

Unifying practice in West Africa

The wave of interest in mines in West Africa in the past few years is no accident. It has now become clear that countries like Burkina Faso, Cote d'Ivoire and Mali have a very attractive mineral endowment which in all likelihood compares to better known neighbours like Ghana.

But, in line with the African story generally, an important factor in the intensified activity has been a unified effort to encourage mining investment. Partly, this has involved trying to shed light on cloudy legal frameworks that change tack from country to country.

International solicitor Michael Bula of Michael Bula Solicitors has spoken at previous conferences about the OHADA (Organisation for the Harmonisation of Business Law in Africa) treaty, which comprises 16 member nations from mainly west and central Africa.

This year, he told delegates about the West African Economic and Monetary Union (WAE-MU), which is clearly now also playing its part in drawing investment to the region.

The Union was set up in 1994 and today has eight member nations in Benin, Burkina Faso, Cote d'Ivoire, Mali, Niger, Senegal, Togo and Guinea-Bissau. Member nations use the CFA Franc as currency.

Mining is just one of many facets of the Un-

ion's mandate to stimulate economic competitiveness and commonality in the member nations through co-operation and harmonisation.

But the ascendance of resources activity within a number of the (particularly West African) nations in the WAEMU makes the Union's vision for mining – "to make the mining sector a powerful springboard for social and economic development of the member states" – that much more critical.

WAEMU ties that ambition to a "common mining policy", the aims of which seem to be having an impact at least in countries like Burkina Faso, Cote d'Ivoire and Mali.

Of interest to Australian explorers heading into the member nations, the policy aims to establish a climate conducive to mining investment through diversification of mining production, and treatment of mining substances in the territory of the member state, among other objectives.

It is guided by principles including non-discrimination (equality of treatment between investors); clarity, simplicity and transparency (reinforcing the responsibility of mining administrations and guaranteeing credibility); flexibility (allowing economic immunity measures to correspond with the realities of the sector); competitiveness; and sustainabil-

ity (encouraging exploitation of new deposits and finding additional reserves while avoiding compromising the ability of future generations to respond to their needs).

WAMEU aims to harmonise the member nations' ability to respond to those principles, by establishing a clear mining title regime; simplifying procedures for the granting of mining titles; defining a model mining convention; adopting an environment protection programme; defining a mining taxation regime; and developing a community mining code.

The community mining code puts a common legal framework in place relating to mining in both the exploration and exploitation phases. It was designed to reflect international realities, requirements and practices with a view to improving the contribution of the resources sector to the member nations' economies.

"The code is applicable but the regulations for application are still on the drawing board," Bula said.

"This regime is very attractive for Australian mining companies within the economic space of the West African Union. I think this code, coupled with the OHADA treaty, is a very good incentive in those jurisdictions to attract stability and mining investment."