



CHAMBER OF MINES  
of South Africa

# MEDIA STATEMENT

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## CHAMBER DEEPLY CONCERNED FOLLOWING REPORTS TO PARLIAMENT ON DRAFT REVIEWED MINING CHARTER

*Implementation in current form is ill-considered and not attainable, and will have dire consequences for the mining industry and the entire SA economy*

**17 November 2016, Johannesburg:** The Chamber of Mines notes with deep concern Department of Mineral Resources Deputy Director General, Mr Mosa Mabuza's submission to Parliament on the revised version of the Draft Reviewed Mining Charter, on Wednesday, 16 November.

The Chamber has been at pains to point out to the DMR that the industry is in dire straits. In this crisis situation what is needed is a Charter that promotes investment by providing a steadily progressive and predictable transformation tool which simultaneously ensures that the transformation journey that we have embarked upon does not lose its momentum.

The Chamber considers the process to arrive at this Draft Reviewed Mining Charter to have been seriously flawed. Following the publication of the first Draft Reviewed Mining Charter in April 2016, the Chamber has only been invited to consult with the DMR on two occasions, despite its willingness to engage.

The Chamber would have preferred a situation where the stakeholders in Mining Industry Growth and Development Employment Task Team (MIGDETT) had the opportunity to engage extensively in the development of the stakeholder-agreed Mining Charter as was the case in 2002 and 2010 for the first two versions of the Charter.

In terms of the substance of the Draft Reviewed Mining Charter presented by Mr Mabuza on Wednesday, it has become clear that the DMR has not considered



and/or not included the Chamber's submissions, objections and recommendations.

Chamber of Mines CEO Roger Baxter notes that: "The Chamber is deeply concerned that the Draft Reviewed Mining Charter contains ill-considered and/or unachievable targets, and that its implementation in its current form will have dire consequences for the mining industry and the entire South African economy at a time when both are facing significant challenges."

Some of the concerns raised by the Chamber which the DMR has not taken on board relate to the following:

- The DMR has pursued the proposal that mining companies must contribute a proportion of revenues to a Mining Transformation and Development Agency. Simply stated, this proposal is yet another 'royalty' tax-equivalent that the DMR intends to impose on an already struggling industry which made a loss of some R37 billion in 2015.

This is the most regressive form of taxation. For this reason, Treasury elected for an EBIT-based royalty rather than a revenue-based one.

The Chamber proposed a 2% of net profit after tax contribution to community expenditure and the need for government to use the existing royalties paid by mining companies to government to supplement community development initiatives.

- The Chamber is concerned about the establishment of a Mining Transformation and Development Agency (MTDA) as proposed by the DMR, which parties have not discussed in any degree of detail. The Chamber is concerned about its purpose, cost and oversight.
  - The Draft Reviewed Mining Charter requires that a portion of the industry's skills development commitments should be paid to the MTDA. This will take away much-needed funding for skills programmes and tertiary education currently undertaken by the companies and will place these funds directly with another government agency of which the mandate is unknown.
  - The DMR continues to insist that multi-national companies supplying goods and services to the mining industry should pay 1% of turnover generated from local mining companies to the new MTDA. This doubles the target set in the 2010 Charter.

The Chamber is of the view that this is simply an additional tax which the multi-national companies will pass on to local mining companies in the form of higher prices, rendering the South African mining industry less competitive than it already is.

- Further, the DMR has substantially increased the targets relating to the appointment of Historically Disadvantaged South Africans (HDSAs) in companies, and has at the same time changed the definition. The new targets may be desirable, but some aspects are - in the industry's view - currently unachievable.

The industry on the whole achieved the employment equity targets of the 2010 Charter and is not opposed to increasing the targets, however, the targets have to be based on what is realistically achievable.

Mr Baxter notes: "The cumulative effect of all DMR's proposals , combined with existing corporate taxes and royalties, skills development levies and more, would materially affect the viability of an industry already in crisis.

Finally, the Chamber notes with concern that the DDG indicated that consultation with the industry in respect of the ownership element of the Charter has been fruitful, and that a withdrawal of the Chamber's application for a declaratory order in respect of the 'continuing consequences' component is likely. Regrettably, while the high-level meetings between the industry and the DMR, including the Minister, appeared to have been able to reach a common understanding on the way forward, the outcomes have not progressed beyond verbal agreements, and the last meeting between the DMR and the Chamber's principals took place in July 2016. This is despite the Chamber having providing detailed inputs on the issue in September, as had been requested.

The Chamber further notes that despite the serious viability crisis currently being faced by the South African mining sector, the DMR has not offered or displayed any interest in assisting the industry through this crisis. The only area where the DMR has been visible was through the *Leaders' Declaration - Mining Industry Commitment to Save Jobs and Ameliorate the Impact of Job Losses* where the department's focus was solely on the measure of preventing the industry from restructuring. The DMR has not pursued the other measures explored, such as reducing cost pressures or developing the markets.

“Given that the mining companies are mandated with the implementation of the Mining Charter, the Chamber cannot willingly accede to an outcome based on a flawed process, which does not take into account the substantive issues raised by the industry.

The South African mining industry remains fully committed to transformation undertaken in a manner that sustains and supports the industry, and does not undermine the laudable goals of the MPRDA,” Mr Baxter concluded.

The Chamber and its members urge the Minister and the DMR to seriously engage with the industry on these matters prior to the publication of the reviewed Mining Charter in the form that has been described.

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