

# South African Mining Development Association

Integrated Resources Development Programme Colloquium on Beneficiation, Industrialization, Localization and Transfer Pricing

05 February 2019

Presented to: Trade and Industry Committee

# This land must be healed

This land, the whole land Will be healed, must be healed

These brazen cities, the swollen mines
The mineral of our sweat

The teeming ghetto, the dormitory cells
In towns and squalid squatter camps
Where hope smothers in a tyre
These **furnaces** of human indifference must incinerate
With all the heat of a healing fire

Those were the dark ages of mining
And now the winds of change are blowing
A brighter new future our wayA future of Global Mining Transformation
A future of the paradigm shift

This land, the whole land
Will be healed, must be healed
- Don Matera



#### **AFRICA'S STRATEGIC MINERALS AND KEY PRODUCERS IN 2010**

Africa is well-endowed with mineral resources Mineral Production & Known Resources ('04)

(however, much of Africa is still un-surveyed)

Mineral	Production	Rank	Reserves	Rank
PGMs*	54%	1	60+%	1
Phosphate	27%	1	66%	1
Gold	20%	1	42%	1
Chromium	40%	1	44%	1
Manganese	28%	2	82%	1
Vanadium	51%	1	95%	1
Cobalt	18%	1	55+%	1
Diamonds	78%	1	88%	1
Aluminium	4%	7	45%	1

Also Ti (20%), U (20%), Fe (17%), Cu (13%), etc. \*PGMs: Platinum Group Minerals

#### **AFRICA'S MINERAL RESOURCES MAP**

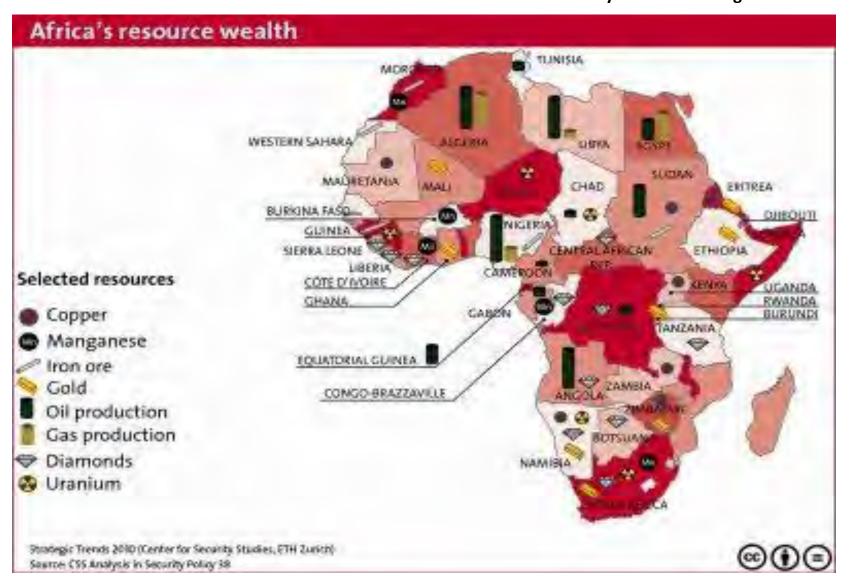
#### AFRICA'S MINERAL RESOURCES



In 1914, Africa was almost entirely controlled by European colonial powers, which had raced one another to acquire territory in the so-called "Scramble for Africa." This map shows the Belgian, British, French, German, Italian, Portuguese, and Spanish colonies in Africa. Only Ethiopia and Liberia remained independent countries



AFRICANGLOBE – Africa has 10 per cent of the world's known reserves of oil, 40 per cent of its gold, and 80 to 90 per cent of the chromium and the platinum metal group, to list only a few. But a number of commentators still refer to this wealth of natural resources and minerals as "Africa's resource curse." They associate the many wars, poverty and untold suffering of ordinary Africans to this abundance. It is true that the abundance of natural resources has been the catalyst for wars and conflict. But should an abundance of natural resources lead to Africa's decline? The answer must surely be a resounding no.



## MINING LEGISLATION IS THE ENGINE FOR ECONOMIC GROWTH: Mineral Beneficiation Section 26 of the MPRDA

- 26. (1) The Minister may initiate or prescribe incentives to promote the beneficiation of minerals in the Republic.
- (2) If the Minister, acting on advice of the Board and after consultation with the Minister of Trade and Industry, finds that a particular mineral can be beneficiated economically in the Republic, the Minister may promote such beneficiation subject to such terms and conditions as the Minister may determine.
- (3) Any person who intends to beneficiate any mineral mined in the Republic outside the Republic may only do so after written notice and in consultation with the Minister.

#### MINERALS AND MINING DEVELOPMENT BOARD (Section 26(2))

- Establishment and Minerals and Mining Development Board
- **57**. The Minerals and Mining Development Board is hereby established.

#### **Functions of Board**

- **58.** (1) The Board-
  - (a) must advise the Minister on-
    - (i) any matter which must be referred to the Board by or under this Act;
    - (ii) the sustainable development of the nation's mineral resources;
    - (iii) the transformation and downscaling of the minerals and mining industry; and
    - (iv) dispute resolutions;
    - (b) must, in consultation with the Mining Qualifications Authority, ensure the promotion of human resource development in the minerals and mining industry; and
    - (c) may-
      - (i) report to the Minister on any matter relating to the application of this Act; and
      - (ii) enquire into and report to the Minister on any matter concerning the objects of this Act.
    - (2) The Board must give priority to matters referred to it by the Minister.

#### THE MINERALS AND MINING DEVELOPMENT BOARD

#### **Composition of Board**

- **59.** (1) The Board consists of no fewer than 14 and no more than 18 members, and must reflect the gender and racial composition in the Republic.
  - (2) The Minister must appoint as members of the Board-
    - (a) a Chairperson;
    - (b) the Chief Inspector;
    - (c) three persons representing any relevant State department,
    - (d) three persons representing organized labor,
    - (e) three persons representing organized business,
    - (f) at least one person representing any relevant non-governmental organizations;
    - (g) two persons representing relevant community-based organization; and
    - (h) at least two other persons with appropriate experience, expertise or skill to enhance the Board's capability performing its functions more effectively.
  - (3) The members of the Board must elect a deputy chairperson from amongst their number at their meeting.

# BENEFICIATION A TOOL FOR JOB CREATION AND SKILLS ENHANCEMENT AND ACHIEVING THE NDP

- Mining companies must facilitate local beneficiation of mineral resources of mineral commodities by adhering to the provision of section 26 of the MPRDA and the mineral beneficiation strategy.
- It is unfortunate that a majority of the companies import finished (manufactured) goods from off shore instead of manufacturing goods locally hence causing severe job loses and denying the country skills enhancement opportunities.
- Job creation for retrenched workers through beneficiation promotes skills transfer and development.
- By complying to the mining charter through beneficiating minerals, small and medium enterprises and manufacturing industries will be promoted and thus stimulating job creation and diversified economic development through industrialization.

## DIRECT AND INDIRECT CONTRIBUTION OF MINING TO THE SOUTH AFRICAN ECONOMY

#### Mineral Wealth

- South Africa's estimated reserves are R20,3-trillion (\$2,5- trillion) and remains some of the world's most valuable reserves.
- The country is estimated to have the world's fifth largest mining sector in terms of GDP value.
- It has the largest reserves of the following minerals:
  - Manganese
  - Platinum Group Metals
  - The largest reserve of gold, diamonds, chromite ore and vanadium
- South Africa is a major producer of coal and chrome.

# The impairment of the direct and indirect contribution of the mining industry to the economy because of Transfer Pricing:

The Mining Sector has a Direct and Indirect contribution to the whole economy as demonstrated by a few of the many sectors of the economy below:

- Creates one million jobs (500 000 direct and 500 000 indirect)
- 18% of GDP (8.6% direct and 10% indirect and induced)
- Is a critical earner of foreign exchange at more than 50%?
- Account for 20% of investment (12% direct)
- Attracts significant foreign saving (R1,9-trillion or 43% of value of JSE)
- Accounts for 13.2% of corporate tax receipts (R17-billion in 2010) and R6-billion in royalties
- Accounts for R441-billion in expenditures, R407-billion spent locally
- Accounts for R78-billion spent in wages and salaries
- Accounts for 50% of volume of Transnet's rail and ports
- Accounts for 94% of electricity generation via coal power plants
- Takes 15% of electricity demand
- About 37% of country's liquid fuels via coal
- NB The above figures of the direct and indirect mining contribution to the South African Economy are artificial and misleading because the genuine figures have been eroded through transfer pricing.
- The whole economy is therefore denied the opportunity of sustainable growth.
- Rapid Economic Transformation Is Sabotaged Through Transfer Pricing.
- An Erosion Of The National Development Plan Through Transfer Pricing.
- \* The Chamber of Mines:

#### **STRATEGIC MINERALS**

The State has adopted a Strategic Minerals Investment Policy in the following Minerals:

Rank	Commodity	Needs of the Country and the Value Chain	
1	Coal	Energy supply risk	
2	Gold	Job creation potential-jewellery beneficiation	
3	Iron Ore	Infrastructure and job creation prerogative	
4	Manganese	Infrastructure and job creation prerogative	
5	Diamonds	Job creation potential-jewellery beneficiation	
6	PGM	SA's international dominance; job creation—energy supply	
7	Chrome	SA's international dominance	
8	Vanadium	SA's international dominance	
9	Titanium	High technology industries	
10	Nickel	Niche steel products	
11	Uranium	Clean Energy	
SAMDA proposes that the State include the following commodities to be Additional Strategic Minerals:			
12	Phosphate	food security and fertilizer supply	
13	Limestone	Required for cement manufacture and construction projects	
14	Shale Gas	Energy supply risk and Job Creation through industrialization	
15	Oil (Petroleum)	Energy supply risk and Job Creation through industrialization	

### Special Economic Zone (SEZ):

Is an area in which business and trade laws are different from the rest of the country. SEZs are located within a country's national borders, and their aims include increased trade balance, employment, increase investment, job creation, and effective administration. To encourage business to set up in the zone, financial policies are introduced. These policies typically encompass investing, taxation, trading, quotas, customs and labor regulations. Additionally, companies may be offered tax holidays where upon establishing themselves in the zone they are granted a period of lower taxation to attract foreign direct investment (FDI). Companies can produce and trade goods at a lower price and be globally competitive.

# IN SOUTH AFRICA THE SPECIAL ECONOMIC ZONE ACT, PROCLAIMED IN FEBRUARY 9 2016

#### SA's 10 industrial and special economic zones

#### **OR Tambo SEZ**



The OR Tambo SEZ aims to develop land around OR Tambo International Airport to

stimulate economic development. The SEZ supports the growth of beneficiation of precious metals and minerals sector, with a focus on light, high-margin, exportoriented manufacturing of SA precious and semiprecious metals

#### **Dube Tradeport SEZ**



Dube Tradeport SEZ is near King Shaka International Airport. 30km north of Durban.

It brings together an international airport, a cargo terminal, warehousing, offices, a retail sector, hotels and an agricultural area

#### Musina-Makhado SEZ

The Musina-Makhado SEZ

metallurgical and mineral

the border between SA and

beneficiation complex.

comprises two geographical

locations. Musina targets light

A third site has been identified to

The SEZ is located along the N1.

target petrochemical industries.

north-south route and is close to

industrial and agropropessing

clusters, while Makhado is a



#### Nkomazi SEZ



The Nkomazi SEZ will be in Komatipoort in Mpumalanga. It will focus on primary agriculture, agreprocessing, nutraceuticals, fertiliser production, as well as meat and leather products.

It is expected to contribute R97.6 billion to the country's GDP. and generate R3.5 billion in exports and R5.3 billion in primary agricultural products

#### Maluti-a-Phofung SEZ



Special economic zone (SEZ)



Industrial development

Maluti-a-Phofung SEZ in Harrismith, Free State, lies at the midpoint of the crucial Durban-Johannesburg logistics route. The zone is licensed for general manufacturing, offering a production base for light and medium manufacturing.

It has logistics links by road and rail to SA's industrial heartland. the Port of Durban and the Bloemfontein-Cape Town route

#### Saldenha Bay IDZ



The Saldanha Bay IDZ is in the north of Cape Town. Its focus is to serve as the primary oil, gas, marine repair engineering and logistics services complex in Africa, servicing the needs of the upstream oil exploration industry and production service companies operating in the oil and gas fields in sub-Saharan Africa

#### zone (IDZ)



SOUTH AFRICA

Kembertey .

Zimbabwe

Beaufort West

Port Elizabeth



East London

Mahintho

#### Richards Bay IDZ

#### Atlantis SEZ



Launched last month by President Cyril Ramaphosa, the 124.5-hectare Atlantis SEZ in the Western Cape is designated for the manufacturing of green technologies, alternative waste management, energy efficient technology, alternative building material and many other clean technologies

#### Coega IDZ



Designated in 2001. Coega is the largest IDZ in southern Africa and was SA's first. It is located in the Nelson Mandela Bay Metropolitan Municipality in the Eastern Cape.

Cape Town .

The Coega IDZ has attracted investment in the agroprocessing. automotive, aquaculture, energy, metals logistics and business process services sectors

#### East London IDZ



This East London IDZ was established in 2003 at an industrial park that has customised solutions for various industries, including automotive, agroprocessing and aquaculture.

It is located in the Buffalo City municipal area

#### The Richards Bay IDZ is an industrial estate on the coast of KwaZutu-Natal. The N2 business corridor links the province's two major ports, Durban and Richards Bay, and connects with Maguto in Mozambique and areas of east Africa. It is linked to the sea port. in Richards Bay

Richards Bay IDZ is tailored for manufacturing and storage of minerals and products to boost beneficiation, investment. economic growth and, most importantly, the development of skills and employment

#### **List of Special Economic Zones (SEZs)**

#### South Africa has 7 SEZs in different provinces, namely:

#### 1. Coega IDZ (Eastern Cape)

The largest and first Industrial Development Zone in Southern Africa, designated in 2001. It is located in the Nelson Mandela Bay Metropolitan Municipality. The IDZ has attracted investment in the agro-processing, automotive, aquaculture, energy, metals logistics and business process services sectors.

#### • 2. Richards Bay IDZ (Kwazulu-Natal)

A purpose-built and secure industrial estate on the north-eastern South African coast. The IDZ is linked to an international sea port of Richards Bay. It boasts tax- and duty-free incentives which is believed to encourage international competitiveness.

#### • 3. East London IDZ (Eastern Cape)

Established in 2003 and known for its innovation, sustainability and efficiency. The East London IDZ (ELIDZ) is located in Buffalo City and is one of the first IDZs in South Africa to be operational.

#### 4. Saldanha Bay IDZ (Western Cape)

This IDZ is aimed to serve as the primary oil, gas and marine repair engineering and logistics services complex in Africa. This IDZ is situated two hours north of Cape Town.

### List of Special Economic Zones (SEZs)

#### • 5. Dube Tradeport (Kwazulu-Natal)

Functions as a catalyst for global trade. This IDZ is located 30 km north of Durban, with a focus on manufacturing and value-addition primarily for automotive, electronics and fashion garments.

#### 6. Maluti-a-Phofung SEZ

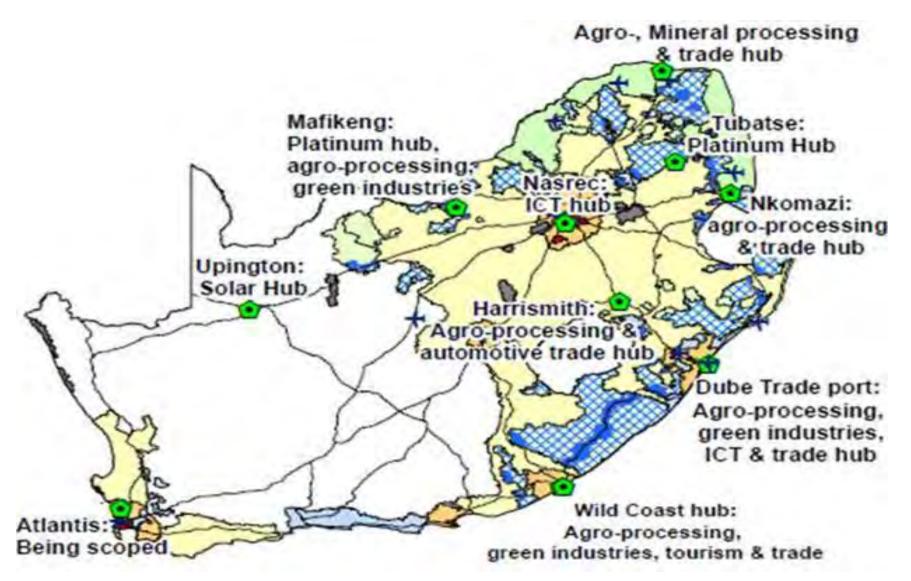
Located in Free State, this IDZ offers exporters a logistics base that facilitates access to the Port of Durban, and intermodal logistics solutions for the transfer of freight between road and rail.

This SEZ also intends on attracting agro-processing industries.

#### 7. OR Tambo IDZ (Gauteng)

This IDZ will undergo phases over a 10-15 year period. It aims to develop land around OR Tambo International Airport in order to stimulate economic growth. This IDZ supports the minerals and metals sector with a key focus on light, high-margin, export-oriented manufacturing of South African precious and semi-precious metals.

### Industrial Trade Hubs



## **Agro-Processing Beneficiation**

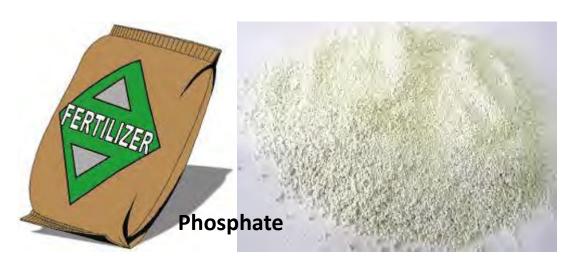
- Peanut Butter is beneficiated from peanut farms
- Corned Beef is beneficiated from beef
- Cotton is beneficiated from cotton plant
- Sunflower Oil is beneficiated from sunflower oil plant seeds
- Toilet and tissue paper are beneficiated from trees

## Agro-Processing Beneficiation

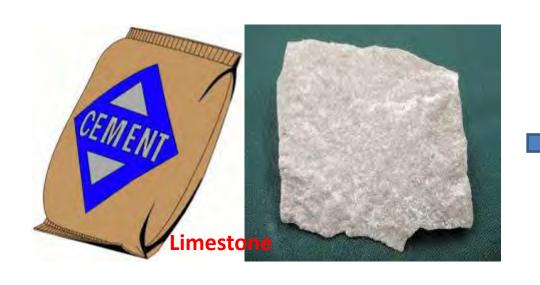


# Mining Rehabilitation and Agro-Beneficiation in an Integrated Economy

### BENEFICIATION ENGINE FOR ECONOMIC GROWTH IN THE PARADIGM SHIFT



FOOD SECURITY THROUGH ROBUST AGRICULTURE

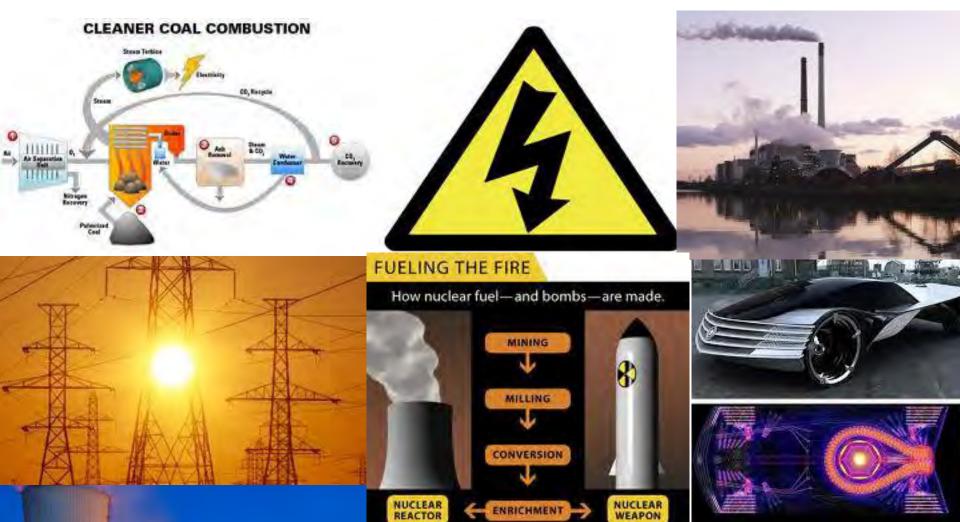


**INFRASTRUCTURE DEVELOPMENT** 

#### **STEEL VALUE CHAIN:** (IRON ORE, MANGANESE, NICKEL, VANADIUM & CHROME)



#### **ENERGY COMMODITIES: (COAL, URANIUM AND THORIUM)**



## JOB CREATION AND ECONOMIC GROWTH THROUGH BENEFICIATION OF GOLD, DIAMONDS, COPPER AND PHOSPHATE

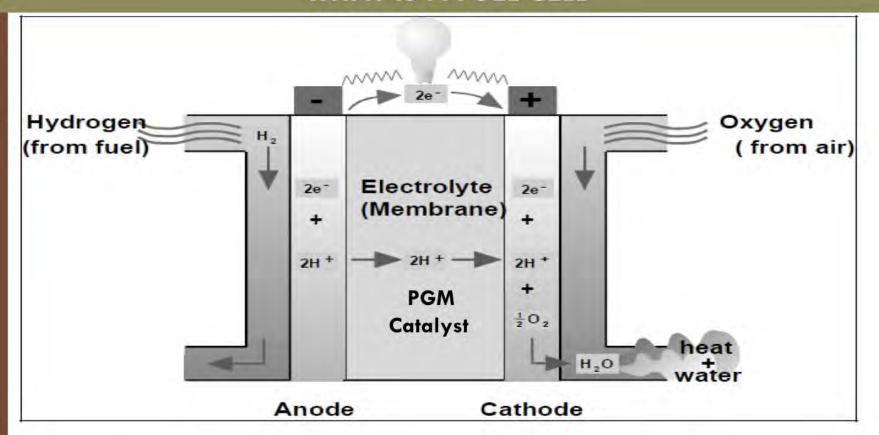








#### WHAT IS A FUEL CELL



- A fuel cell is an electrochemical device that produces electricity silently and without combustion
- A fuel cell consists of two electrodes sandwiched around an electrolyte.
- Oxygen passes over one electrode and hydrogen over the other, generating electricity, water, and heat.

#### **FUEL CELL APPLICATIONS**



### BENEFICIATION INCENTIVE - A CATALYSIST FOR CHARTER COMPALIANCE AND ACHIEVING THE NDP

Section 12 I Tax Allowance Incentive (12I TAI) (SARS)

The Section 12 I Tax Incentive is designed to support Greenfield investments (i.e. new industrial projects that utilize only new and unused manufacturing assets), as well as Brownfield investments (i.e. expansions or upgrades of existing industrial projects). The new incentive offers support for both capital investment and training.

#### The incentive offers:

- R900 million in the case of any Greenfield project with a preferred status;
- •R550 million in the case of any other Greenfield project;
- •R550 million in the case of any Brownfield project with a preferred status;
- R350 million in the case of any other Brownfield project;
- •An additional training allowance of R36 000 per employee may be deducted from taxable income; and
- •A maximum total additional training allowance per project, amounting to R20 million, in the case of a qualifying project, and R30 million in the case of a preferred project

### SPECIAL ECONOMIC ZONES A CATALYSIST FOR CHARTER COMPALIANCE AND ACHIEVING THE NDP

Special Economic Zone (SEZ)

- •A geographical region that has economic and other laws that are more free-market-oriented than a country's typical or national laws. "Nationwide" laws may be suspended inside a special economic zone.
- •In 2013, the Minister of Finance, Pravin Gordhan announced, what is an unprecedented move to bolster support for government's <u>Special Economic Zone</u> (SEZ).
- •Investors in such zones are expected to qualify for a 15% corporate tax rate, and in addition, a further tax deduction for companies employing workers earning less than R60,000 per year.

## •Through Special Economic Zones Mining Stakeholders are incentivized to adhere to the following:

- The implementation of charter compliancy requirements
- Abolishment of ghost towns
- Creation of a sustainable mining economy
- Rapid economic transformation
- Achievement of the National Development Plan

#### Minister's power to suspend or cancel rights, permits or permissions Section 47 of the MPRDA

- **47.** (1) Subject to subsections (2), (3) and (4), the Minister may cancel or suspend any reconnaissance permission, prospecting right, mining permit or retention permit if the holder thereof—
  - (a) is conducting any reconnaissance, prospecting or mining operation in contravention of this Act;
  - (b) breaches any material term or condition of such right, permit or permission;
  - (c) is contravening the approved environmental management programme; or
  - (d) has submitted inaccurate, incorrect or misleading information in connection with any matter required to be submitted under this Act.
- (2) Before acting under subsection (1), the Minister must—
  - (a) give written notice to the holder indicating the intention to suspend or cancel the right;
  - (b) set out the reasons why he or she is considering suspending or canceling the right;
  - (c) afford the holder a reasonable opportunity to show why the right, permit or permission should not be suspended or cancelled; and
  - (d) notify the mortgagor, if any, of the prospecting right, mining right or mining permit concerned of his or her intention to suspend or cancel the right or permit.
- (3) The Minister must direct the holder to take specified measures to remedy any contravention, breach or failure.
- (4) If the holder does not comply with the direction given under subsection (3), the Minister may act under subsection (1) against the holder after having—
  - (a) given the holder a reasonable opportunity to make representations; and
  - (b) considered any such representations.
- (5) The Minister may by written notice to the holder lift a suspension if the holder—
  - (a) complies with a directive contemplated in subsection (3); or
  - (b) furnishes compelling reasons for the lifting of the suspension.

# Minister's power to suspend or cancel permits or rights – Section 90 of the MPRDA

**90.** The Minister may cancel or suspend any reconnaissance permit, technical co-operation permit, exploration right or production right in accordance with the procedure contemplated in section 47.

#### Orders, suspensions and instructions - Section 93 of MPDRA

- **93.** (1) If an authorized person finds that a contravention or suspected contravention of, or failure to comply with—
  - (a) any provision of this Act; or
  - (b) term or condition of any right, permit or permission or any other law granted or issued or any environmental management programme or environmental management plan approved terms of this Act, has occurred or is occurring on the relevant reconnaissance, exploration, production, prospecting mining or retention area or place where prospecting operations or mining operations or processing operations are being conducted, such a person may—
    - (i) order the holder of the relevant right permit or permission, or the person in charge of such area, any person carrying out or in charge of the carrying out of such activities or operations or the manager, official, employee or agent of such holder or person to, take immediate rectifying steps; or
    - (ii) order that the reconnaissance, prospecting, exploration, mining, production or processing operations or part thereof be suspended or terminated, and give such other instructions in connection therewith as may be necessary.
- (2) The Director-General must confirm or set aside any order contemplated in subsection (1)(a) or (b).
- (3) The Director-General must notify the relevant holder or other person contemplated in subsection (1) in writing within 60 days after the order referred to in subsection
- (1)(a) or (b) has been set aside or confirmed, failing which such order shall lapse.

#### Offences - Section 98 of the MPRDA

- 98. Any person is guilty of an offence if he or she—
- (a) contravenes or fails to comply with—
  - (i) section 5(4), 20(2), 19 or 28;
  - (ii) section 92, 94 or 95;
  - (iii) section 38(1)(c);
  - (iv) section 42(1) or (2);
  - (v) section 44;
  - (vi) any directive, notice, suspension, order, instruction or condition issued, given or determined in terms of this Act;
  - (vii) any direction contemplated in section 29; or
  - (viii) any other provision of this Act;
- (b) submits inaccurate, incorrect or misleading information in connection with any matter required to be submitted under this Act; or
- (c) fails to provide a written notice or consult with the Minister in terms of section

#### Penalties - Section 99 of the MPRDA

- 99. (1) Any person convicted of a offence in terms of this Act is liable—
  - (a) in the case of an offence referred to in section 98(a)(i), to a fine not exceeding R100 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;
  - (b) in the case of an offence referred to in section 98(a)(ii), to the penalty that may be imposed for perjury;
  - (c) in the case of an offence referred to in section 98(a)(iii) to a fine not exceeding R500 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment;
  - (d) in the case of an offence referred to in section 98(a)(v), to the penalty that may be imposed in a magistrate's court for a similar offence;
  - (e) in the case of an offence referred to in section 98(a)(vi) and (vii), to a fine not exceeding R10 000;
  - (f) in the case of an offence referred to in section 98(c), to a fine not exceeding R500 000 for each day that such person persists in contravention of the said provisions;
  - (g) in the case of any conviction of an offence in terms of this Act for which no penalty is expressly determined, to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment; and
- (2) Despite anything to the contrary in any other law, a magistrate's court may impose any penalty provided for in this Act.

#### Recommendation

#### THE ALIGNMENT OF THE MINING CHARTER WITH DTI'S B-BBEE CODES OF GOOD PRACTICE

- The alignment of the Mining Charter with DTI's B-BBEE Codes of Good Practice has not been made.
- We suggest that the immediate alignment of the Mining Charter with DTI's B-BBEE Codes of Good Practice must be done as it is long overdue to address transfer pricing and charter non-compliancy.

#### BENEFICIATION AN ENGINE FOR ECONOMIC GROWTH

- Section26 (3) of the MPRDA states that "any person who intends to beneficiate any mineral mined in the Republic outside the Republic may only do so after written notice and in consultation with the Minister"
- Section26 (3) of the MPRDA can be used to assist government in determining the true value of the commodities being transferred to the end user/consumer/manufacturers to address transfer pricing and charter non-compliancy.
- Section26 (3) of the MPRDA will also enable the DMR to encourage foreign companies to beneficiate (manufacture) locally, when those companies seek written approval from the ministry to beneficiate offshore.
- Special Economic Zones will be the Epitome of Industrialization.
- Companies that are in breach of section 26 (3) should be penalized for sabotaging beneficiation and industrialization of the South African Economy.
- Government Should
  - Abolish transfer pricing.
  - Create a meaningful tax environment that will prevent the erosion of capital

#### THE SOUTH AFRICA FIRST STRATEGY!!

- All South Africans should be committed to a South Africa economic and investment strategy and model. That will ensure the economic sustainability of the country and the people of South Africa.
- Canada provides an excellent example of the country first policies and sentiments. e.g.:
  - The Canadian government blocked BHP Billiton's \$39 billion bid for Potash Corp, the world's biggest producer of a key crop nutrient, halting what had been the world's biggest takeover.
  - Industry Minister Tony Clement said, "In Canada, our natural resources are an important economic driver, ... I have come to the conclusion that BHP Billiton does not present a likely net benefit to Canada." (2011).
- Like Canada, South Africans must adopt a 'South Africa First!' Strategy for the net benefit to South Africa.

# Investors: Partner With Africa In The Long Walk To Economic Freedom

I have walked that long road to freedom. I have tried not to falter; I have made missteps along the way. But I have discovered the secret that after climbing a great hill one only finds that there are many more hills to climb. I have taken a moment here to rest, to steal a view of the glorious vista that surrounds me, to look back on the distance I have come, but I can rest only for a moment, for with freedom comes responsibility, and I dare not linger, for my LONG WALK HAS NOT YET ENDED.

(Nelson Mandela)