

Regional Training Course on “United Nations
Framework Classification – 2009 for Evaluation of
uranium and thorium resources to leverage
transparent and effective communications”

Luxor, Egypt

Legal Framework for Uranium Development in Malawi

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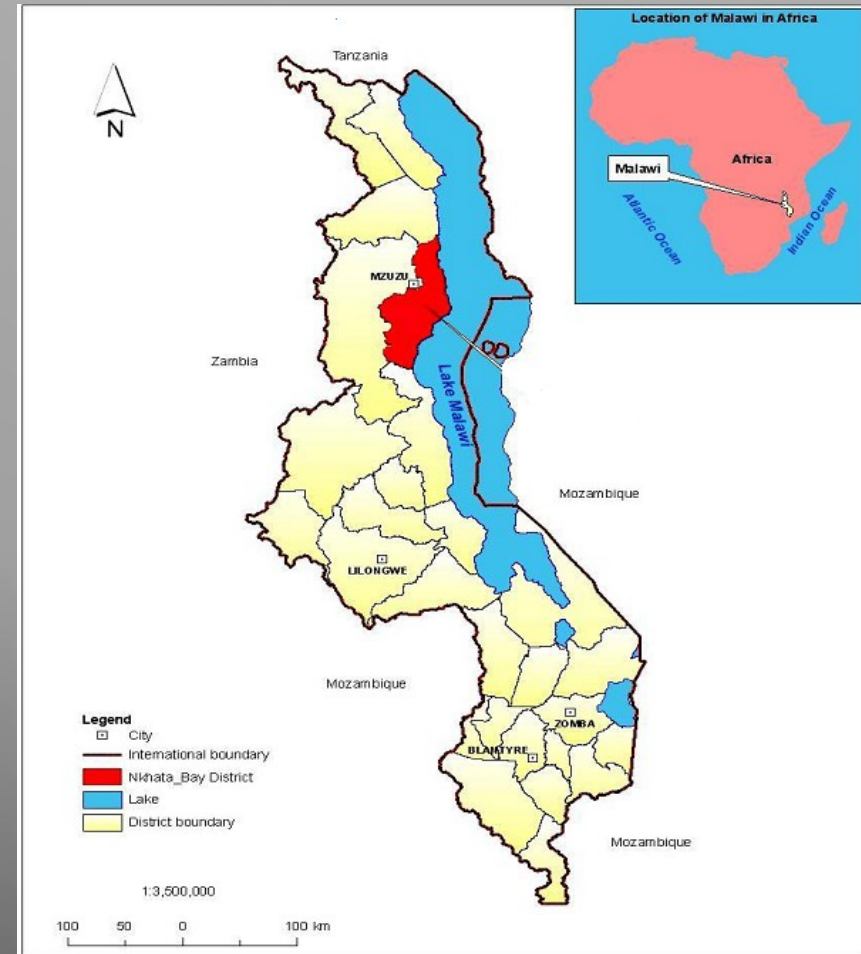


Presentation Outline:

- ▶ Tracing Malawi, the warm heart of Africa
 - ▶ Mining in Malawi
 - ▶ Uranium Development in Malawi – Exploration and Exploitation Project (though on Care and Maintenance)
 - ▶ Legal Frameworks in use
 - ▶ Links to UNFC 2009
 - ▶ Conclusion
 - ▶ Questions, Answers and Comments
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Tracing Malawi– Warm Heart of Africa

- ❑ Malawi is located in the south–eastern part of Africa, within the East African Rift System, between latitudes 9° S and 17° S and longitudes 32° E and 36° E.
- ❑ Size of the country is 118,480 Kmsq.
- ❑ It is a democratic State with a population of about 17,280,000
- ❑ Position of its neighboring countries: Zambia, Tanzania and Mozambique
- ❑ Currently, it has an agro–based economy though it intends to diversify it and majorly become mineral–based.



Mining in Malawi; Current state:

- ▶ **The sector is “growing” in a “contracting” manner!!!**
 - Commencement of numerous exploration activities and closing (temporarily) of existing mines due to global economic factors affecting the mining sector.
 - Conduction of the comprehensive Airborne Geophysical Survey which has given positive results and raised expectations of the State and Investors
 - Numerous efforts put in place by the State to promote conducive growth of the sector such as Capacity buildings in various areas within the sector, Legal aspects, Setting up of a Community Engagement Strategy, Introduction of a Cadastral Office and many others...
- ▶ **Numerous minerals exists** such as Uranium, Phosphates, Bauxite, Rare earth elements, Strontianite, Coal; This excludes the Industrial Minerals available such as Iron sulphides, Limestone, Glass sands, Ceramic clays, Vermiculite, Graphite, Corundum, Dimension stone, Copper.
- ▶ The current **Comprehensive Airborne Geophysical Survey** indicates a huge potential of existence of Radioactive Minerals;
- ▶ Major Uranium Project is the Kayelekera which is currently on Care and Maintenance due to “Market Price” Vs “Production costs”

Numerous exploration projects being undertaken: Chances to have these increase further are very high.

URANIUM DEVELOPMENT IN MALAWI – EXPLORATION AND EXPLOITATION PROJECT

- ❑ **Kayelekera Uranium Mining Project (currently on Care and Maintenance though still processing the stockpile);**
- ❑ Resource Star's Livingstonia Niobium, Uranium and REEs exploration;
- ❑ **Kanyika Niobium, Tantalum and Zircon Prospect (previously Uranium)**_ though results for preliminary interpretation of the Air-born Geophysical Survey shows high radioactive mineral occurrence in Kanyika than initially reported by the investor;
- ❑ **Machinga Heavy Rare Earths, Songwe, Mt. Mulanje, Illomba and Kangankunde REEs; and,**
- ❑ **Tundulu Phosphates in Phalombe** (with high potential of Uranium according to available information_ investor interested in Phosphates for fertilizer production)



Kayelekera Uranium Mine in Malawi

LEGAL FRAMEWORK IN USE

They exist as Hard or Soft Laws:

They cover mostly all issues covering the mine life cycle **such as** Licensing, Environmental protection– inspections and enforcement, Occupational Safety and Health, Transportation of Minerals and Mineral Products, Mine Closure;

Hard Laws:

The mostly used ones include:

- **Mines and Minerals Policy 2013** – expresses the State's desires; crafted so as to be internationally competitive;
- **1981 Mines and Minerals Act**– Revised and yet to be passed in Parliament Targeting November, 2015 Parliamentary Sitting – covers among others, the need to report on geological discoveries (mineral deposits)
- **Atomic Energy Regulation 2012: Government Notice 22**
- **Environmental Management Act, 1996**

Hard Laws contd'...

- **Atomic Energy Act 18th February, 2011** – It is generic as it addresses multi sectoral issues– Has about sixteen parts and addresses issues such as:
 - provision of fundamental radiation safety principles,
 - provision of radioactive waste management (Vs Zero Waste),
 - transportation of radioactive materials,
 - offenses and penalties such as Hindering and Obstructing of inspectors, prohibition of disclosure of information by employee of Authority etc
- **Forestry Act 1997 (No. 5C)**
- **Gender Equality Act 2013** (employment issues in Uranium Mining Projects)

Soft Laws:

Mostly used:

- ❖ To fill the gaps or clarify positions where the *relevant mandatory Laws* are either not clear or vague;
- ❖ To make the Extractive Industry in Malawi competitive as per government's policy;
- ❖ To avoid abuse to nationals
- ❖ Ensure fiscal prudence
- ❖ Ensure collaborative effort in promoting the sectoral activities by encouraging stakeholder interaction mechanism
- ❖ To protect the interests of the State and its citizens on environment, employment etc

These legal instruments includes:

- ▶ International legal frameworks (**Treaties of which Malawi is a party to by ratification or by default;**) such as the UNDHR, International Covenant on Economic, Social and Cultural Rights (**ICESCR**), Convention on the Rights of the Child (child labour in Uranium Projects), the Convention on Elimination of All Forms of Discrimination against Women (**CEDAW**) as a Human right issue (both in large scale mining– employment and abuses and ASMs) ;
- ▶ International Labour Organisation's Conventions such as **ILO's Underground Work (Women) Convention No. 45 (1935)** which Malawi ratified in 1965, the **Equal Remuneration Convention (No. 100)**, the **Non-Discrimination (Employment and Occupation) Convention No. 111** that Malawi ratified on 22nd May, 1965;
- ▶ Bilateral Investment Treaties _ Host and Home State Countries which can apply_ (can act as check points for abuse of fiscal provisions: **e.g.; use of Tax Havens** etc)
- ▶ Memorandum of Understandings (**MoUs**) with the communities where applicable – the revised MMA makes CDAs mandatory.
- ▶ Community Engagement Strategy (though not officially launched but in use)

Links to UNFC 2009...

- ▶ The Laws obliges the Licence Holders to report it's mineral discoveries and any activity it undertakes
- ▶ Lack of the National Code such as SAMREC in South Africa, Malawi Laws allows investors to report using any framework available e.g. JORC Code;
- ▶ The challenge comes on the diversification of the frameworks being used on the part of the regulators (the Host State)– Need great capacity building to fully understand the various Codes being used which is not easy;

Need For a Unique Reporting Framework?

Yes though the Law (as at present) is silent on the Framework to be used and can not impose anything to the Investors which is not legally supported.


Any Relief?

Involvement of Malawi on UNFC 2009 showed a green light to solving the problem at hand Government made a classification of the available deposits by considering the reports submitted– refer to the Malawi Case Study as presented in the “Case Studies by Expert Group on Resource Classification”;

Need for in–depth understanding of the UNFC 2009 by all Parties before making a provision in the Laws



Conclusion:

- ▶ Malawi is currently in a transformation stage: *from being a non mining country to the adoption of a mining culture.*
 - ▶ Malawi is now seriously reforming its extractive sector by among others, reviewing the existing Laws to fit the current competitive world whilst desiring to achieve the Sustainable Development Goals (SDGs) by 2030.
 - ▶ Capacity building on UNFC 2009 within the regulator is in progress and coordination with the investors on UNFC 2009 is also underway.
 - ▶ Possibility to include UNFC 2009 in the 2015 Mines and Minerals Act is available through the yet to be developed Mines and Minerals Act Regulations. This will depend on level of understanding of the framework by Parties.
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THANK YOU FOR YOUR ATTENTION!