Report on the Key Weaknesses of Madagascar's New Mining Code

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Madagascar's New Mining Code, introduced as Law, came into force on June 7, 2023, and was developed to address long-standing challenges in the country's mining sector. Madagascar is richly endowed with mineral resources such as cobalt, graphite, nickel, and precious stones, making mining a vital component of its economic development. However, the mining sector has long faced challenges that have limited its potential for sustainable economic development and growth. Weak governance frameworks are a significant issue, as inadequate oversight and regulatory enforcement have created inefficiencies, encouraged corruption, and undermined confidence in the sector. The lack of institutional capacity often means that mining activities are not closely monitored, and regulations are inconsistently applied. This not only deters potential investors but also leaves room for exploitation and poor management of the country's vast mineral resources.

[1]Unregulated artisanal mining is another critical challenge. Many Malagasy people rely on small-scale or informal mining as their primary source of income, but without proper regulation, these activities often operate outside the formal economy. This leads to issues such as tax revenue loss, unsafe working conditions, and environmental degradation caused by uncontrolled mining practices. Additionally, artisanal miners lack access to resources, training, and markets, which could otherwise enhance their contributions to the sector while reducing the negative social and environmental impacts.

[2]Environmental degradation is a pressing concern, given Madagascar’s rich biodiversity and fragile ecosystems. Unsustainable mining practices have led to deforestation, water pollution, and habitat destruction, threatening the country’s natural heritage. Regulatory gaps and weak enforcement of environmental laws exacerbate this problem, as mining companies and artisanal miners alike often fail to adopt sustainable practices. The long-term environmental costs pose significant risks not only to ecosystems but also to communities that depend on natural resources for their livelihoods.

Investment Challenges

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[1] Devenish, K., Goodenough, K., Jones, J. P. G., Ratsimba, H. R., & Willcock, S. (2023). Mapping to explore the challenges and opportunities for reconciling artisanal gem mining and biodiversity conservation. *The Extractive Industries and Society, 15*, 101311. https://doi.org/10.1016/j.exis.2023.101311

[2] Eckert, S., Schmid, L., Messerli, P., & Zaehringer, J. G. (2024). Spatiotemporal assessment of deforestation and forest degradation indicates spillover effects from mining activities and related biodiversity offsets in Madagascar. *Remote Sensing Applications: Society and Environment, 36*, 101269. https://doi.org/10.1016/j.rsase.2024.101269

Madagascar has struggled to attract consistent foreign investment in its mining sector. [3]Regulatory uncertainty, political instability, and challenges in infrastructure development make the investment climate less attractive to international stakeholders. Investors require a stable, transparent, and well-regulated environment to commit long-term resources, and the country's historical inability to provide this has limited the growth of major mining projects. Without significant reforms in governance and infrastructure, Madagascar risks losing out on opportunities to fully capitalize on its mineral wealth.
Addressing these interrelated issues requires a comprehensive approach that strengthens governance, formalizes artisanal mining, enforces environmental safeguards, and creates a more predictable investment climate. This would allow Madagascar to harness its mining sector's potential while ensuring that its social, environmental, and economic priorities are balanced.
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The New Mining Code aims to address these issues by fostering sustainable development, attracting foreign investment, and ensuring that local communities benefit from mining activities. One of the main weaknesses of the New Mining Code lies in its **implementation framework**. While the Code sets ambitious standards for sustainability and governance, Madagascar's regulatory institutions remain underfunded and understaffed. Limited institutional capacity poses serious risks for the effective enforcement of laws and monitoring of mining operations. Internal controls, such as compliance mechanisms and auditing processes, require substantial investment in technology and human resources to function optimally—resources that are scarce in Madagascar. Without strengthening these governance institutions, the ambitious objectives of the Code may remain largely aspirational, leaving the sector vulnerable to continued mismanagement and exploitation.
Another significant challenge arises from the **Code's approach to artisanal and small-scale miners (ASMs)**. Artisanal mining plays a crucial role in the livelihoods of many Malagasy people, yet the provisions for integrating ASMs into the formal sector are insufficient. The Code's regulatory requirements and licensing processes may be overly complex or expensive for artisanal miners, potentially marginalizing this segment of the sector. An internal control perspective would emphasize creating systems to support ASMs through simplified licensing frameworks, technical assistance programs, and mechanisms to monitor and prevent illegal mining activities. Neglecting to address

[3] Sarrasin, B. (2006). The mining industry and the regulatory framework in Madagascar: Some developmental and environmental issues. *Journal of Cleaner Production, 14*(3–4), 388–396. https://doi.org/10.1016/j.jclepro.2004.03.004

artisanal miners' unique challenges could exacerbate inequalities and disrupt the sector's social equilibrium.

Finally, **emerging risks** such as climate change, environmental degradation, and technological advancements are not adequately addressed in the New Mining Code. Madagascar's mining sector is particularly vulnerable to extreme weather events and environmental damage, yet the Code lacks detailed guidance on managing these risks. Internal controls should include risk assessments tailored to the local environment, robust monitoring of mining impacts, and a clear framework for addressing environmental emergencies. Similarly, the rapid adoption of technology in mining, while promising, introduces risks related to outdated infrastructure and cybersecurity. The Code's limited focus on these areas underscores the need for a dynamic governance approach that accounts for evolving risks. Without such measures, the sector risks falling behind global standards and failing to realize its full potential.

The implementation of Madagascar's New Mining Code introduces several key areas where internal controls are critical to ensuring its success and safeguarding sustainable development. One of the most important aspects is the **strengthened governance frameworks**, with the Code redefining the mandate of the National Mines Committee (CNM) and emphasizing institutional oversight. From an internal control standpoint, this necessitates the creation of clear compliance mechanisms. Regular audits and transparent reporting processes are essential to monitor adherence to the Code's provisions, mitigate corruption risks, and build public and investor trust in the sector.

Equally significant is the Code's emphasis on **environmental risk management** by integrating Environmental, Social, and Governance (ESG) standards. However, these measures must be supported by robust internal controls to ensure their effectiveness. Organizations must implement monitoring systems that assess the environmental impact of mining activities and enforce compliance with sustainability guidelines. Such controls are necessary to address ecological risks, such as deforestation and biodiversity loss, which have historically undermined the balance between economic gains and environmental preservation in Madagascar.

The establishment of the Mining Fund for Social and Community Investment underlines the importance of **community engagement and benefit sharing**. Effective internal controls are required to ensure that funds are allocated transparently and equitably. Mechanisms such as clear project tracking, performance monitoring, and fraud prevention frameworks are critical to guaranteeing that the fund's resources are directed towards meaningful and sustainable community development initiatives.

The Code also aims to attract foreign investment by promoting critical minerals like cobalt and graphite, but this introduces risks tied to **technological disruptions and market volatility**. Internal

controls should focus on dynamic risk assessment frameworks to proactively address these challenges. Additionally, measures to prevent cybersecurity threats and ensure the ethical sourcing of minerals must be embedded within organizations' governance systems to protect both operational integrity and reputational standing.

Finally, the provisions addressing **artisanal mining integration** require internal controls tailored to this segment's unique needs. Simplified licensing processes, targeted training programs, and robust monitoring systems are critical to formalizing artisanal mining activities. These controls can help prevent illegal practices, promote sustainable methods, and integrate artisanal miners into the broader mining economy.

In conclusion, while the New Mining Code offers a forward-looking framework for Madagascar's mining sector, its ultimate success will depend on the effective design and implementation of comprehensive internal controls. These controls must holistically address governance, environmental, social, and technological risks, thereby enabling the sector to contribute positively to the nation's economic and social development.