# Case Studies

# Reforming Liberia's Mining License Administration System: Circumventing Implementation Challenges by Adapting Lessons from Sierra Leone

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*Executive Summary*

Despite being well-endowed with natural resources, Liberia is one of the poorest countries in the world. Its overall challenge is to turn resource wealth into development, but it is instead afflicted by the adverse effects of resource exploitation. Although government revenues from mining do not automatically result in equitable development, the country has few other options to raise development funds. In order for potential to turn into reality, and for mining revenues to turn into development, it needs strong regulatory systems, a good investment climate, and institutions that can ensure that mining operators abide by legal requirements and provide decent employment opportunities.

In this broader context, a specific challenge is that Liberia has a very weak mining license administration system. Putting in place a solid system in this regard is crucially important for two reasons. First, the system manages both the fiscal and social terms of a license agreement. The absence of a functioning mining license administration system creates space for corruption, as company and government individuals do not have to follow a certain set of rules, but instead have the opportunity to agree on individual terms with regard to taxes and license fees. Second, the license management system is the mechanism through which the state monitors fiscal and social license compliance. Until recently, the government of Liberia has been unable to monitor whether license holders were making the many different payments that were due during the lifecycle of the mining license. Large parts of the mining economy were essentially unregulated.

Against this background, the paper discusses how the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) Regional Resource Governance in West Africa program is assisting Liberia in improving the

way it administers mining licenses.[1] How best to support complex change processes that involve multiple levels of capacity development in a fragile environment? What principles of engagement and management should be applied? Which are the main success factors for effecting sustainable change? The specific activity analyzed in this regard is the implementation of the Mining Cadastre Administration Support Project (MCAP) approach, developed and supported by the Norwegian non-profit organization Revenue Development Foundation (RDF) and applied successfully in Sierra Leone since 2009. MCAP is designed around the provision of a modern IT-system that is flanked by long-term capacity development and advisory services. In the two years since its introduction, the system has already yielded a number of tangible benefits in Liberia. The Ministry was able to lift the moratorium on exploration licenses in March 2014. All industrial licenses for large mining companies and most semi-industrial licenses for medium-sized mining operations are processed through the system. This means that there is a single place with all license-holder information and a central tool for administering the license.

In supporting these change processes, GIZ had to engage with two main implementation challenges. First and foremost, any reform effort in a "fragile" governance context would inevitably have to identify capacity constraints as being the central implementation challenge. This is certainly true in Liberia. Although international donors frequently contribute to addressing some of those gaps in the medium term, achieving sustainable results is considerably more difficult. In addition to capacity constraints, the second major implementation challenge is adapting the approaches and lessons learned in Sierra Leone to the local conditions of the Liberia context. Observing the gains made in Sierra Leone raised expectations in this new mining license management system and built pressure for swift implementation in Liberia. However, what looked like a possible template for transfer was in reality a context-specific response to local challenges.

In order to overcome these challenges and to institutionalize outcomes and results, the GIZ Regional Resource Governance program pursues a comprehensive capacity-development strategy that combines individual training, institutional development, and policy advice at the macro level. In the course of implementation, it also capitalizes on the linkages and synergies created by embedding MCAP implementation into its broader

1 GIZ implements the program on behalf of BMZ.

partnership portfolio in the sector, which includes revising the Mining Act and associated regulations, supporting a comprehensive capacity-development strategy for the Ministry of Lands, Mines and Energy (MLME), and developing a strategy to regulate small-scale mining. In addition, close collaboration with the World Bank in the early stages of the process ensured that seed funding was available at critical early junctures and that both the World Bank and GIZ provided coherent advice to the MLME. A delegated cooperation agreement with Australia similarly enhanced coordination.

The paper concludes by outlining a set of lessons learned, based on the "smart implementation" principles that form the basis of the present volume. The experience described points to the vital importance of partner *ownership*. Although this is a trite observation on the surface, it is a real challenge to support partners in making genuine choices (in this case, for the MCAP) when they are often under donor pressure and have only insufficient capacity or information. The discussion also illustrates the importance of working within partnership contexts for a *sustained period of time*. It is unrealistic to expect substantial and sustainable change in fragile environments within three-year planning horizons. It takes time to build trust, adapt approaches to local conditions (no "big bang"), and to proceed in an *iterative manner* that allows for learning and continuous improvement. It is also clear that capacity-development activities – such as the ones discussed in this paper – require *integrating technical, political, process, and organizational development advice*. This means that GIZ advisors have to show flexibility in taking on different roles at different times in the process. The GIZ model of capacity development at different levels is well-suited in this regard.

## *Introduction*

The well-known governance challenges in Liberia's mining sector came to the fore in early 2012, when the MLME declared a moratorium on issuing new exploration licenses. It was forced to take this decision after a rapid diagnostic funded by the World Bank uncovered that many mining plots had been awarded as license areas to multiple investors. These geographic overlaps seemed to justify worries that the ministry was unable to adequately manage the mining sector. Such a moratorium would reflect a serious crisis in any mining economy, because it meant that investors could no

longer legally be granted the right to search for new mineral deposits. For Liberia, the timing was especially critical because it coincided with one of the longest and most pronounced mining booms in modern history. For a country that had recently escaped civil war and was planning to turn to mining as a source of development finance, it was clear that something had to be done – especially since those investors that were willing to abide by recognized legal and ethical standards were now discouraged from making their investments.

This paper focuses on the reform steps taken by the MLME in improving the way it administers mining licenses. With initial assistance from the World Bank and more in-depth advice from the GIZ Regional Resource Governance program, the ministry identified the MCAP approach, developed and supported by the Norwegian non-profit organization RDF and implemented successfully in Sierra Leone since 2009, as being a suitable model for its own efforts. The paper discusses how the GIZ program helped the MLME adopt this approach. As the main supporter of MCAP in Sierra Leone and as the main partner of the MLME in Liberia, the Regional Resource Governance program played a central role in transferring the requisite knowledge and lessons learned from Sierra Leone, and in tailoring the overall approach to the specific situation in Liberia. It did so by embedding this activity in its overall partnership portfolio with the MLME, which also included revising the Mining Act and associated regulations, supporting a comprehensive capacity-development strategy for the ministry, and developing a strategy to regulate small-scale mining, which had been continuing largely unregulated in rural areas due to the lack of administrative reach of the ministry. In addition, close collaboration with the World Bank in the early stages of the process ensured that seed funding was available at critical early junctures and that both the World Bank and GIZ provided coherent advice to the MLME. Full roll-out and implementation of MCAP began in July 2013 after the government of Australia made a financial contribution to the GIZ Regional Resource Governance program just as the MLME had decided to adopt MCAP.[2]

2 Australia contributed to the GIZ Regional Resource Governance program through a three-year delegated cooperation agreement, which funded MCAP implementation and a host of other activities. The agreement ended in July 2016. The work now continues with funds from the German Federal Ministry for Economic Cooperation and Development (BMZ).

## Development challenge

Despite being well-endowed with natural resources as an established exporter of iron ore, gold, diamonds, timber, and rubber, Liberia is one of the poorest countries in the world. It ranks near the very bottom of the key development indicators (e.g., Liberia was ranked 175 out of 187 in the 2014 Human Development Index). Its overall challenge is to turn resource wealth into development, but it is instead afflicted by the adverse effects of resource exploitation. In this broader context, a specific challenge is that the country has a very weak mining license administration system. Putting in place a solid system in this regard is crucially important for two reasons. First, the system manages both the fiscal and social terms of a license agreement. The absence of a functioning mining license administration system creates space for corruption, as company and government individuals do not have to follow a certain set of rules, but instead have the opportunity to agree on individual terms with regard to taxes and license fees. Second, the license management system is the mechanism through which the state monitors fiscal and social license compliance. Prior to the introduction of MCAP, the ministry was unable to monitor whether license holders were making the many different payments that were due to the government during the lifecycle of the mining license. Large parts of the mining economy were essentially unregulated.

## Implementation challenges

Any reform effort in a "fragile" governance context would inevitably have to identify capacity constraints as being the central implementation challenge. This is certainly true in Liberia. Although international donors frequently contribute to addressing some of those gaps in the medium term, achieving sustainable results is considerably more difficult. In order to overcome this challenge and to institutionalize outcomes and results, the Regional Resource Governance program pursues a comprehensive capacity-development strategy that combines individual training, institutional development, and policy advice at the macro level. This approach is in line with the standard approach of GIZ to capacity development and can also be used to disaggregate specific capacity gaps encountered in the course of introducing MCAP in Liberia.

- At the *individual level*, many MLME staff members do not possess the necessary training, qualification, or formal education required for their positions. Although they generally have extensive practical knowledge of mining issues, they are often unable to apply this knowledge systematically toward implementing a coherent approach to mining-sector regulation. They are also faced with highly qualified and better paid mining-company staff. A number of the mining inspectors at the MLME have no formal training related to the mining sector, even though this is a prerequisite to conduct meaningful inspections of mining sites, which is a highly technical activity.
- At the *institutional level*, responsibilities within the MLME are often unclear, leading to administrative inefficiency and lack of collaboration between different units. For example, mining licenses have long been awarded even though there is no explicit legal guidance governing the process. As is discussed below, a new Mining Act and a set of regulations for implementation have been drafted with the assistance of the GIZ program, but they have not yet been formally adopted. In this environment, it is difficult for even the most motivated staff members to effect change or even to conduct their functions. In addition, shortages of equipment and frequent power cuts meant that until 2012, mining license information (including geographical information on mining plots and fee-payment data) were held largely in paper form at the MLME central office, impeding easy access to – and exchange of – information.
- At the *policy level*, the government has so far been unable to devise a fully coherent system of mineral governance, which means that there are other agencies in addition to the MLME with often competing mandates and authority. Despite the importance of the mining sector for the economic and social development of the country, inter-agency coordination and cooperation in the sector is difficult to achieve. In the case of payments made by mining companies, including license fees and production royalties, all payments are made to the Liberia Revenue Agency (LRA) and its predecessor agencies. Although data exchange is improving because of MCAP, revenue authorities often did not inform mining authorities of non-payments in the past, severely hampering the government's ability to collect revenues. The fact that industrial mining contracts typically involve large sums over long periods (particularly for iron ore), the various institutions and specific actors within them have a sustained interest in maximizing their roles in con-

tract negotiations and license management. Finally, the government has been unable to provide effective donor coordination in the sector and, as is seen below, donors do not always agree on the best approach to strengthening the license management system.

In addition to capacity constraints, the second major implementation challenge to introducing MCAP at the MLME is adapting the approaches and lessons learned in Sierra Leone to the local conditions of the Liberia context. The key impetus for Liberia to choose MCAP came from an in-depth study-tour in 2012, supported by GIZ, during which senior MLME officials had the chance to familiarize themselves with the system in Sierra Leone. Observing the gains made in Sierra Leone raised expectations in this new mining license management system and built pressure for swift implementation in Liberia. However, what looked like a possible template for transfer was in reality a context-specific response to local challenges. Hence a one-to-one transfer of the system to Liberia was not a viable option.

Sierra Leone is a fragile state that is in many ways structurally similar to Liberia. Both have exited from civil war in recent times and both are facing severe capacity constraints. However, in the mining sector, institutional and policy capacity in Sierra Leone is significantly stronger than in Liberia. The reasons for this go beyond MCAP. With the support of the World Bank, Sierra Leone created a stand-alone National Minerals Agency (NMA). This agency was staffed by the best civil servants available and has strong leadership and a clear legal mandate. This meant that an introduction of the system had support across the board and that there was only little institutional resistance. Although the NMA and its overseeing Ministry of Mines and Mineral Resources were at odds initially about their respective roles, a consensus was eventually reached that located responsibility for mining license management with the NMA. In addition, eight Sierra Leonean engineers had been trained in Ghana and returned home with master's degrees even before the NMA was created. These engineers took a pivotal role in the success of the NMA, as they were all given key positions in the newly created agency. Nevertheless, owing to the challenging context, the system also continues to experience a number of significant challenges, such as the reluctance of a politically appointed body at the ministry to grant the necessary approval for cancelling licenses on technical grounds.

## Structure of the paper

Against this background, the overall analytical question that this paper addresses is how best to support complex change processes that involve all three levels of capacity development in a fragile environment. What principles of engagement and management should be applied? Which are the main success factors for effecting sustainable change? In answering these questions, the paper uses the case of transferring the RDF's Mining Cadastre Administration Support Project approach, MCAP, from Sierra Leone to Liberia. In doing so, it considers a set of operating principles proffered in *The Role of Ownership and Political Steering for Development Results*.[3] The specific focus is on the following five principles: (i) adoption of a multi-stakeholder approach, (ii) focusing on developing genuine partnership systems, (iii) operating in a mode that integrates technical, political, process, and organizational development advice, (iv) context-specific and incremental implementation of interventions, and (v) long-term engagement in the transformation and reform process to ensure direction and results. Since the implementation of the MCAP approach is currently ongoing and the Regional Resource Governance program has made a long-term commitment (subject to commission by the German Federal Ministry for Economic Cooperation and Development) to its support, any analytical insight at this stage can only be illustrative. But given the precarious nature of program implementation in fragile states, it is expected that the insights yielded will nevertheless be relevant and interesting to a wider audience.

The remainder of this paper is structured in three sections. The first sketches the operational context in which MCAP implementation is taking place. The second traces the steps taken throughout implementation along the three dimensions of capacity development: individual, institutional, and policy. The final section then draws out the lessons learned in the context of the present volume's "smart implementation" framework.

3 Please see S. Frenken, M. Jacob, U. Müller, and A. Stockmayer (2010). The role of ownership and political steering for development results. In S. Frenken and U. Müller (Eds.), *Ownership and political steering in development countries*. Baden-Baden and Bonn: Nomos and GIZ.

*Context*

The potential of the mining sector to provide domestic development resources for Liberia's future is huge. In 2013, the country reported gross domestic product growth of 8.1 percent. This growth was primarily due to rapidly growing iron ore exports and a related construction and services sector. The mining sector's share in the overall economy stood at approximately 10 percent, with very positive growth forecasts. In fiscal year 2012/2013, revenues from the extractive sector amounted to about $38 million, which was about 6.9 percent of government revenue. At the time, two industrial iron ore mines had already begun operation, with two more fully explored and ready for construction. One industrial gold mine was also producing, with a second under construction. There was also a growing number of medium-sized gold and diamond mines and a large micro-mining sector. Yet, to date, the mining sector has contributed very little to inclusive economic growth and employment. Specific commodities (particularly diamonds) played an important role in the financing of long and brutal cross-border civil wars in both Liberia and Sierra Leone. Today, as before, small-scale mining supports the livelihoods of a large number of people in rural areas (estimates of the number of people are generally unreliable), with miners toiling often under very precarious conditions in remote areas.

Although government revenues from mining do not automatically result in equitable development, mining economies such as Liberia are left with few options to raise development funds. In order for potential to turn into reality and for mining revenues to turn into development, they need strong regulatory systems, a good investment climate, and institutions that can ensure that mining operators abide by legal requirements and provide decent employment opportunities. Liberia has recognized this imperative, which has become all the more pressing of late because of rapidly falling iron ore prices and increasing competition for reputable investment. As such, the government has committed to pursuing a reform agenda guided by the regional framework prescribed by the African Union's Africa Mining Vision and other international standards.

Turning this overall commitment into specific steps continues to pose challenges due to capacity gaps on the part of the government but also on the part of civil society, which often lacks the ability to hold government institutions to account. This does not mean, however, that there have not been some notable successes. In the areas of combating corruption and

mismanagement through transparency, for example, Liberia passed a law in 2009 to provide clear rules for the implementation of the Extractives Industries Transparency Initiative (EITI). This global standard demands that natural resource companies disclose all payments made to government agencies, while those agencies in turn disclose all payments received by the companies. Also in 2009, Liberia became the first African country to be fully compliant with the requirement of the initiative. Since then, the local EITI chapter, partially in partnership with the Regional Resource Governance program, has repeatedly been praised for devising innovative activities to enhance the use of EITI data to hold public officials to account. For example, since 2012, high school students have formed debate clubs to discuss the policy challenges related to natural resource management, culminating in a high-profile annual debate competition.

At the very technical level of mining-sector regulation, the MLME holds the key to implementing reforms. The GIZ Regional Resource Governance program has become the ministry's main external supporter over the years and is now supporting a holistic set of interrelated activities. The first activity is the ongoing update of the formal legal framework of mining-sector regulation. The current Mining Act of 2001, adopted under dictator Charles Taylor during the civil war, does not reflect the principles of a modern mining regime (or of good governance) because it concentrated the decision to award mining licenses almost purely in the hands of the executive branch and provides next to no avenues for redress. In addition, because of a lack of coordination among government ministries and international donors, a myriad of related laws have been adopted that affect mining-sector regulation but either contradict each other or the Mining Act (which is, despite its flaws, the mining law in force). Finally, there are only two implementing regulations available that guide officials at the MLME in applying the Mining Act. In reality, the application of legal provisions is often a result of practice and negotiation – a situation that neither reassures investors nor facilitates governance oversight. A more modern Mining Act has been drafted and a set of detailed regulations have been developed through a consultative process with the assistance of GIZ and are now available to the MLME for introduction to the legislature.

The second component of GIZ assistance to the MLME is the creation of a capacity-development plan that maps its existing capacities against those needed to fulfill its minimum statutory obligations under the updated Mining Act. Taking into account the capacity needs at all three levels, the plan makes detailed proposals for training measures and administrative

restructuring. In this vein, the plan will allow the MLME to solicit and coordinate contributions from donor partners. Crucially, it also contains a strategy to decentralize the MLME's function to key mining districts in rural areas in order to improve the services that are available to small-scale miners there, who currently have to travel to the capital, Monrovia, to obtain a license. This is a barrier to compliance, as traveling to the capital city is costly and time-consuming for the miners. The third activity supported by GIZ is the drafting of a regulatory roadmap for the small-scale mining sector. Small-scale mining remains an important livelihood activity in rural areas but is essentially unregulated, due primarily to capacity constraints on the part of the MLME.

The fourth area of GIZ support to the MLME, and the focus of this section, is the implementation of MCAP in order to improve the efficiency of mining license management. MCAP essentially consists of three components, which combine the provision of a technical IT-solution with long-term advisory services. The first is an IT-platform (Mining Cadastre Administration System, MCAS), which provides a cost-effective solution for managing the multiple administrative steps that are necessary to ensure that mining licenses are managed effectively. These range from recording license applications when they are made to ensuring that all legally required steps are taken in the course of approval, including checking for fee-payment and geographic overlaps. The RDF does not charge users license fees for the software system. Additionally, improvements made to the system in one country are transferred for free to other implementing countries. The second component is ongoing advice from a team of long-term resident advisors. These advisors not only support the administrative staff responsible for processing licenses in rolling out the IT-system. In addition, they support the relevant government institution in improving their administrative procedures on an ongoing basis to identify the training needs required to enhance operations and to support collaboration with the multiple agencies involved in collecting revenues. In Sierra Leone, the latter culminated in the establishment of the intra-governmental Extractive Industry Revenue Task Force, which today exerts strong ownership over collecting data that is useful for enhancing government receipts from the mining sector. The third component of MCAP is an Online Repository, which, subject to some legal constraints related to tax law, publishes license ownership and fee-payment data on the internet for investors and civil society to access anytime for free. This is intended to not only attract

investors by making it easier to identify available plots, but also to facilitate civil society oversight by facilitating access to information.

In the two years since its introduction, the system has already yielded a number of tangible benefits in Liberia. The moratorium on exploration licenses was lifted in March 2014. All industrial licenses for large mining companies and most semi-industrial licenses for medium-sized mining operations are processed through the system. This means that there is a single place with all license-holder information and a central tool for administering the license. In addition, a data-sharing agreement with the LRA (where license payments are made) has been defined and payment data is being shared systematically. On this basis, the Online Repository makes payment and license data available to the public. The number of mining operators with valid tax ID numbers – a precondition for payment – has also rapidly improved. This led to an increase in the LRA tax rolls: from 43 to 128 companies, with another 86 companies having already been identified. However, only 17 of these companies submitted tax returns in 2014. Thus, there is still a lot to be done with regard to tax compliance. There are two remaining challenges. The first is that not all licenses are processed through the system. Instead, personal relationships are sometimes used to move files forward and specific officials insist on making specific decisions. The second and related challenge is that the system acts primarily as a cadastral system in which data is kept and it has not been fully applied to redesign processes. In essence, the MLME continues to lack the institutional and policy capacity to fully embed the system in its administrative procedures and processes.

The remainder of this paper illustrates how the GIZ Regional Resource Governance program supported the achievement of these successes and has been addressing the remaining challenges in MCAP implementation. One key element in this regard is that supporting MCAP is an integral part of a holistic approach that combines the interrelated change processes undertaken by the MLME and supported by GIZ. The ongoing update of legal frameworks – and the development of a capacity plan for the MLME in particular – complement MCAP implementation.

## *Tracing the implementation process*

The implementation process of MCAP in Liberia began roughly in 2011, when the MLME began to consider changing the cadastral system it was

using at the time. The process can be divided in three stages for analytical purposes. The first is the period of *orientation*, in which the MLME considered its options and decided on the system (2011–2013). The second is the period of *adoption* of the system (2013–2015), when the software was rolled out and advisors from the RDF were deployed to the ministry. The third is the period of *mainstreaming* (starting in 2015 and continuing to date), during which time the IT-system has been fully functional, but license management procedures need to be updated to reflect optimal practice. The remainder of this section traces the process of implementing MCAS in Liberia along these three stages, and the steps taken by the program and its partners in dealing with the implementation challenges they were facing at each stage. Analytically, reference is made to the GIZ capacity-development framework outlined above, which disaggregates capacity at the individual, institutional, and policy levels.

## Orientation stage

The orientation stage began with the observation by senior staff members that the system in use in the Cadastral Unit was no longer fit for purpose. Through a grant from the United States Agency for International Development (USAID) administered by a contractor, the Unit had been provided with computer hardware and the IT-cadastral software Flexicadastre, offered on commercial terms by the software company Spatial Dimensions. Although the software is used successfully around the world by mining agencies and companies, it had not been fit for purpose at the MLME, since the contractor appears not to have adequately taken into account the specific needs of the ministry. It also had not complemented software provision with a long-term capacity-development program for the Cadastral Unit and other relevant parts of the MLME dealing with mining licenses. With only a small number of short training programs by visiting experts furnished by Spatial Dimensions, Cadastral Unit staff therefore were unable to operate the system effectively. Many licenses that had already been issued continued to be recorded on paper, making monitoring of payments and other aspects of compliance exceedingly difficult.

In addition to the lack of individual capacity to use the software, the MLME also lacked the institutional capacity to integrate the Flexicadastre software in its license-awarding processes and in the way in which different units in the ministry collaborated and communicated. Because the

Geographic Information System (GIS) team did not see any added value in the system – as they were unable to use its features properly – they maintained the license registry in a separate database using specialized ArcGIS software instead. Since the system was not used systematically, the de facto license registry was the tenement map maintained by the GIS officer, and not the system database. In other words, licenses continued to overlap as they had during the old paper-based system. As mentioned at the outset, this is one of the worst conceivable failings of a license management system. Finally, since Flexicadastre is commercial software, license fees were to be due on the existing cadastre system every year, even though there was no budgetary allocation to meet this expense. In sum, the provision of Flexicadastre ultimately failed because of the lack of a genuine partnership that could develop a joint vision for addressing multiple levels of capacity development.

The GIZ Regional Resource Governance program had only commenced operations in Liberia in late 2010 and had therefore not been involved in the process leading up to this point. Because of the apparent gaps in the system, however, the MLME now turned to the World Bank and GIZ for assistance. After consultations, the three partners jointly engaged the RDF to conduct a detailed assessment of overlaps. The results of this assessment then prompted Minister Sendolo to impose a memorandum on exploration licenses on the grounds that the Cadastral Unit could no longer guarantee the integrity of the licensing system. This presented the entry point for introducing MCAP based on lessons from Sierra Leone and for applying the more holistic advisory approach taken by GIZ. Although the USAID contractor had simply provided computer hardware and the Flexicadastre software, they had not taken into account that the staff members at the Cadastral Unit in the MLME needed a long-term capacity-development program in order to be able to effectively use the system. Furthermore, they had not planned for accompanying institutional support for the MLME. This, however, was urgently needed, as the license-awarding process has to be connected to other institutional processes, such as the proper implementation of mining regulations related to awarding licenses. The GIZ program at that moment benefited from being perceived as a new actor with less-entrenched local interests but more operational experience in Sierra Leone, due to its longer presence there. To use this momentum, the program organized an instruction tour for senior MLME officials and representatives of the Cadastral Unit to observe the functioning of MCAP in Sierra Leone firsthand. During this trip, the Liberian dele-

gation felt that the MCAP approach could be a better way of dealing with the challenges they were facing.

Upon return to Monrovia, MLME staff discussed the detailed implications of their technical choices with GIZ, the World Bank, and the RDF as well as internally. After concluding these discussions, the MLME decided to request support from the GIZ Regional Resource Governance program and roll out MCAP on account of the way in which it had helped increase the efficiency of mining license management in Sierra Leone. Unlike Flexicadastre, the software license is not subject to any type of license fees from the government, as the provider, RDF, is a non-profit organization. At the time the decision was reached, however, the GIZ program had already made a commitment to support the updating of the Mining Act (a costly endeavor on account of the legal expertise required) and had no immediate funding for MCAP implementation available. Instead, as a stop-gap measure, the World Bank was able to fund a rapid technical mission by the RDF that removed the most glaring and damaging geographical overlaps in licenses already awarded. Despite these funding constraints, the MLME made its own decision to change the license management system based on the technical advice provided by GIZ and the World Bank, even though neither agency was able to induce this decision with the promise of immediate funding. Joint efforts were made to solicit funding, further enhancing the nascent partnership and keeping momentum going without yet being able to adopt the system.

## Adoption stage

The opportunity for moving on to the adoption stage came when Australia announced its intention to become a new development partner supporting mineral resource governance in Liberia in 2012. Because Australia is a mining economy with a large number of exploration companies working in Africa, Australian Aid (AusAid) had determined that assisting the license management system should be a central priority for their proposed assistance program. This message was buttressed by the MLME itself, as senior officials wrote to AusAid requesting support in implementing the MCAP system. Since AusAid did not intend to set up their own program structures in Liberia, they approached the GIZ Regional Resource Governance program to propose partnership through delegated cooperation. In essence, this arrangement allowed Australia to channel its funding through

the existing GIZ program under a global German-Australian agreement. In addition to facilitating coordination among development partners, funding under this arrangement had the added benefit of allowing the GIZ program to propose additional activities that would strengthen the MLME overall and enhance the structures in which MCAS could successfully be implemented. To complement MCAP, the additional activities that AusAid would fund were the development of implementation regulations for the updated Mining Act, a capacity-development strategy for the MLME, as well as a roadmap for regulating small-scale mining.

The agreement with AusAid was signed in mid-2013, after which time MCAP implementation could begin in earnest. The initial focus on rolling out MCAP was to move license data from the old Flexicadastre system and the remaining paper-based records to the new MCAS IT-system at the Cadastral Unit. However, it was discovered that the data in the Flexicadastre system was of rather poor quality. Therefore, digitization of data was done exclusively from the paper archive. Moving forward, staff also had to be trained in using the system to process new applications and, in particular, to ensure that license fees paid at the LRA were captured by the system so that the MLME could track payment obligations by license holders. As in Sierra Leone, the bulk of training was delivered by an RDF Revenue Specialist, who was resident at the Cadastral Unit full-time, with occasional support from software specialists and other RDF staff knowledgeable in specific aspects of license management. This model of embedded capacity development allowed individuals in the MLME to develop a trusting relationship, with the trainers addressing their individual capacity gaps.

An unexpected opportunity for testing the utility and results of the embedded capacity-development approach came in August 2014, when the RDF advisor had to suddenly leave Liberia due to the Ebola epidemic. Although he continued mentoring the Cadastral Unit team from afar until his return in March 2015, staff members found themselves on their own. What is more, there was no more external presence in the Cadastral Unit to ensure that individuals acted in the interest of the system and not only in their self-interest. Excitingly, however, the system held up and mining licenses continued to be processed by the MCAS software during the Ebola period. License fees continued to be collected despite the fact that the economy had largely ground to a halt. This showed that adopting a long-term approach to building capacity could work even under very challenging conditions.

In addition to the work on the MCAS IT-system and training in the Cadastral Unit, progress was also made on the issue of inter-ministerial cooperation. Here the inauguration of an inter-agency task force on mining revenue responsible for institutionalizing data-sharing among relevant agencies was instrumental. To date, the group has developed data-sharing agreements between the MLME, which is responsible for mining license management; the LRA, where all payments are made; and the Ministry of Finance, which is responsible for revenue policy. The sharing of data between these three institutions is important, as only then can the Liberian state be sure that the amounts of taxes companies pay to the LRA correspond to what they are supposed to be paying according to the license they hold. An RDF advisor has also been placed in the LRA to facilitate building an IT-link to automatically connect the LRA system with MCAS so that payment data can be reflected in real time.

At the same time as MCAP implementation progressed, the MLME continued to work on the other activities supported by the GIZ Regional Resource Governance program. Despite the fact that these parallel processes (particularly the Mining Act update and the MLME capacity-development plan) provided an ideal opportunity for enhancing workflows and procedural elements of license management, less progress has been made in formalizing administrative procedures within the MLME. This is mainly due to the huge challenge presented by institutionalizing new rules and procedures in government institutions in fragile states. In practice, applicants for small- and medium-scale licenses still do not always file their application at the Cadastral Unit for it to be inputted into MCAS. This is different to the situation in Sierra Leone, where the introduction of the NMA provided an opportunity for creating new procedures from scratch, and for putting the Cadastral Unit at the center of the license administration process. In Liberia, by contrast, many applicants continue to meet with specific MLME staff first, particularly in the Bureau of Mines, and ask them to forward their applications on an individual basis. Although these applications will eventually be reflected and deposited in MCAS, this practice allows for continuous nontransparent activities and bypassing of the official license approval process. In other words, although some improvements have been made in terms of building institutional capacity by awarding licenses through MCAS, the license management system has still not been adopted evenly across the MLME. To this date, individual staff members can still influence and divert the process if they choose to do so. This situation reflects the fact that administrative

provisions have not been updated at a similar speed as the IT-system. Whereas the IT-system that is being used to administer licenses in the mining sector is fully functioning – and thus has the potential to bring full transparency into the license-awarding and license-administering process – formal provisions for the license system are still missing. This demonstrates that capacity development at the individual level is more easily achieved than at the institutional level.

## Mainstreaming stage

Further anchoring and mainstreaming MCAS in institutional structures of the MLME has been the focus of the third implementation period (since late 2015). The system is now fully operational but is not being used to its full potential in day-to-day license management. As in the Sierra Leone example, an Online Repository has gone live and allows the public to access license data online for free. The database contains license-holder and payment information on many licenses, but it is not yet complete and updated enough to attract investors or support civil society in overseeing the licensing process. In addition, the data link between the LRA and the MLME is to be tightened, and exchange protocols with the systems of other agencies, such as the Environmental Protection Agency, have yet to be developed.

In view of these remaining challenges, the focus has shifted to institutional capacity development to consolidate and expand on the gains made to date. The MLME is at times not able – or reluctant – to decisively take decisions on specific aspects of MCAP implementation, such as promulgating clear administrative rules within the institution so that all licenses are processed by the system. It is hoped that implementation of the MLME capacity-development plan, which contains recommendations to that effect, will help in this regard. This process will be supported by GIZ and will underline the utility of the holistic approach to supporting change processes taken by the Regional Resource Governance program.

At the third level of the capacity-development strategy (policy), decisions on important policy areas that could strengthen MCAS, such as license provisions in the new Mining Act and its regulations, have been delayed and postponed repeatedly. The draft Mining Act and its regulations have been completed with the support of GIZ and are now available to the MLME, reflecting good international practice and a nationwide con-

sultation exercise. This draft Mining Act and the regulations have been developed in a multi-stakeholder process led by the MLME and the GIZ program. After final validation by the MLME, they could be introduced to the legislature, but no such steps appear to be imminent. Although this reluctance is, to some extent, political in nature in the run-up to national elections in 2017, it also reflects reluctance on the part of policy-makers to fully commit to one specific course of action. There is therefore still a possibility that the Mining Act – as it has been developed in a multi-stakeholder approach – might never be passed. If this scenario became reality, it would considerably complicate further reforms because one key element would have stalled. At the same time, some regulations could still be adopted by the executive without the new Mining Act coming into force and would already much improve governance processes. In addition, MCAP implementation could still proceed at the MLME and in partnership with other agencies, albeit without the additional tailwind from a new legal framework. Finally, the GIZ program is now facing the additional challenge of being the MLME's only development partner, since the AusAid delegated cooperation has ended and the World Bank and USAID have ceased their assistance to the MLME. This is relevant because a well-coordinated group of partners can play a constructive role in supporting and speeding-up specific change processes.

While continuing its long-term approach to capacity development, training, and mentoring, the Regional Resource Governance program will seek to address this situation in two main ways. The first is to build alliances with other development partners and advocate for their return to supporting the MLME. If well-coordinated, multiple donors can raise the overall number of incentives for genuine reforms, or at least ensure that a push for reform remains on the agenda and gained achievements are consolidated. This might seem contradictory to putting the country in the driver's seat. Furthermore, it might give the impression of GIZ undermining the MLME's ownership in the validation process of the draft Mining Act. However, the Regional Resource Governance program does not act arbitrarily and without consulting its partner but offers targeted advice through its existing partnership structures. Additionally, more donor support to the MLME is primarily in the interest of the Liberian government. It also needs to be taken into consideration that German support to Liberia with regard to resource governance is not unlimited. As mentioned in the beginning of this paper, achieving sustainable results often remains elusive. If there were other donors to support the MLME's reform processes,

the chances for achieving sustainable results would increase, since change processes could be accompanied through external advisors for a longer period of time. At the same time, the program will seek to connect its multiple workstreams more tightly in order to provide a more cohesive package of support to address identified capacity-development gaps. In particular, it will try even harder to advise that the package of activities will only yield sustainable results if all are implemented in lockstep, and that they have been designed based on the MLME's explicit request and choice. Although significant achievements have been made, the objective will now be to consolidate them. Against the current slump in commodity prices, this is imperative to ensure that mining will contribute to growth and prosperity in Liberia one day.

### *Lessons learned*

How do the central hypotheses identified concerning different principles of implementation at the outset hold up in the context of the implementation experience described above? In terms of the adoption of a *multi-stakeholder approach*, it is clear that an important success factor in any complex advisory and change program is the coordination of multiple donor agencies. This is particularly true when national partners are not able to play this coordination role. In this particular case, the interagency approach – including Germany and Australia as bilateral donors, the World Bank as multilateral donor, and the RDF as international non-governmental organization – played a positive role. Early support from the World Bank and partnership with AusAid were important factors in facilitating the rollout of MCAP and in supporting the MLME in making a technical decision tailored to its own needs that it could fully own.

On the side of national partners, a *multi-stakeholder approach* to enhance cooperation is equally important, given the complex institutional environment in which agencies often work side-by-side or have structural incentives for competition. In the present case, this is being accomplished through data exchange between revenue and mining agencies, channeled by a formally constituted Task Force. This benefits all agencies involved by clarifying priorities and improving available data. External actors such as the RDF and GIZ can play a useful role in facilitating interactions and exchanges between different government institutions to promote cooperation. The key reason for this is that they are perceived by actors to not

have vested interests and can thus act as independent facilitators. In the field of mineral resource governance, German cooperation has a special advantage, as they are perceived as an honest broker and are well-trusted by the partner, given the fact that Germany does not have a strong mining industry. In addition, GIZ implementation principles embodied in the management tool of GIZ *Capacity WORKS* imply very close relations to the partner ministry MLME on a daily basis, which represents a considerable strength in terms of program implementation.

Within national institutions, there are often competing interests that can hamper the implementation of change processes. This has also been the experience of MCAS implementation in Liberia, as not all staff have been willing so far to formalize their informal processing of mining licenses by adopting the new system. Broad internal steering mechanisms for change processes can be a way to bring more staff members on board and give them a positive stake in the transformation of their role. At the end of the day, however, administrative agencies are hierarchical systems, albeit with accountability and checks-and-balances. Care needs to be taken to avoid undermining administrative capacity (and effective line-management) by imposing generic steering structures that are too broad and not sufficiently tailored to the specific task. A carefully calibrated program of capacity development at all three levels (policy, organization, and individual) can help make the right decisions in this regard and needs to be designed on a case-by-case basis.

In terms of focusing on developing genuine *partnership systems*, the experience described above points to the vital importance of partner *ownership*. Although this is a trite observation on the surface, it is a real challenge to support partners in making genuine choices (in this case, for MCAP) when they are often exposed to different donor preferences and have only insufficient capacity or information. In the discussion above, it was not easy for the MLME to choose and implement its own preferred solution, considering that USAID had been supporting and implementing another license management system with the MLME. Smart implementation here means finding the right balance between providing technical advice and leaving enough space for independent decision-making by partners. However, partnership also implies the need for making specific policy decisions in the absence of donor-imposed solutions. At present, the MLME has reached a stage where such decisions are very much needed to ensure further progress. Pace and timing are very important in any reform process. Smart implementation is adjusting to the pace of the

reform dynamics in the partner country and accepting when decision-making processes take more time than the project proposal foresees. A multi-layer approach is thus very helpful, as it allows for diverting resources to a different layer, if the process takes more time at one level.

The discussion above also illustrates the importance of working within partnership contexts for a *sustained period of time*. It is unrealistic to expect substantial and sustainable change in fragile environments within three-year planning horizons. It takes time to build trust and adapt approaches to local conditions. The option of a "big bang" solution is highly unlikely in such a context. Proceeding in an *iterative manner* that allows for learning and continuous improvement over time seems to be the principle of smart implementation instead. The example of providing only the IT-systems and to hope for the best, or worst, of the application is a point in case. Although the activities described above are ongoing, the available evidence suggests that continuous mentoring by locally based advisors (embeddedness) is the only viable approach in fragile environments. The fact that mining licenses continued to be processed in MCAS during the Ebola crisis is one such point of illustrative evidence.

It is also clear that capacity-development activities – such as the ones discussed in this paper – require *integrating technical, political, process, and organizational development advice*. This means that GIZ advisors have to show flexibility in taking on different roles at different times in the process. The GIZ model of capacity development at different levels is well-suited in this regard. In other words, the success of a technical activity such as mining license management hinges on other activities such as legal/procedural reform and individual/institutional capacity development. Ideally, the overall sequence will be designed in a way that puts relatively easy quick-wins first (IT-solution in this case) and then use the momentum to address the harder procedural issues. However, care needs to be taken not to wait too long with the latter, because ultimately it is determinant of final success. Furthermore, program managers need to be given leeway to shift programmatic focus in consultation with their partners, if they feel that insufficient progress is being made or if new opportunities emerge during implementation. Such learning – and the ability to adapt to ever-shifting circumstances – is another important element of smart implementation. Overall, this kind of *incremental engagement* has essentially been the implementation approach used by the GIZ Regional Resource Governance program to date, and efforts will be made to further capitalize on the various concurrent support processes ongoing in partnership with the MLME.