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## THE IMPACT OF NEW MINING ACT ON INDIAN MINERALS AND MINING INDUSTRY

Sachin Kumar Pourush<sup>\*1</sup>; Disha Thanai<sup>\*2</sup>

Lecturer, Department of Management, SBIT, Sonapat<sup>\*1</sup>; Lecturer, CBS Group of Inst., New Delhi

### ABSTRACT

There is lot of wealth buried under the earth's surface. For mankind, this wealth is extracted by the minerals and the mining sector. In the year 2011, the new mining law has been promulgated with aims to solve two purposes one, to open up the countries resources to foreign and local private investment, two, to ensure local communities get more benefits from mining. This law itself seems to hover between different goals laid out by the government in drafting the legislation. This law can either be wide-reaching or almost irreconcilable. This paper identifies the impact of new Indian policy that evokes shrill cries from industry players and environmentalists both. The paper also involves the study of usual balance interest in the government policy.

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## Introduction

Minerals are the valuable natural resources being finite and non-renewable. They constitute the vital raw materials for many basic industries and are a major source of development. In India, first act for minerals and mining sector was promulgated in the 1950s. In the year 2011, a new act for the mining sector is doing rounds, which is intended to substitute the previous act. This law seems to be an attempt to a delicate balancing act with two objectives:

- a) To open up the countries resources to foreign and local private investment,
- b) To ensure local communities get more benefits from mining.

The act as envisaged will be a total disincentive to any future private investment in mining because of the two reasons. First, among the key themes of the legislation is to attract private investment in the exploration and development of new mineral resources. Second, the law aims to increase the benefits from mining to rural and indigenous communities and this will effectively mean that miners will have to share 26 percent of their profits with the local communities where they operate. The profit sharing is usually over and above regular tax and royalties.

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## PRIVATE AND FOREIGN INVESTMENT

Another aspect of India's mining sector is that 95 percent of operating mines in India produce only 50 percent of country's mineral output which itself is a negative factor for a country which is trying to balance heavy investments in infrastructure with promotion of social and rural development. These negative returns have resulted into increased demand for industrial commodities.

The Foreign Direct Investment (FDI) policy in the mining sector has been gradually liberalized over the last few years. FDI cap for exploration and mining of diamonds and precious stones have been increased 10 100 percent under the automatic route with effect from 10<sup>th</sup> February, 2006.

|        | 2006-07 | 2007-08 | 2008-09 | 2009-10<br>(April to<br>September,<br>2009) |
|--------|---------|---------|---------|---|
| Mining | 6.62    | 444.26  | 34.22   | 86.63                                       |

(amount in USD million)\*

\*(Source: DIPP)

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<sup>1</sup> DIPP: Department of Industrial Policy and Promotion

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There is a huge potential for new projects and modernization, mechanization, scientific management and downstream activities on the processing, environment and energy efficiency side. Because the available minerals estimates are up-to a limited depth only thus there is an opportunity for private companies with new and modern technologies to explore for deeper deposits realize of untapped market and returns.

### **SOCIAL LICENSE FOR MINING**

The new legislation lays down a new framework for availing investment in much needed modernization of Indian mining. The new mining act also falls in the aspect of a social license to mine. It aims at making more acceptable to communities where operations are developed.

India is witness to some forest and tribal areas inhabited by indigenous people, which are likely to contain substantial mineral deposits.

This sets up the inevitable clash between the environmentalists and indigenous groups on one side and the businesses which aim at developing the resources.

### **ENVIRONMENTAL ISSUES**

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Another problem that has posed a problem for mining sector in India is that of environment laws. There have been media reports of instances where mines which have been operational for years find themselves on the wrong side of the environment law. Indian courts seem increasingly determined to take a firm stand against perceived environmental offenders.

Proceeding with the same concern the Ministries of Environment and Coal recently identified coal mining as vulnerable industry to move into. The reason being - to protect the forest areas and increasing production from country's mines. The identified vulnerable areas included significant coal resources in forest areas. Thus, these were taken out of the list of 'Government Spending'. But, the government's plan was not affordable, because the vulnerable areas effectively were excluding 48 percent of non-coal reserves from potential mining. Thus, the government is in a catch 22 situation. It couldn't go against the spirit of environmental laws. Subsequently, it couldn't be seen to be going against the interest of business either. Thus, it was an end of being a balancing act.

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## GLOBAL SCENARIO

India is the world's fifth largest producer of steel in the world. Besides this, it is also the third largest consumer. Down-streamingly, Indian mining and metal firms are increasingly seeking out and acquiring mineral resources elsewhere in the world – steelmaking ingredients iron-ore and coking coal seem to be 'priority'. Moreover, production and consumption is increasing worldwide. Total annual production is about 8 million tones; about half is produces from recycled scrap. The top lead producing countries are Australia, China, USA, Peru, Canada, Mexico, Sweden, Morocco, South Africa, and North Korea, Australia, China and the United States account for more than half of primary production. Global Lead production during the year was 8.827 million tones.

| Year | Quantity (Tones) |
|------|------------------|
| 2007 | 8.12 million     |
| 2008 | 8.67 million     |
| 2009 | 8.82 million     |

As demand continues to grow, supply of coking coal will become a “major issue” for domestic producers as steel demand and production levels rise. Indian companies are looking for all kinds of opportunities including acquisitions, joint ventures and strategic

partnerships on coking coal assets outside India. This is a trend that seems all set for growth in days to come.

**IDENTIFIED IMPACT**

| Name of the Company | Existing Capacity | AUGUST, 2011      |                    | Cumulative Production Target | Cumulative Production |                    |
|---------------------|-------------------|-------------------|--------------------|------------------------------|-----------------------|--------------------|
|                     |                   | Production Target | Production Actual* | April-August, 2011 *         | April-August, 2011 *  | April-August, 2010 |
| NALCO               | 438000            | 37140             | 37342              | 183950                       | 185255                | 186549             |
| BALCO               | 245000**          | 21513             | 20622              | 105829                       | 102568                | 106550             |
| HINDALCO            | 513500            | 49567             | 48605              | 243800                       | 237259                | 219552             |
| MALCO               | 38000             | 0                 | 0                  | 0                            | 0@                    | 0                  |
| VAL #               | 500000            | Trial run         | 30736              | Trial run                    | 171663                | 140290             |
| <b>Total:</b>       | <b>1734500</b>    | <b>108220</b>     | <b>137305</b>      | <b>533579</b>                | <b>696745</b>         | <b>652941</b>      |

*SOURCE: MINISTRY OF MINES, MONTHLY REPORT*

Given the mining sectors strategic and economic importance, there has been significant government involvement in the same, and the sector has been terminated by state-owned companies or public sector undertakings (PSUs) such as National Aluminum Corporation (NALCO), Steel Authority of India Limited (SAIL), National Mineral Development Corporation (NMDC) and Coal-India. PSUs contribute about 85 percent of India's total value of mineral production and are the main producers of key commodities such as coal, iron-ore, aluminium, copper and gold. While the new legislation opens up this sector to

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private and global players, some of the issues that seems to be at variance – like pushing up “profit-sharing” to 26 percent while wooing foreign investors in the same breath.

### **FUTURE OUTLOOK**

Though China is having only 37% reserves of rare earths, it produces around 97% of world’s supply of rare earth. Concerns have mounted about the supply of rare earths as its predominant supplier China has announced its regulation on export and it will crack down on smuggling. On September 1, 2009, China announced plans to reduce its export quota to 35,000 tons per year in 2010-2015, ostensibly to conserve scarce resources and protect the environment. It was reported that China will "further reduce quotas for rare earth exports by 30 percent from next year to protect the precious metals from over-exploitation".

### **CONCLUSION**

The study looking at large potential for exploration and exploitation of all kinds of mineral resources has drawn the conclusion that the new mineral policy has been drafted so as to facilitate private investment in exploration, particularly for deeply – located minerals, using high technology. There is also scope of backward integration, secure supply of raw material which is a necessity of in this industry and creating a hedge against wild



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fluctuation in the commodity prices. Future projections of growth in demand and consumption for coke in India are creating a very good atmosphere for companies. Obviously, the government hopes that greater private and foreign investment in exploration and mining in India will, in turn, lead towards more modern mining techniques.