



QUARTERLY UPDATE

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MINES OF SOUTH AFRICA

HIGHLIGHTS IN THIS ISSUE

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P1 From the CEO: "Seeking certainty"

The Chamber of Mines of South Africa is a mining industry employers' organisation that supports and promotes the South African mining industry. The Chamber serves its members and promotes their interests by providing strategic support and advisory input. A key role of the organisation is to facilitate interaction among mining employers to examine policy issues and other matters of mutual concern to crystallise and define desirable industry standpoints. The Chamber also acts as a principal advocate for mining in South Africa to government, communicating major policies endorsed by its members.



P3 Once empowered, always empowered: Policy certainty is in the best interests of all stakeholders



P4 Feedback: Workshop on integration of compensation systems



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FROM THE CEO:

"SEEKING CERTAINTY"

The first quarter of 2016 has been a busy period for the Chamber of Mines, as we have sought to 'put the industry on the front foot', while at the same time undertaking careful and critical introspection of our own performance and prospects.

SAFETY IN 2015

A highlight of the quarter has undoubtedly been the confirmation and publication of the industry's safety performance in 2015. We fully support the comments made by Mineral Resources Minister Mosebenzi Zwane when he recognised the importance of collaboration by all stakeholders; "as it is only through working together that we can attain the ultimate goal of zero harm". For the Chamber it was particularly gratifying to note the significantly better performance of Chamber of Mines members relative to the industry as a whole, reinforcing the value of collaboration and shared learnings. Chamber of Mines President Mike Teke congratulated the following companies who achieved 12 months without a fatality: De Beers, Exxaro, Sasol, Northam Platinum, Pilanesberg Platinum, South 32, Aquarius Platinum, Total Coal South Africa, Kuyasa Mining, Coal of Africa, Petra Diamonds and Trans Hex Mining. See more detail on page 5.

KEY SUCCESSES

One of the key successes of the industry's efforts in our quest for zero harm has been the Chamber's CEO Elimination of Fatalities Team, which has continued to lead from the front in the fields of health and safety. This Chamber committee recently revised its terms of reference to better reflect the broad nature of its work in the short-, medium- and long-term to achieve zero harm and renamed the entity the CEO Zero Harm Task Team. Graham Briggs, who has led the committee since its inception in 2012, has been succeeded by Terence Goodlace as the chair. The Chamber and the industry extend their gratitude to Mr Briggs, and their support to Mr Goodlace in the continued work of this team.

INJURIES AND FATALITIES: FIRST QUARTER 2016

Regrettably, the first quarter has been marred by a number of tragic and fatal accidents, of which the incidents at Impala 14 shaft and Lily Mine are the most well-known. It is with great concern that we report that by 29 March 2016, there were 17 fatalities reported in the sector, compared with 16 fatalities during the same period in 2015. There were 508 injuries reported compared with 737 injuries during the same period in 2015.

PROGRESS ON OCCUPATIONAL HEALTH MATTERS

Remaining on the matter of health, the Chamber has pledged its support to the initiative by the deputy ministers of Mineral Resources, Health and Labour



Roger Baxter
CEO – Chamber of Mines of South Africa

to integrate compensation systems. The two systems are the Occupational Diseases in Mines and Works Act (ODMWA) and the Compensation for Occupational Injuries and Diseases Act (COIDA). A workshop held in January 2016 was the starting point for a process which is intended to culminate in the submission of recommendations to Parliament by the end of 2016. See page 4 for further information.

The Chamber of Mines has committed significant resources – more than R60 million over the past five years – towards the improved functioning of tracking, tracing and compensation systems, and to try and ensure that this state-run MBOD/CCOD can address the significant backlog in certification and compensation that has built up over several decades.

ENERGY CHALLENGES AFFECTING THE INDUSTRY

The approval by the National Electricity Regulator of South Africa (Nersa) of a 9.4% electricity tariff increase for 2016/17 to Eskom was disappointing, although more palatable than the >16% increase that Eskom applied for. Electricity costs have been the fastest growing component of the mining sector's cost base and have increased by over 300% over the past seven years. Nonetheless, this increase will have a major impact on increasing the industry's cost base and, no doubt, on jobs.

THE PREDICAMENT OF THE MINING CHARTER

Pleasingly, the Chamber's call for regulatory clarity and certainty is being heard – both Minister Zwane and Finance Minister Pravin Gordhan used highly public platforms to acknowledge and commit to this – at the Mining Indaba and in the budget speech respectively. Achieving this clarity and certainty continues to be an imperative for the Chamber. It is with this in

FROM THE CEO continued

mind that the Chamber proceeded with its court case to seek clarity on the assessment of the ownership element of the Mining Charter, particularly in respect of the continuous consequences of previous Black Economic Empowerment (BEE) deals.

It was most disappointing that an application by attorneys Malan Scholes to consolidate its case with the Chamber of Mines' application was heard in the Pretoria High Court by Judge Rabie in mid-March and resulted in a delay in the Chamber's application. For an update on the matter, see page 3.

POLICY STABILITY AND TRANSPARENCY ON LICENSING

The South African mining sector is in crisis. The industry requires policy stability and certainty and fair and transparent implementation of the laws from a licensing perspective. Allegation of corruption and undue political influence in licensing decisions are not in the interests of the industry or the country and could damage its investment rating status. It was on this

basis that the Chamber of Mines raised its voice of concern regarding the widespread allegations of state capture.

The Chamber of Mines President, Mike Teke, subsequently held a constructive meeting with Minister Zwane and Acting Director General Mr David Msiza, on 18 March 2016, who committed to investigate allegations regarding the inappropriate issuing of Section 54 and Section 93 notices.

The industry is looking forward to the timeous resolution of these matters. Both the Chamber and the Ministry have agreed to maintain open dialogue and engage formally in the near future to strengthen relations and deal with critical matters impacting on the mining industry in South Africa.

Roger Baxter

CEO – Chamber of mines of South Africa

USEFUL LINKS

[Chamber of Mines voices concern regarding allegations of state capture](#)

[Minister of Mineral Resources, Mr Mosebenzi J. Zwane, statement on the 2015 Health and Safety Statistics, 28 January 2016](#)



ONCE EMPOWERED, ALWAYS EMPOWERED - POLICY CERTAINTY IS IN THE BEST INTERESTS OF ALL STAKEHOLDERS



Lerato Legong, Chamber of Mines head: Legal

The current level of investor confidence in the South African mining industry is a major concern for the Chamber of Mines and its members. We know that investors naturally prefer certainty and stability, particularly around legislation and, of course, consistent returns.

One of the key concerns for the industry and investors alike is the lack of clarity on the assessment of the ownership element of the Mining Charter, particularly in respect of the continuous consequences of previous black economic BEE deals.

The industry has been, and continues to be, committed to the achievement of all the transformation objectives of the Mining Charter, but does however seek clarity on the interpretation of this one critical issue.

In March 2015, then Minister of Mineral Resources, Ngoako Ramatlhodi announced the intention by the Department of Mineral Resources (DMR) and industry, to jointly pursue a declaratory order to achieve this certainty. As the process unfolded, it became clear that the legal mechanism available to the parties required a clear applicant and respondent, with an identifiable and clear point of dispute.

The Chamber continued with the process, while keeping the DMR fully apprised of its approach.

We believe that the continuing consequences clause of the original charter envisaged a situation that empowerment credits would be considered sustained. The 2004 Charter envisaged it to be government's responsibility to encourage longevity by BEE shareholders by indicating that government would consider special incentives to encourage HDSA companies to hold on to newly acquired equity for a reasonable period.

It would not have served the interests of empowerment to impose a permanent lock-in or similar restriction on entrepreneurs and other beneficiaries. A limited degree of lock-in is justified given that these transactions generally involve significant discounts and other favourable conditions. If permanent lock-ins had been imposed, we would have seen a situation of far less actual empowerment. Indeed, many black mining entrepreneurs who have built major companies would have been restricted from making the decisions that enable them to do so.

PROGRESS MADE IN TERMS OF THE ACHIEVING MINING CHARTER TARGETS

In our view the mining sector has done more to progress the transformation of South Africa's economy than any other component of the private sector. But the industry remains on the important transformation journey despite serious economic headwinds.

The industry has made significant progress in respect of all the charter pillars, including meeting and exceeding the ownership target in aggregate.

We believe we have met the spirit and intent of the Charter's ownership

provisions and it is our view that the DMR acknowledged this by issuing mining rights to mining companies based on their transformation achievements and plans.

REAL PROGRESS

- Chamber members have achieved empowerment levels of 38% on average (compared to the 26% target set out by the Mining Charter)
- The value of empowerment transactions since 2000 amounts to R205 billion in 2014 money terms
- The value of meaningful economic value transfer since 2000 amounts to R159 billion

MALAN SCHOLES APPLICATION

At the end of 2015, long after the Chamber of Mines indicated that it would continue with the declaratory process, Malan Scholes applied to the High Court to consolidate its case with the Chamber's application.

The Scholes application argues that the Mining Charter is unconstitutional and invalid.

We do not agree with this argument given that the industry is fully committed to achieving all transformation objectives of the Mining Charter. We are merely seeking clarity on the issue of continuing consequences of empowerment transactions.

WHERE ARE WE NOW?

On 15 March 2016, the application by Malan Scholes to consolidate its case with the Chamber of Mines' application was heard in the Pretoria High Court by Judge Rabie.

The Chamber opposed the consolidation of the action by Malan Scholes on the grounds that it does not seek determination of substantially the same questions of law or fact.

Judge Rabie reserved judgment in respect of the consolidation application. A decision on the allocation of costs will be made when the judgment is given.

The Chamber's original application on behalf of its members for a declaratory order providing guidance on the principles applicable to the interpretation of the ownership aspect of the Mining Charter has been postponed.

ACHIEVING CLARITY

It remains the Chambers view that achieving certainty on the critical element of ownership is in the best interests of government, the companies and their shareholders and all other stakeholders.



FEEDBACK:

WORKSHOP ON THE INTEGRATION OF COMPENSATION SYSTEMS

Chamber of Mines representatives attended a two-day workshop that was jointly hosted by the Deputy Ministers of Mineral Resources, Labour and Health on 25-26 January. The focus of the workshop was on the need to rationalise South Africa's two occupational health and safety compensation systems.

The two systems are the Occupational Diseases in Mines and Works Act (ODMWA), and the Compensation for Occupational Injuries and Diseases Act (COIDA). ODMWA covers workers on controlled mines in respect of six defined occupational lung diseases. COIDA, which offers better benefits, covers all other compensation for occupational injury and disease.

Around 80 people attended the workshop, representing a range of interested parties and stakeholders, from the mining industry to trade unions, former mineworkers' representatives and civil society, along with the three government departments and the two compensation funds.

The workshop was the starting point for a process which is intended to culminate in the submission of amendments to compensation legislation to Parliament by the end of 2016. The process will be driven by Mr Godfrey Oliphant, the Deputy Minister of Mineral Resources – with support from the Deputy Ministers of Labour (Nkosi Patekile Holomisa) and Health (Mr Joe Phaahla) – and managed by a steering committee working with the deputy ministers.

The first day of the workshop was a plenary session which focussed on hearing inputs from all the stakeholders present.

The Chamber of Mines' Head of Occupational Health, Dr Thuthula Balfour-Kaipa committed the industry to supporting the development of a fair, equitable and sustainable compensation system. The Chamber will support the entry of miners currently covered by ODMWA in respect of occupational lung diseases, into COIDA. For the mining industry [and, increasingly, other sectors] Rand Mutual Association administers the COIDA fund. She said that the change would involve some complex technical issues, but that despite this it has to be achieved in as short a time frame as possible.

Legal adviser to the Compensation Commissioner Paul Benjamin emphasised that "the best way to compensate is to compensate as few people as possible". He believes that historically, ODMWA's efforts were insufficient to incentivise prevention. This is because compensation is so low that employers have been able to consider health and safety as a "calculable cost".

He said ODMWA is unworkable for a range of reasons: the certification committee is unnecessarily bureaucratic; many ministerial responsibilities can't be delegated; and there is the unresolved issue of controlled mines

Day two saw participants splitting into task teams to work on specifically identified areas:

- A policy and legislative framework for an integrated compensation system.
- Organisation, management and service delivery system.
- Services to workers and ex-workers including the database of workers, surveillance system, infrastructure and human resources.
- Communication.

The groups focussed on identifying key next steps for their areas of work, and ensuring that they are working towards the Deputy Ministers' plan to present draft amending legislation to Parliament by the end of the year. The parties acknowledged that much needed to be done in terms of reviewing and revising the current compensation claims processes, before any proposed new legislation could be seen to have a positive impact on those who need it.

The Chamber of Mines fully supports the initiative, and will remain an active participant both on the steering committee and in all working groups – with the aim of ensuring that all stakeholders' views are taken into account when deciding on a way forward.



Dr Thuthula Balfour-Kaipa
Head: Health

USEFUL LINKS

Fact Sheet: COIDA and ODMWA – A comparison of compensation systems

CHAMBER WELCOMES THE RELEASE OF 2015 MINING SAFETY AND HEALTH STATISTICS



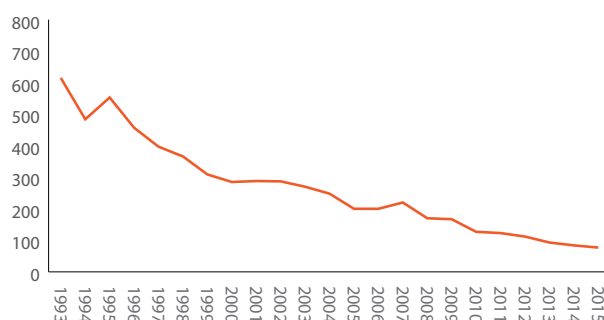
Dr Sizwe Phakathi, Head: Safety and Sustainable Development

The Chamber of Mines welcomes the release of safety and health statistics for 2015 by Mineral Resources Minister, Mosebenzi Zwane at the annual announcement of safety statistics in Pretoria in January this year.

The report revealed a significant improvement in overall performance, particularly amongst those companies and other industry stakeholders that participate in industry initiatives.

Over the past 21 years, there has been a sustained reduction in the number of fatalities at South African mining operations. The 87% improvement in this outcome over the past 21 years is testimony to the significant safety efforts of management, employees, government and trade unions.

Number of fatalities in the mining industry over a 22 year period



We further note that Minister Zwane congratulated 16 companies for operating without any fatalities for a period of more than 12 months, including De Beers, Exxaro, Northam Platinum, South 32, Aquarius Platinum South Africa, Total Coal South Africa, Kuyasa Mining, Coal of Africa, Petra Diamonds and Trans Hex Mining amongst others. The performance of these companies indicates to us that the industry's goal of Zero Harm is achievable.

MOSH LEARNING HUB

In 2009, the Chamber established the Mining Occupational Safety and Health (MOSH) Learning Hub, to help companies learn improved safety methods from one another. Among the success stories of this work are:

- Various improvements in underground support methods that have resulted in fewer fatalities attributable to fall of ground incidents
- Through the Mine Health and Safety Council, more than R250 million has been spent on research into the seismicity associated with our deep-level mines. The research outcomes led to new mine designs and methods. The number of fatalities associated with seismicity has fallen from 48 in 2003 to four in 2014
- In line with the Culture Transformation Framework developed by the Mine Health and Safety Council, we are changing our accident investigation methods to reduce blame, modifying our bonuses to enhance Zero Harm production, are planning more emphasis on leadership being visible in the operations
- In the area of occupational health, foggers and scraper-winch covers have reduced dust levels significantly

ENSURING THAT EVERY EMPLOYEE RETURNS FROM WORK SAFELY

We mourn the loss of our 77 colleagues to accidents in 2015, and we mourn those who have died in the first months of 2016. We wish all those employees who were harmed in accidents a speedy recovery.

We acknowledge that work towards Zero Harm needs to continue and that all role players must collaborate to ensure that every employee returns from work unharmed, every day.

USEFUL LINK

Fact sheet: Safety statistics for 2015

Media release: Chamber of Mines commends coal industry's Safety performance

Fact sheet: Safety in mining

CHAMBER COMMENDS COAL INDUSTRY FOR SAFETY PERFORMANCE

The Chamber of Mines attended the CoalSafe 2016 conference, hosted on 10 March by the South African Colliery Managers' Association (SACMA), in Secunda, Mpumalanga.

In 2015, the coal industry reported five fatalities compared to nine in 2014. This represents an improvement of 44%. The number of injuries reported by the coal industry has also decreased to 207 injuries during 2015, compared to 267 in 2014, which is an improvement of 22%.

President of the Chamber of Mines, Mike Teke commended the coal industry for its continued improvement in safety performance and noted that five of the 16 companies recognised by Minister Zwane for operating without any fatalities for more than 12 months, were coal companies.

NERSA GRANTS **9.4%** ESKOM TARIFF INCREASE

The National Electricity Regulator of South Africa (Nersa) approved a 9.4% electricity tariff increase for 2016/17. This increase is the total granted to Eskom by NERSA.

While this increase is significantly higher than inflation, it is more palatable than the >16% increase that Eskom applied for in both the multi-year price determination process (MYPD) and regulatory clearing account (RCA) processes. However, for the struggling mining sector this increase will have a major impact on increasing the industry's cost base.

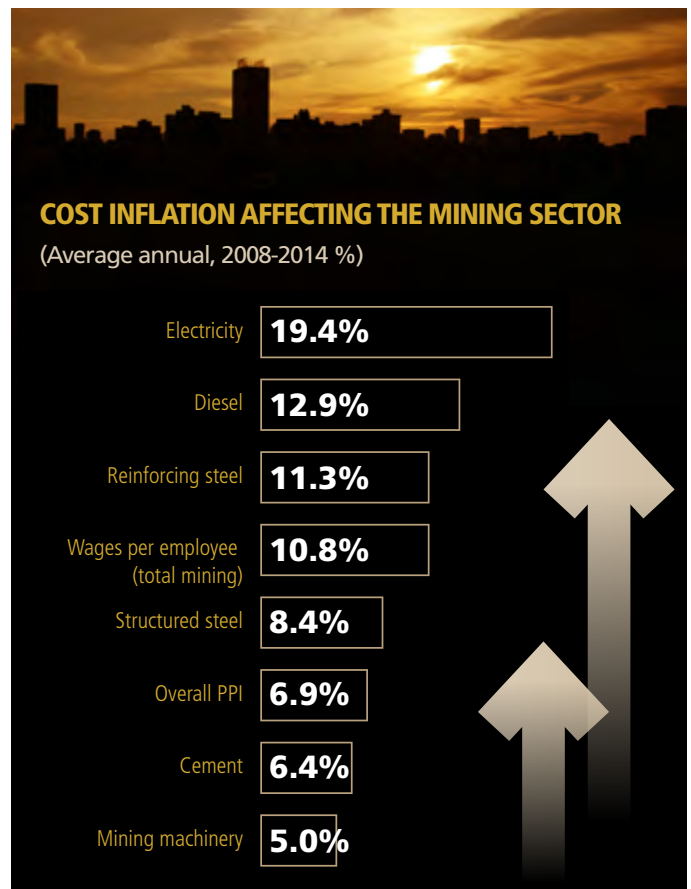
While the mining industry supports Eskom's intent to resolve South Africa's long-term energy crisis, the Chamber fully supports the statements made by Minister Pravin Gordhan in the Budget Review for 2016, indicating that "further efficiency improvements are necessary at Eskom to ensure moderation in future tariff increases", including the possibility of co-funding through public-private partnerships.

In recent years, Eskom's electricity tariff increases had been substantially higher than other cost components and the average annual rate of inflation. Electricity costs have been the fastest growing component of the mining sector's cost base and have increased by over 300% over the past seven years.

According to the Chamber techno-economics assistant advisor, Dick Kruger, the challenges in the mining sector, had been aggravated by the constrained electricity supply, which further hampered production. A large number of mining companies were currently operating at a loss or breaking-even, forcing them to restructure.

Electricity costs have been the fastest growing component of the mining sector's cost base and have increased by over 300% over the past seven years. Eskom has been criticised for neglecting to take cognisance of the state of the mining industry and other industries in general, which are all facing cost pressures due to the current economic climate. This year alone, it has been reported that the industry would be looking at shedding 32,000.

The impact of tariff hikes on jobs in the sector is an issue of grave concern to the Chamber.





Nikisi Lesufi, Senior Executive: Health and Environment

Stephinah Mudau, Head: Environment

OUTCOMES FROM COP21



For the first time in over 20 years of UN negotiations, the 21st annual Conference of the Parties (COP) achieved a legally binding and universal agreement on climate, with the goal of limiting global warming to below 2°C.

The agreement identifies a longer term goal of zero net carbon emissions by 2100. A major step forward taken by this year's COP was the recognition that compensation needs to be paid by developed nations to developing nations for the pollution produced by developed nations to reach their current state. The goal is to raise US\$100 billion a year by 2020 for these so-called mitigation and adaptation activities.

Countries will need to lodge their targets (otherwise known as nationally determined contributions) by 2016. Currently these pledges limit temperature rises to 2.7°C, resulting in the requirement for target reviews every five years from 2020. The first review will take place in 2023.

The agreement also recognises the importance of minimising and mitigating loss and damages associated with the effects of climate change, and acknowledges the need for cooperation, support and action in early warning systems, emergency response measures and risk insurance.

The agreement reaffirms the Climate Finance goal for developed countries to raise US\$100 billion a year by 2020 for mitigation and adaptation activities in developed countries.

Business, in particular the coal sector, is likely to feel significant repercussions flowing from these developments. In the short term though the agreement should not really impact global carbon markets, but it is supportive of market-based mechanisms and the creation of international offsets. On average, countries will need to more than double their rates of carbon intensity reduction in order to achieve these targets.

UPCOMING EVENT:

Annual General Meeting 18 May 2016

MORE CHAMBER NEWS:

March 31, 2016: The Chamber celebrates the first anniversary of its fuel cell

March 24, 2016: Murder of Xolobeni community leader

March 17, 2016: Clarity relating to cabinet statement: Chamber remains supportive of charter

March 17, 2016: Chamber of Mines voices concern regarding allegations of state capture

March 15, 2016: Application to consolidate actions heard, judgment reserved

March 10, 2016: Chamber of Mines commends coal industry's safety performance

March 01, 2016: Chamber of mines notes Nersa's approval of a 9.4% electricity increase for 2016/2017

February 24, 2016: Chamber of Mines welcomes 2016 Budget

February 15, 2016: Chamber of Mines responds to attempt to consolidate applications

February 14, 2016: Lily Mine: Chamber commends all parties, and extends ongoing support

February 09, 2016: MIAASA calls for policy consistency by governments to help the SADC mining industry survive the downturn as an investment destination for mining

February 05, 2016: Chamber of Mines extends support to those affected in the Lily Mine accident

February 04, 2016: Chamber opposes Eskom application for R22 billion 2013/2014 shortfall

January 28, 2016: Chamber of Mines responds to mining industry safety stats 2015

January 26, 2016: Impala Platinum's 14 shaft disaster accident of 22 January 2016

January 25, 2016: Chamber welcomes convening of integration of compensation systems workshop