

Senegal (Republic of)



Population: 14,086,103

Area: 196,722 km²

Capital: Dakar

Main mineral resource(s): Phosphate

Gross Domestic Product: \$22,38billion

Currency: CFA Franc (XOF)

Budget: \$2,431 billion

Inflation rate: 0.8%

Security: **Low risk**

Language: French

Time zone: GMT (UTC + 0)

International calling code: + 221



1. Overview

The mining industry in Senegal essentially relies on phosphates. In 2009, phosphoric acid production by *Industries Chimiques du Sénégal* reached 180,000 metric tons, a decrease of 23% on the 180,000 metric tons produced in 2008. The company mined 552,000 tons of marketable phosphate in 2009 from 590,000 tons in 2007. Figures for 2009 have not been made available. Other mineral occurrences include gold, iron ore, uranium, heavy minerals, copper, chrome, tin, lithium and molybdenum. The production of the first ingot from the Sabodala gold mine by Mineral Deposits Ltd occurred in 2009. In addition, several exploration permits have recently been issued for gold, providing a promising outlook for the sector.

2. Geology

Phosphates and heavy minerals sand deposits are located within a large coastal basin of Mid Jurassic to recent age sediments that cover most of the country. In addition, Senegal lies to the west of the West African birimian greenstone belt which extends through Ghana, Guinea, Senegal, Mali and Burkina Faso. Formed about 50 millions years ago, the birimian rocks are major sources of gold.

3. Mining interests

Several international companies have interests in the Senegalese mining industry:

- **ArcelorMittal** of Luxemburg partnered in 2007 with Senegal's state-owned development company Mifereso to develop the Faleme iron ore project in the south-east of the country. The company's intention is to spend \$2.2 billion on the project, including building a new port near capital Dakar and a 750 km railway line linking it to the mine, which is estimated to contain 750 million tons of iron ore reserves. However, in July 2009, ArcelorMittal announced the suspension of the project.

- **Areva** of France is exploring for uranium in the region of Saraya to the east of Senegal. Initial tests are underway and the first results are expected by mid-2010.
- **Axmin** of Canada is exploring the gold Gora prospect which is located within the Sonkounkou permit, approximately 25 km northeast of Mineral Deposits Ltd's Sabodala processing plant. Current drill results are pointing towards a potential open pit gold mine.
- **Bambuk Minerals** of the United Kingdom is exploring the Mako (380 km²) and Kenieba (500 km²) gold permits situated in eastern Senegal. Toro Gold of Guernsey has an 80% holding in Bambuk Minerals.
- **Bassari Gold** of Australia is exploring the Moura, Sambarabougou and Bounsankoba gold permits which cover a large area of approximately 1,300 km² in eastern Senegal.
- **Goldstone Resources** of South Africa is exploring the Sangola gold permit which covers approximately 471 km² and is situated 60 km south-east of Tambacounda in south-eastern Senegal.
- **IAMGold** of Canada controls 63,000 hectares underlain by the Birimian Kedougou-Kenieba greenstone belt in southeast Senegal. Drilling in 2008 identified several new gold zones.
- **Industries Chimiques du Sénégal** is owned by Indian Farmers Fertilizer Cooperative (85%) and Senegal (15%). The company produces phosphate (552,000 metric tons in 2008), phosphoric acid (180,000 metric tons in 2008) as well as fertilizers. It is a significant contributor to the country's GDP.
- **Mineral Deposits Ltd** of Australia operates the first large-scale gold mine in the country. Located in eastern Senegal, the Sabodala mine, which started production in 2009, is mined by conventional open pit methods. The mine should produce 6,000 kg of gold per year with reserves of 90,000 kg over the next ten years. The company is further exploring the area holding seven exploration permits in various joint ventures, totalling approximately 1,600 km². In addition, Mineral Deposits Limited has recently wound up a final feasibility study for the Grande Côte mineral sands project running on 445.7 km² along the Atlantic Coast of Senegal. The company needs to raise USD 460 million for this project which has estimated reserves of zircon (26,6 MT), rutile (0,5 MT), leucosene (1,4 MT) and ilmenite (18,6 MT).
- **Oromin** of Canada is exploring multiple deposits and zones of orogenic gold situated in the Sabodala gold district. In 2009, the company announced a mineral resource estimate containing 62,000 indicated kg of gold and 10,000 inferred kg of gold.
- **Randgold** of the United Kingdom is exploring the Massawa gold permit in south-eastern Senegal. The deposit is believed to host in excess of 85,000 kg of gold.

- **Roxwell Mining** of Malaysia holds an exploration permit for the Niakhene phosphate deposit (5,110 km²) in the Thies Region in western Senegal.
- **SN Mineral Mining** of Germany is exploring the Velingara gold permit which covers 600 km² in Casamance. Copper may also be found in the area.
- **Société Sénégalaise des Phosphates de Thiès** mines phosphate in Lam-Lam, 60 km East of Dakar. Phosphate production was 46,138 tons in 2009. The production of attapulgitite reached 171,684 tons during the same year. The company is part of the Tolsa Group, a Spanish company.

4. Political situation

Senegal is one of the most stable democracies on the African continent. Current President Abdoulaye WADE (*Parti démocratique sénégalais*) was elected in 2000 and reelected in 2007. The Movement of Democratic Forces in the Casamance (MFDC) has led a low intensity separatist insurgency in southern Senegal since the 1980s and several peace deals have so far failed to resolve the conflict. Early 2010, the army of Senegal launched a military campaign against MFDC rebels, resulting in the death of 3 Senegalese soldiers. The Government of Senegal was reshuffled on 03 December 2009. The current Ministry of Mines is Ousmane Ngom.

5. Legal system

The legal system of Senegal is civil law-based. The main legislation regulating mining activities is the Mining Code, enacted by Law n° 2003-36 of 24 November 2003. Pursuant to this Code, Government has adopted Decree n° 2004-647 of 17 May 2004 *fixant les modalités d'application de la loi n° 2003-36 du 24 November 2003 portant Code minier*. The Senegalese judicial system adheres to the rule of law enforced pursuant to established procedures. Courts are constitutionally independent from the executive and legislative branches of the State. Unless otherwise provided in the Mining Convention, any dispute about the interpretation or the implementation of the Mining Code must be submitted to the local Courts. However, the Mining Code also prescribes that exploration permit's applicants are not entitled to any financial compensation from the State if the permit is denied.

6. Regulatory bodies

The main bodies regulating the mining industry in Senegal are:

- The President of the Republic: exploitation rights are granted, renewed or withdrawn by presidential decree. Transfer of mining rights may however be approved by the Ministry of Mines.
- The Minister of Mines grants and renews exploration permits. The latter is also in charge of withdrawing exploration rights or approving their transfer.
- The Department of Mines and Geology processes applications for mining titles and negotiates the mining convention.
- The Documentation Centre and Mining Registry keeps a registry of all mining titles and maps thereof.

7. Mining rights

The Mining Code prescribes that all mineral substances in the soil or subsoil belong to the State. However, the State may grant to local or foreign companies the rights to explore or to exploit these mineral substances by awarding mining titles. Artisanal and semi-industrial mining are not restricted to Senegalese nationals.

Any company may engage in exploration or exploitation of mineral substances in Senegal subject to a valid exploration permit (*permis de recherche*) or either an exploitation permit (*permis d'exploitation*) or a mining concession (*concession minière*) granted upon completion of the prescribed administrative procedure. These permits are all subject to a mining convention to be negotiated between the mining rights applicant and the Ministry of Mines. The Ministry of Finance must assent to the proposed Mining Convention within 21 days.

The exploration permit is granted for an initial period of three years and may be renewed twice for two consecutive three-year periods. The second renewal may be extended for an additional period of three years if deemed justified by the State. The exploration area is reduced by 25% for each renewal. During the exploration phase, the permit holder must implement the annual research programme as approved by the Ministry of Mines, including the expenses relating thereto.

The holder of an exploration permit may obtain an exploitation permit or a mining concession if a deposit has been discovered within the perimeter of the exploration permit, subject to a development plan, an investment plan and an environmental impact assessment study. The exploitation permit is valid for 05 years whereas the mining concession is issued for 25 years. Both may be renewed pursuant to the available resources. The Senegalese State is entitled to a free non-dilutable 10% share within the company operating the project.

To maintain the validity of his mining rights, the permit holder must commence exploration within 06 months (exploration permit) or commence development and exploitation works within one year (exploitation permit or mining concession) as from the date of issue of the permit concerned. He must also pay the surface rights relating to his mining title, abide by the mining convention and comply with other requirements, such as the protection of the environment. Failing to fulfil these obligations may result in the permit being withdrawn.

The Mining Code grants holders of mining titles an exclusive right to search for or to exploit mineral substances on or below the surface of the permit's perimeter. The rights holders must however seek permission to occupy and access the land required for carrying on their mining activities. This permission is required for the construction of industrial plants, the use of water, the stocking of tailings and the establishment of means of communications and electric lines, as well as other infrastructure works. If the envisaged occupation of the land is less than a year, permission may be granted by the Ministry of Mines. If it exceeds a year, the permission will require a presidential decree.

Finally, mining rights must be exercised so as to affect as little as possible the interests of the owner and/or the lawful occupant of the land. The latter are entitled to a fair compensation for the occupation of the land required for mining activities.

8. Duties, royalties and taxes

The Mining Code provides for specific charges to be paid to Treasury:

- Flat fee:
 - Exploration permit
 - Application: CFA 500,000
 - Renewal: CFA 500,000
 - Exploitation permit
 - Application: CFA 1,500,000
 - Renewal: CFA 1,500,000
 - Mining concession
 - Application: CFA 7,500.000
 - Renewal: CFA 7,500.000
- Royalty:

A 3% royalty is payable on the company's annual sales of mineral products.

9. Tax incentives

Exploration permit holders, as well as their contractors, are exempted from all taxes whatsoever. They are also exempted from import duties and other taxes, including VAT, on the importation of equipment required for completing the agreed research programme. This exemption includes petrol, lubricants and spare parts.

During the investment period of the exploitation phase, for one year in the case of an exploitation permit and four years in the case of a mining concession, the permit holder and his contractors are exempted from all import duties and other taxes, including VAT, on the importation of equipment required for completing the exploitation programme. This exemption includes petrol, lubricants and spare parts.

In addition, during the whole exploitation phase, permit holders are exempted from export duties on their mining proceeds. For three years for holders of an exploitation permit and seven years for holders of a mining concession, the mining rights owners are exempted from various taxes, such as VAT on all goods and services acquired from local or foreign suppliers, alternative minimum tax, social security contribution and tax on capital increase. These various exemptions may be extended up to fifteen years for projects requiring major investments.

Finally, holders of a mining concession are exempted for corporate tax for a period of seven years as from the date the permit has been issued. This tax holiday may be extended up to fifteen years for projects requiring major investments.

10. Business structures

Senegal is part of OHADA (Organisation for the Harmonization of Business Law in Africa) from 18 September 1995. The Uniform Act relating to Commercial Companies and Economic Group Partnerships of 17 April 1997 provides the legal framework of the main business structures used by private parties to carry on mining activities:

- The private limited liability company (*Société A Responsabilité Limitée* or *SARL*), with a minimum of one shareholder (either a natural or a juristic person) and a minimum capital of CFA 1,000,000.
- The company limited by shares (*Société Anonyme* or *SA*), with a minimum of one shareholder and a minimum capital of CFA 10,000,000.

According to the Mining Code, any foreign contractor providing services for more than a year in Senegal to mining rights holders has the obligation to set up a local legal entity pursuant to Senegalese law.

11. Use of domestic and foreign employees

There are no restrictions on the use of foreign employees nor is there a minimum quota on the number of domestic employees to be hired by mining rights holders. The latter should however use their best endeavours to acquire goods and services from Senegalese companies provided they are available locally at competitive prices. Moreover, the Mining Convention will normally compel mining rights holders to set up a training programme for Senegalese staff members.

12. Exchange control and exports restrictions

Mining rights holders may receive in Senegal any funds acquired or borrowed abroad, including the proceeds from the sale of their production. They may also transfer dividends abroad, as well as the proceeds from liquidated assets and the funds destined to pay back debts contracted abroad, including payment to foreign suppliers. In addition, mining rights holders may be authorized to open up a bank account denominated in a foreign currency. Finally, there are no restrictions or limitations imposed on the processing, export or sale of metallic minerals.

13. Environment, health and safety

Exploration permits and mining concessions are subject to an environmental impact assessment study to be completed pursuant to the Environment Code (Law n° 83-05 of 28 January 1983). In addition exploitation rights holders must open up and fund an account with a commercial bank in Senegal to cover the remediation costs in accordance with the rehabilitation programme once the project ends.

Mining rights holders must also comply with the Forestry Code (Law n° 98/03 du 8 January 1998) and the health and safety regulations as approved by the Ministry of Mines.

14. International treaties

Senegal is part of the World Trade Organization (WTO), the Multilateral Investment Guarantee Agency (MIGA) and the Convention for the Creation of the International Centre for Settlement of Investments Disputes (ICSID). It also adheres to the OHADA Treaty.

Senegal has also ratified the Vienna Convention for the Protection of the Ozone layer, the Rio Convention on Biological Diversity, the Stockholm Convention on Persistent Organic Pollutants, as well as the Kyoto Protocol to the UN Convention on Climate Change. Numerous treaties have been concluded to promote foreign investment with countries such as China, Germany, South Africa, Switzerland, the United Kingdom and the United States.

Senegal is part of the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (UEMOA). Both organizations promote economic integration among its Member States, including the harmonization of fiscal policies. Hence, Senegal has signed the 1984 ECOWAS Tax Treaty which came into force on 1 January 1985. Senegal is also part of the 2008 UEMOA Tax Treaty which came into force on 1 January 2009. Finally, Senegal has signed international tax treaties with countries such as Belgium, France, Italy and Norway.

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