African Mining Market

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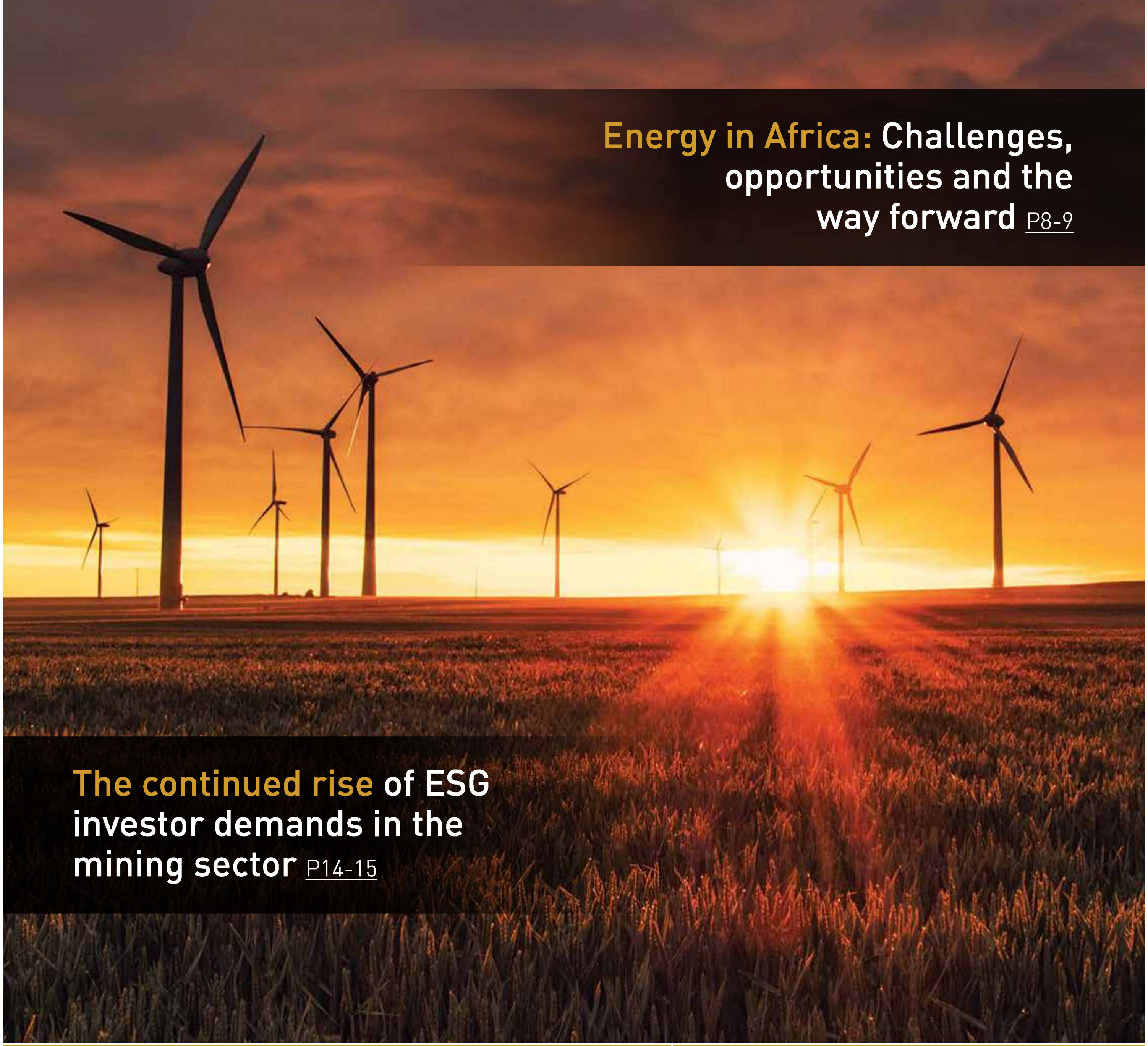
January – March 2023 | Issue 19



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“ The environment is suffering and to counter this problem, populations are called upon to reduce their fuel consumption. ”

Welcome to the January - March Issue

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Welcome to our first edition of 2023 – Issue 19.

In this issue the African Mining Market team present you with a thrilling edition reporting on the latest news from the depth of Mining & Industrial sectors.

This year the African Mining Market magazine has some exciting Media Partnered exhibitions in Africa, at which the publication will further be circulated, adding an extra layer of exposure to advertisers. Some exhibitions include: Africa Energy Indaba (7 – 9 March), East Africa LPG (15 – 16 March 2023), Junior Indaba (6 – 7 June), South Sudan Oil & Power (14 – 16 June 2023), Africa Energy Forum - Kenya (20 – 23 June 2023), Joburg Indaba (4 – 5 October), plus many more…

Further into 2023

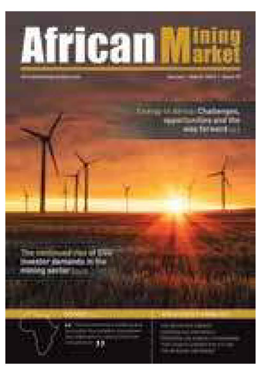
If you are starting to look at marketing in 2023, the African Mining Market provides a creative medium to communicate effectively with your target audience. E-mail us at advertising@africanminingmarket.com, and a media kit with feature list, pricing and all relevant information about the publication will be made available to you. Alternatively, please give us a call on +27 (0) 87 898 8824.

Electronic advertising is also available on the website, social channels and on the weekly eNewsletter, which is distributed to over 117, 000 readers.

We also offer our very successful personalised e-shots direct to our database throughout the year.

Finally, our next edition of 2023 (April – May) will focus on Blasting & Explosives, Oils & Lubricants, Gold, Machinery & Technology, Renewable Energy, Steel Processing & Fabrication, etc., and we welcome any editorial contributions for this issue. This issue will also be distributed at the Junior Indaba, South Africa, the Africa Energy Forum in Nairobi, Kenya (20th – 23rd June) and the South Sudan Oil & Power Exhibition (14th – 16th June).

The African Mining Market Team



April – June 2023

Blasting & Explosives, Oils & Lubricants, Gold, Machinery & Technology, Renewable Energy, Steel Processing & Fabrication, etc.

Please note that the features schedule is subject to change.

Material & Booking deadline: 7th April, 2023

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The rush for EV materials and the temptation of Windfall Taxes

By: Jacques Bouchard, Senior Partner, Gattuso Bouchard Mazzone, Lawyers, Montreal, QC

The environment is suffering and to counter this problem, populations are called upon to reduce their fuel consumption. In order for this solution to succeed, it incontestably requires the collaboration of the large car manufacturing companies. More specifically, it requires taking action towards greener solutions, which the vehicle industry has initiated, through battery improvement and the mass manufacturing of electric cars.

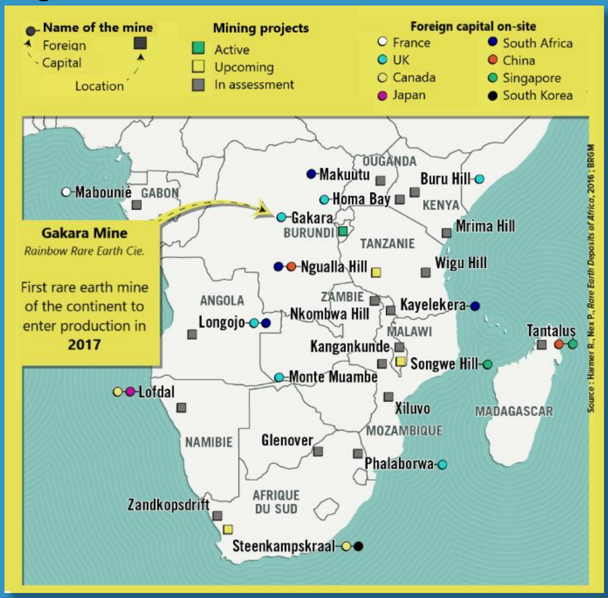
"The recent surge in energy and metal prices and quarterly earnings shattering all-time records have attracted attention. Many experts, including UN Secretary General António Guterres, argue that countries should seize the moment to introduce windfall taxes to deduct from these excessive profits and use the proceeds to support vulnerable people."

According to the International Energy Agency, the total mineral demand for EV and battery storage will grow by more than 30 times between 2020 and 2050. Most groups are predicting a decade of shortages for battery materials.

The signing of concession contracts and takeovers of rare earth mine projects on the African continent are ongoing. For example, MKang Resources has announced that the Songwe Hill rare earth mine, which it owns in Malawi, is expected to come into production as early as 2025.

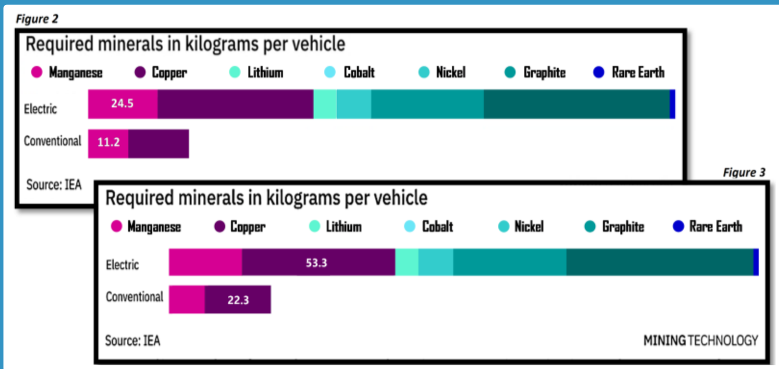
While huge investments are needed in all areas of the battery supply chain to keep pace with the growing EV demand, multinational companies continue to prove their interest in mining for EV minerals, which can be illustrated by Figure 1, depicting the situation of rare earths on the Africa continent.

Figure 1



Of course, the need for rare earths (as well as copper and manganese, for example) is becoming more and more pressing in order to meet the growing needs of the "green" sectors.

In fact, "a battery electric vehicle needs six times more minerals than a conventional vehicle." *Figure 2* and *Figure 3* illustrate said variation with regards to the demand for copper and manganese, specifically, in kilograms per vehicle:



In brief, the variation for required minerals in electric vehicles, versus conventional vehicles, is colossal.

Furthermore, there is an undeniable paradox in that the climate calls for a drastic reduction in the activities of extractive industries,[1] while miners face the challenge of meeting the demands for said minerals. All signs point to the fact that there will also be a sharp rise in the prices for graphite, nickel, cobalt, lithium and rare earths given that they are the mains minerals found in large batteries. Said rise will have a direct effect on mining markets, especially mining markets in Africa.

In fact, we are already seeing this problem in action. Global reserves of nickel and cobalt are tight, lithium prices at an all-time high, and competition is fierce.

However, the surge in prices has not produced a mirrored result in companies' profits, as we know from LG Energy's operating profit, which fell almost 75 per cent in the second quarter this year.[1] Companies operating in the mineral sector, whether in mining or in the sale of materials, are facing exponentially higher costs which forces them to find and exploit lands which are rich in minerals throughout the world.

While international competition for investment opportunities in developing countries is not necessarly a negative development, it is important to ensure that foreign companies are mindful of their impact on the environment and the local communities.

The rush to commence business operations abroad do not typically yield sustainable results. This can also partly explain the rise of Corporate Social Responsibility throughout the world. Although these issues impose a heavy burden, the various taxes these countries levy have a similar effect on foreign companies.

The mining market increase of the 2000's quickly came to an end due to the various taxes imposed by African governments who had first welcomed the mining companies onto their territories. One particular tax that critically impacted mineral mines and ultimately led to their closure, was the windfall tax. Twenty years later, is the same recipe more likely to work, or would it yield the same results?

WINDFALL TAX

The fundamental principle behind the windfall tax is for governments to surtax companies in sectors of the economy that have gained from an abrupt and unintentional economic expansion. There are specific industries that are normally targeted by this tax, mainly energy and the mining industry due to its commodity-based business.

The windfall tax has, throughout the years, generated significant debate as to its effectivity and true purpose; however, the comforting prospect of the windfall tax includes the fact that proceeds should directly be used by the governments to strengthen the funding of social programs. Nonetheless, observers of the African market may have taken note of a subtle nuance during the mining era of the 2000's, where proceeds were not directly allotted to social programs. During this era, political needs were the main source of deviation from the original plan to fund social programs. Ultimately, very few governments experienced financial gain, improvement of their social infrastructure and improvement of their malfunctioning national mining companies.

The windfall tax is also designed to entice companies to reduce their windfall profits in order to be released from one of the taxes imposed on them. Consequently, mining companies are encouraged to voluntarily reduce their prices, which will result in lower taxes to be paid on their end and the consumer will be a direct beneficiary in the process.

The mining industry is however not like any other industry: there was and still is a very high level of risk when a company is launched or when a new project is started. Therefore, a tax that has an immediate effect on the company's profits tends to create doubt and fear among investors. As seen in the African mining decline, a government that does not offer a tax stability program Will always create some level of anxiety in the eye of mining companies and will force them to reconsider their location and even their mining activity altogether.

"In brief, the consequences are generally more harmful than beneficial. For the sake of the electric car market and its growth, we suggest that governments must establish a better approach in regulating the mining industry. A lesson that developing countries should learn from developed countries is that the successful flourishing of mining activity mainly depends on the legal certainty available to the investor."

TAX STABILITY

Chile is the biggest copper producer in the world and its government recently announced a probable increase in taxes and royalties from a current rate of 40% to more than 50%. The immediate response by mining companies was that this proposed taxation level would make investments very "challenging".

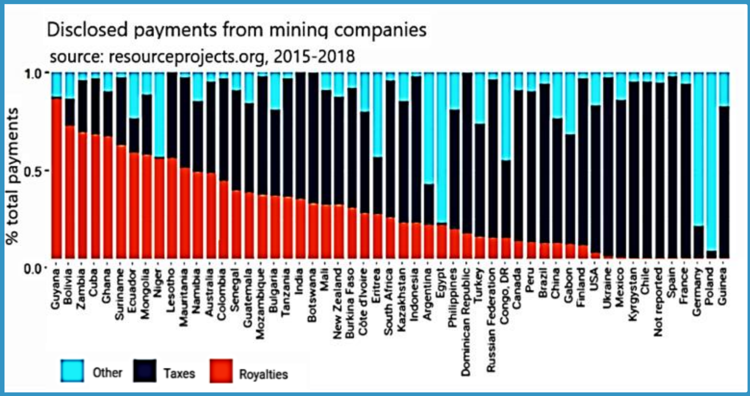
Mining is a high-risk activity that requires major capital investments. Moreover, new projects are often more costly to develop because the quality of ore is lower, thus requiring more processing. Finally, commodity markets are volatile, inviting cost pressures everywhere in the supply chain.

Countries that might otherwise be considered unstable politically or socially might still make it as a popular destination for mining investors if they created a user-friendly regime.

For example, countries like Argentina have introduced a legal protection: the tax burden, as determined at the time of filing the feasibility study, cannot, for the entire duration of the project, be increased as a result of future changes to taxes and rates. Such systems have effectively introduced a cap on future taxation.

That being said, the recent surge in energy and metal prices and quarterly earnings shattering all-time records have once again attracted attention.

Many experts, including UN Secretary General António Guterres, argue that countries should seize the moment to introduce windfall taxes to deduct from these excessive profits and use the proceeds to support vulnerable people.



In May 2022, the UK raised its tax rate for energy companies from 40% to 65% of profits. According to the government, the money raised will be used to offset the rising costs of living per household. Several other countries, like Spain, France, and Australia, are also considering establishing such new short-term levies.

Of course, energy companies oppose such projects vehemently, warning that such efforts would deter future investments; however, these arguments are somewhat self-serving, for recent profits were not used towards capital investment but rather for stock buybacks.

POSSIBLE SOLUTIONS

The application of the windfall tax in various jurisdictions around the world was, generally, not well-received and it was one of the major reasons for the downfall of the mining industry in Africa. In fact, in numerous countries, the surtax profits were not invested in the civil and social infrastructures, nor were they used to grow the economic status of the country. The negative effect on the survival rate of mining compagnies caused the windfall tax to fail.

The sad reality is that this tax turned out to be detrimental to the citizens, a huge disadvantage for companies and largely responsible of keeping the mining industry in Africa from being able to strive on a long-term basis.

A lesson that developing countries should learn from developed countries is that the successful flourishing of mining activity depends mainly on the legal certainty available to the investor.

Important investments are now needed to meet the growing EV demand. Considering the political and legal volatility in some countries in South America and Africa, the guarantee of tax stability will remain an essential tool to protect mining investments from incidences of regulatory changes that may occur over the duration of mining projects.

In a word, there is no doubt that a predictable environment is important to foster investments and that countries should consider structural changes to their tax system as a better approach. For example, in countries like Brazil and Nigeria, higher tax rates automatically get triggered when commodity prices reach a specific level.

There are also other alternatives to windfall taxes: for example, in Canada, both the federal and provincial (or territorial) levels of government impose tax and/or royalties on mining operations, but the mining tax systems are generous as they allow companies to recover most of their initial capital investment before they need to pay significant taxes.

Canada offers many incentives in the form of tax credits and deductions for qualifying mining expenditures, which is only one of the reasons three of its provinces ranked in the Fraser Institute's top 10 most attractive jurisdictions for mining investments. This model is clearly effective, considering Canada is a leading global producer of numerous critical minerals, including those essential to advanced battery technologies.

While some political parties are pushing or a windfall tax on oil and gas in Canada, economists warn that this will deter capital investment as it would create uncertainty, and we believe the same can be said for the mining sector. Many unforeseeable factors can influence the success of a company, but fiscal obligations should always be predictable and explicit, allowing for the effective implementation of a business plan, which in turn generates income for the host country and its citizens.

Regardless of the chosen tax policy, countries must provide a predictable fiscal environment needed for businesses to thrive, whilst also tackling excessive commodity prices during market surges, in order to build a sustainable, viable and long-lasting mining market not only for the companies, but too for the local communities and the mined countries' socioeconomic health. Mining companies cannot have the goalposts moved throughout the process. The assurance of cost commitments and the ability for companies to plan accordingly are crucial to a company's long-term viability. If such assurances are in doubt, inevitably a company will bow out.