooperative practices can EAC transform mining from a potential growth driver into a genuine engine of development, moving toward a regional future of shared resource benefits.

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