



CHAMBER OF MINES
of South Africa

DECEMBER 2017

#MiningMatters

QUARTERLY UPDATE

A PUBLICATION PRODUCED BY THE CHAMBER OF MINES OF SOUTH AFRICA FOR MEMBERS



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FROM THE ACTING CEO



Nikisi Lesufi
Acting CEO – Chamber of Mines of South Africa

As we wish Roger all the best in his recovery from last month's surgery, here is the last of 2017's quarterly newsletters.

A number of events in the next few months will inform the prospects of the country and the mining industry over the next several years. The five-yearly elective conference of the ruling African National Congress begins on 16 December and will have material impact on determining the quality of the country's future leadership as we head for the beginning of the second quarter century of democratic South Africa. Closer to home, we await the outcome of an important piece of litigation against the Department of Mineral Resources, the application for a declaratory order on the 'recognition of continuing consequences of past transactions' brought by the Chamber of Mines. And we head for the second piece of litigation due to be heard in February 2018 where we are seeking a review of Minister Mosebenzi Zwane's reviewed Mining Charter (RMC).

Before reflecting on those, however, we do need to lament the relatively poor safety performance of our industry during 2017. In the previous quarter there were two multiple fatality accidents. And there have been a large number of fatal accidents in the final quarter of the

year, including at a gold company which had gone for close on a year without experiencing any deaths on the job. That showed us that it is possible to mine without a fatality but it also showed us that we can never afford any complacency and let up on the focus on safety.

The declaratory matter was heard on 9 and 10 November before a full bench of the High Court in Pretoria. As could have been expected, given the controversy that has surrounded the issue for many years, the case was argued robustly by both sides. Judgment has been reserved. We are not certain when a judgment will be delivered, be it later this month or into the New Year.

The RMC review hearing, which was originally scheduled for 13 and 14 December 2017, has been postponed until 19 to 21 February next year. The Court made this decision after admission as co-applicants of the Centre of Applied Legal Studies (CALS) and Lawyers for Human Rights (LHR), representing various mining community organisations, to the Chamber's review application. The Court viewed the allotted two days as insufficient to hear adequately the arguments of all these parties and those of the two unions admitted as 'friends of the court'.

The Chamber's case centres on the lawfulness and constitutionality of a number of the provisions of the Minister's RMC, as well as the lawfulness of the RMC as a whole. These

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arguments differ from those of the CALS and LHR which focus predominantly on the lack of proper consultation.

Although, as you will be aware, we have often objected to the unilateral manner in which the Minister and the DMR developed the RMC, the Chamber decided against arguing the legal case on this basis.

Nonetheless, we are of the view that a legitimate charter ultimately needs to be negotiated between all interested stakeholders. In this light, we have had initial talks with representatives of organised labour and representatives of mining communities and the NGOs they work with. We look forward, too, to an opportunity in the future to engage with government leaders and officials of integrity.

Even as we continue the battle to ensure conditions that will ensure the industry's sustainability, our other work must continue. Since the last newsletter:

- We have drawn to the attention of the SAPS the industry's concerns about the high levels of violence in some mining communities. There have been a number of assassination-style incidents. Victims have included a reported six trade unionists on the western limb of the platinum belt and the murder of the general manager of Harmony's Tshepong mine in the Free State.
- We supported the presentation of the Gold Working Group (on occupational lung

diseases) to the Portfolio Committee on Mineral Resources regarding the potential settlement on the litigation on silicosis. We further supported the Department of Performance Monitoring and Evaluation on their presentation to the Portfolio Committee on Public Service regarding the progress report on "Distressed Mining Towns and Communities". The Chamber is collaborating with the Department of Performance Monitoring and Evaluation; and the Financial Services Board in the tracking and tracing of ex-miners for the payment of retirement and medical benefits.

- And there have been two contributions in the health sphere. To mark World AIDS Day, the Chamber announced its support for a major health screening initiative in the OR Tambo district where South Africa's official commemoration of the day took place. The following week, I was present and spoke at the official opening of the Kuruman one-stop centre, which is a further sign of the value of the growing partnership between the industry and the Department of Health.

On my own and on Roger's behalf, I would like to wish all staff, members and other industry stakeholders a safe, restful and fulfilling festive season, and all the best for 2018.

Nikisi Lesufi
Acting CEO



"We are of the view that a legitimate charter ultimately needs to be negotiated between all interested stakeholders"

USEFUL LINKS

[#notourcharter](#)

SAFETY 2017: ADDRESSING CHALLENGES REQUIRES COLLECTIVE COMMITMENT

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The Chamber of Mines is deeply disappointed by the deterioration in safety performance during 2017. During the year, we have seen an increase in the number of fatalities across the industry to 82 at the moment, compared to 73 for 2016.

This is particularly disappointing given the consistent improvement we have seen over the past two decades as a result of various tripartite health and safety initiatives adopted by the mining industry.

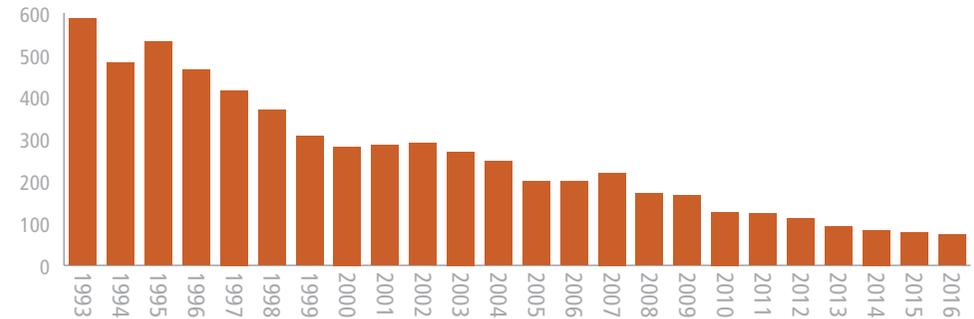
Since the dawn of democracy in South Africa, the industry has made significant strides in reducing fatalities and safety incidents. Between 1993 and 2016, the number of fatalities declined by around 88% while fatalities as a result of fall of ground incidents declined by 92% over the same period. Other safety indicators improved at similar rates.

This improvement in safety performance over 23 years illustrates that achieving the industry's ultimate goal of Zero Harm is possible if all stakeholders work together.

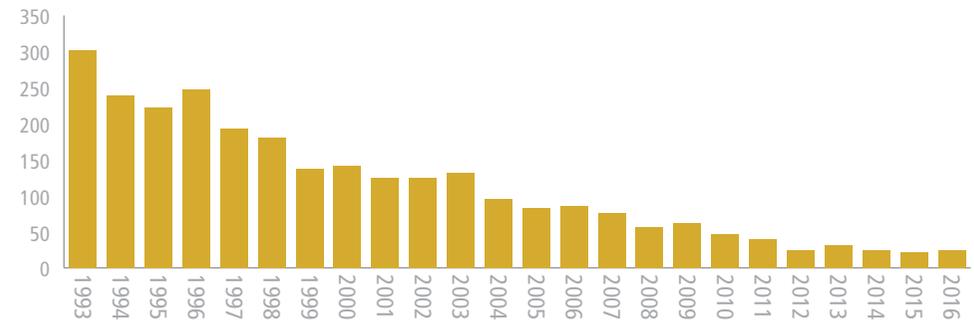
USEFUL LINKS

For more information on MHSC

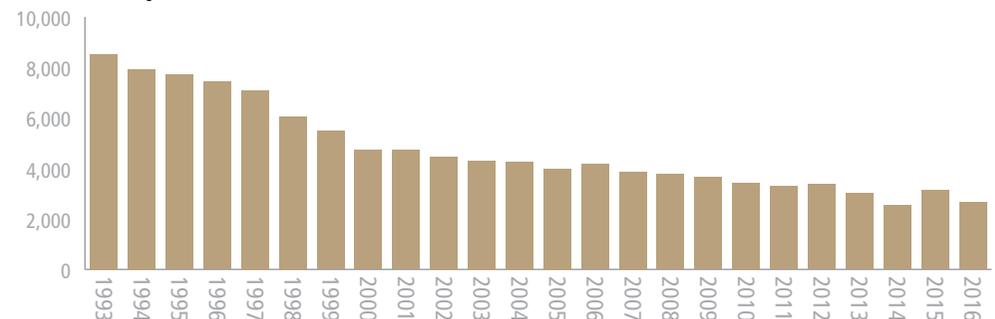
Number of fatalities (1993-2016)



Fatalities as a result of fall of ground incidents (1993-2016)



Number of injuries (1993-2016)



SAFETY 2017: ADDRESSING CHALLENGES REQUIRES COLLECTIVE COMMITMENT

CONTINUED

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FALL OF GROUND INCIDENTS DURING 2017

A particular concern during 2017 has been the number of accidents related to seismic activity and subsequent fall of ground incidents.

Dr Sizwe Phakathi, the Chamber's Head: Safety and Sustainable Development, observes that, "We have seen a notable increase in the number of rockbursts, while the number of rockfalls, which is typically the main cause of fall of grounds, decreased."

The industry has noted this development and has committed itself to understanding and addressing this issue. The Mining Industry Occupational Safety and Health Fall of Ground team has been established and is leading a task team which is developing leading practices on rockbursts in particular. The findings made by the task team will be shared across the industry.



ADDRESSING FALL OF GROUND INCIDENTS

Addressing fall of ground incidents, particularly at deep-level mines, is an area that joint industry efforts have focused on most intensively over the past several years. Recognising that South Africa operates the deepest mines in the world, this focus is reflected in the more than R150 million that the Mine Health and Safety Council (MHSC) has invested in falls of ground research.

CONTINUED FOCUS ON SAFETY

Ensuring the safety and health of all mining employees requires active collaboration between management, employees and regulators. All stakeholders need to remain committed to achieving Zero Harm.

"As we enter the festive season, we call on management and employees to be vigilant and to remain focused on ensuring that each and every employee returns home safely to their families at the end of every day," Sizwe concludes.



CATCH 22 FOR ESKOM

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On 17 November 2017, Chamber of Mines Chief Economist, Henk Langenhoven, formally presented the Chamber's response to Eskom's application for a 19.9% tariff increase at the hearing by National Energy Regulator of South Africa (NERSA).

There seems to be an element of desperation in Eskom's latest call for a 20% tariff increase. In the 10 years since the rolling blackouts which started in January 2007, Eskom's troubles have multiplied on a number of fronts, the most recent and serious being the allegations of being 'captured' and facing a solvency crisis.

Chamber economist Henk Langenhoven has described the situation Eskom finds itself in as 'dire'. In the presentation to NERSA, Langenhoven alludes to the establishment of the Electricity Supply Commission, now known as Eskom, in 1922 when the mining industry was Eskom's anchor customer. Now, almost 100 years later, it continues to be the largest bulk consumer, but the mining sector's sustainability and profitability will be seriously eroded if Eskom is granted this massive tariff increase.

Eskom's previous price hike for the mining sector amounted to 10% in terms of what has become known as the MYPD, or multi-year price determination decision.

The Chamber submits that historical MYPD decisions have proved to be unrealistic, owing to lower than anticipated electricity consumption and economic growth; the delayed impact of independent power producers (IPPs) on costs (electricity prices); construction cost overruns for Medupi and Kusile; and large increases in Eskom's working costs.

This has led to a large shortfall in Eskom's budget, and the possibility of the utility not being able to service its debt in the short term.

It is doubtful that this latest proposed once-off tariff hike, along with the regulatory clearing account claims of R48 billion (2014 to 2017)

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will pull Eskom out of the hole it finds itself in. Paradoxically, the effects are likely to add to Eskom's troubles given the anticipated and associated decline in economic growth by 0,1 (on 0,6%) percentage points or 17%, and the cumulative opportunity cost in job losses of over 600 000.

For the mining industry, its contribution to GDP is estimated to decline by between 5% and 9%. The impact on loss-making mines will be disastrous, putting tens of thousands of jobs in jeopardy, and contributing heavily to the mining input cost basket, particularly for the electricity-intensive gold mines. All of this will ultimately compromise the overall inflation profile of the mining industry, adding some R3 billion to costs, thereby rendering 66% of all gold and platinum mines unsustainable, and resulting in 48,000 additional job losses

It goes without saying that South Africa cannot allow Eskom to fail, which would cause the economy to suffer long-term and irreparable damage. "However," says Langenhoven, "any short-term solutions must be conditional on an immediate structural adjustment programme."

Langenhoven's proposed remedies include:

- an accelerated programme to decommission old, inefficient power stations
- reducing Eskom's working costs and bringing them in line with international standards
- completing the regulated asset base re-evaluation as soon as possible, so that the return on asset (ROA) absolute value

The cost of electricity and the steep increases in tariffs over many years has had a depressing impact on demand. Since 2008, tariffs have increased by an estimated 134% and nearly 200% in nominal terms by 2016.



diminishes while the weighted average cost of capital (WACC) stays the same

- accelerating the completion and commissioning of the new, more efficient power stations
- accelerating the purchase of electricity from IPPs and continuing this programme
- revisiting the MYPD and Regulatory Clearing Account (RCA) regulatory regime

In many ways, Eskom's conundrum is characterised by a Catch 22 scenario – where the cost of electricity and the steep increases in tariffs over many years has had a depressing impact on demand. Since 2008 tariffs have

increased by an estimated 134% and nearly 200% in nominal terms by 2016.

However, the Chamber asserts that Eskom's budget shortfalls are of its own making, and the possibility of the utility not being able to service its debt in the short term is high. "NERSA must pursue the least damaging solution to deal with Eskom's impending cash crunch. Drastic changes are needed," says Langenhoven.

USEFUL LINK

The Chamber of Mines' presentation – Eskom tariff application to NERSA: mining sector response – and full submission to NERSA in respect of the Eskom tariff application

TRANSFORMATION CONTINUES IN THE SOUTH AFRICAN MINING INDUSTRY:

HDSA OWNERSHIP OF THE MINING INDUSTRY AT 39% IN 2016, SURVEY SHOWS

The Chamber is fully committed to the meaningful transformation of the South African mining industry and believes that continuous assessment of the progress made is vital. As such, the Chamber recently carried out a survey of its members to assess the progress the industry has made in terms of the 2010 Mining Charter's transformation pillars as at the end of 2016. In total, 28 mining companies covering all sectors and representing an estimated 70% of the industry by production and 67% by employment, participated in the survey.

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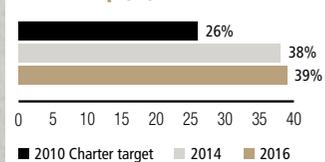
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OWNERSHIP

Based on the principle of recognition of continuing consequences of previous transactions, ownership of the industry by HDSAs stood at 39% in 2016 which is significantly above the Charter target of 26%.

In 2016 alone, some R2.2 billion flowed to HDSAs in dividends from the surveyed companies.

Ownership (%)



PROCUREMENT

The proportion of procurement from HDSA entities continues comfortably to exceed targets. In 2016:

- Companies reported 69% of expenditure on capital goods against the 2010 Charter target of 40%. This translates into expenditure of R11.1 billion.
- 75% of expenditure on services was with HDSA suppliers, compared with the 2010 Charter target of 70%. This amounted to expenditure of R61.0 billion.
- 68% of consumables were purchased from HDSA suppliers, at a cost of R40.7 billion. The 2010 Charter target was 50%.

EMPLOYMENT EQUITY

The 2010 Charter specified a target of 40% HDSAs in all reporting categories by 2014. In 2016:

- 49.3% of top management were HDSAs
- 48.3% of senior management were HDSAs
- HDSAs made up 49.8% of middle management
- HDSAs made up 58% of junior management
- HDSAs filled 84.4% of core and critical skills positions

It is estimated that women currently make up 13% of the mining workforce.

HUMAN RESOURCE DEVELOPMENT

In 2016, the mining industry spent 5.5% of its annual payroll on human resource development (HRD).

This translates into HRD expenditure in 2016 of R7.74 billion, plus the skills levy payment of R1.46 billion.



USEFUL LINK

For more information, please go to our transformation fact sheet

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THREE-YEAR COAL WAGE AGREEMENT SECURES INDUSTRY STABILITY

The Chamber of Mines, on behalf of coal producers Anglo American Coal, Delmas Coal, Exxaro Coal Mpumalanga, Glencore Operations SA, Koorfontein Mines and Msobo Coal announced the finalisation of a three-year wage settlement with the National Union of Mineworkers, following the signing of an agreement at the Chamber on 22 November 2017. Labour unions UASA and Solidarity had previously accepted the Chamber's offer.

The final agreement is effective 1 July 2017, in terms of which:

- Entry-level to operator employees employed at the larger companies will receive increases, some on a once-off basis and others staggered over two payments, of R1,100 in the first year and guaranteed increases of between 7.5% and 8.5% in the second and third years.
- Entry-level to operator employees employed at the smaller companies will receive increases ranging between 6% and 7.5% in the first year, and guaranteed increases ranging between 6% and 7.5%, and in other cases, CPI+1%, in the second and third years.

Motsamai Motlhamme, Head of Employment Relations at the Chamber said: "After months of negotiations, we have reached an agreement which not only represents a reasonably balanced outcome, but will also secure stability in the industry for a three-year period. This is in the best interests of employees, the industry and the country as a whole."



REVIEWED MINING CHARTER (RMC)

AN UPDATE

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The timetable

| Date (2017) | Action |
|--------------------------|--|
| 17 October | Chamber of Mines submitted its application for the judicial review and setting aside of the Department of Mineral Resources' (DMR's) reviewed Mining Charter (RMC) published 15 June 2017 to the High Court of South Africa (Gauteng Division). |
| 9-10 November | Chamber's application for a declaratory order on the principles applicable to the assessment of the ownership element of the Mining Charter, particularly in respect of the continuing consequences of previous BEE deals, was heard by a full bench in the High Court. Judgment was reserved. |
| 14 November | <p>High Court heard urgent applications by two parties seeking leave to intervene as co-applicants in the Chamber's application for a review of the RMC, scheduled to be heard by a full bench of the High Court on 13 and 14 December 2017. The two parties were the Centre for Applied Legal Studies (CALs) and Lawyers for Human Rights (LHR) on behalf of three mining community organisations – Mining Affected Communities United in Action, Women Affected by Mining United in Action, and the Mining and Environmental Justice Network of South Africa.</p> <p>The Chamber opposed these parties' applications to intervene as co-applicants because their grounds for review were materially different from those of the Chamber. Our assessment was that it would not be possible for counsel for the Chamber and for the respondent, the Minister of Mineral Resources, to complete argument in the two allotted days if two entire additional cases were joined.</p> <p>The Chamber agreed not to oppose the admission of Solidarity as a friend of the court. The NUM has also applied to be allowed as a friend of the court. Both these applications were due to be dealt with by the court at the commencement of the hearing of the Chamber's review application on 13 December.</p> <p>The High Court granted CALs and LHR leave to become co-applicants in the Chamber of Mines' application for a review of the RMC.</p> |
| 24 November | Counsel for the six parties now involved in the Chamber's application met with Judge Sulette Potterill to discuss the adequacy of the two days set aside for the hearing. The Judge expressed concern that the two days might not be adequate. Consequently Judge Potterill set the hearing of the Chamber's application for the review of the RMC down for 19, 20 and 21 February 2018. |
| 19 to 21 Feb 2018 | Review is set down for hearing. |

ONE-STOP CENTRE OPENS IN KURUMAN, NORTHERN CAPE

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On 5 December, Nikisi Lesufi, the Chamber's Senior Executive: Environment, Health and Legacies, participated in the opening of a one-stop centre for miners in Kuruman in the Northern Cape.



The new facility will provide medical, rehabilitation, social and financial support services for ex-miners, miners and the community, as well as assistance with compensation, pension and provident funds. The centre will also provide assistance to miners injured on duty, health promotion services such as blood pressure screening, HIV counselling and testing and TB counselling and testing.

The Kuruman one-stop centre is the third such centre to be established since 2015, the others being in Carletonville, western Gauteng and in Mthatha in the Eastern Cape. The establishment of these one-stop centres is one of the steps the Chamber has taken to help

deal with the legacy issues of occupational illness and the compensation that former miners are entitled to but have not received.

The Chamber, in co-operation with the gold sector's Occupational Lung Disease Working Group, makes contributions and offers support to these centres.

In the process of founding the centres, an excellent partnership has developed between the mining industry and the Department of Health. The pooling of both skills and effort has facilitated problem solving, making possible the joint goal for all parties, that of delivering a better health service to the people of our industry and our country.



CHAMBER LAUNCHES MAJOR HEALTH SCREENING INITIATIVE IN EASTERN CAPE

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On 1 December, the Chamber of Mines announced its support for a major health screening initiative in the Eastern Cape's OR Tambo district where South Africa's official commemoration of World AIDS Day took place.

USEFUL LINKS

Click on the icon to access Andile's full speech



The initiative was announced by Chamber Vice President, Andile Sangqu at the Walter Sisulu University Stadium in Mthatha, where he shared the platform with Deputy President Cyril Ramaphosa, Health Minister Aaron Motsoaledi and OR Tambo District Mayor Nomakhosazana Meth.

Other partners in the R1.8 million initiative include EOH, Africa's largest technology service provider, and the South African Business Coalition on Health and AIDS (SABCOHA).

The health screening programme will include:

- HIV counselling and testing
- TB screening
- Glucose monitoring
- Blood pressure monitoring
- Height and weight measurement

The programme will bolster the Masoyise iTB campaign, a joint exercise between government,



unions and the industry to ensure that every miner is tested for HIV and screened for TB once a year. As a result of this campaign and other efforts, in 2016 some 73% of employees were screened for HIV and 84% for TB.

In the same announcement, the Chamber committed an amount of R500,000 to the Eastern Cape province and the OR Tambo district in particular to be utilised for tracking and tracing ex-mineworkers with unclaimed retirement fund and compensation benefits.

In 2016, the Financial Services Board (FSB) indicated that R41.6 billion in unclaimed benefits was due to four million beneficiaries from South African pension and other benefit funds. R4 billion or 10% of this amount was due to former employees in the mining sector. Much progress has been made to assist claimants over the past year, through strategic collaboration between government departments, the FSB, pension funds and the Chamber, and the appointment by the Chamber of a dedicated pensions officer who assists mineworkers with their claims.



EMERGING MINERS' DESK WORKSHOP

CONFRONTING KEY ISSUES

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What is the Emerging Miners' Desk?

The Emerging Miners' Desk (EMD) provides advice and support and acts as a resource centre for the smaller Chamber member companies. These smaller companies often require assistance in the raising of finance for projects; in some of the technical aspects of mining such as geology and engineering; in skills development; and in compliance with the Mineral and Petroleum Resources Development Act (MPRDA).

USEFUL LINKS

Click on the icon to see the workshop presentations

Local community development and service delivery by local municipalities are considerable challenges in today's South Africa.

Failure to deliver on both counts is resulting in increasing incidences of service delivery protests and accompanying violence. In the recent past, mining companies, often located in areas of socio-economic deprivation, have been on the receiving end of these protests, resulting in production losses, injuries and damage to property.

In response to the challenge of community development, on 19 October 2017, the Emerging Miners' Desk (EMD) held a breakfast workshop on **Community development and social and labour plans (SLPs)** in the mining industry.

The workshop, held at the Blue Valley Golf Estate in Midrand, attracted more than 70 participants.

The Chamber's Tebello Chabana, Senior Executive: Transformation and Public Affairs introduced the four speakers: Simeon Moloko, Senior Vice President, Sustainability, AngloGold Ashanti; Herbert Modupi, Collaborative Coordinator, Mpumalanga, Chamber of Mines; Shani Cronje, Deloitte; and Paul Kapelus, Synergy Global. Simeon spoke on **Innovative ways of thinking in the SLP space**. Herbert's presentation was entitled **Mine community development in a fast-changing environment**. Shani spoke on the subject of **Creating shared value in the Northern Cape**. Paul's topic was **Community engagement in a low trust environment: social and labour plans and junior mining**.

EMD activities and services include:

- | | | |
|--|---|--|
| 1 representing emerging miners in the Chamber by way of the Emerging Miners' Leadership Forum | 2 a mentorship group consisting of current and former senior mining executives | 3 a help desk for both members and non-members |
| 4 breakfast seminars and workshops on key topics | 5 research into member needs and policy research in key areas | 6 policy lobbying and engagement with key stakeholders eg DMR and Mintek |
| 7 presenting papers at conferences and workshops and promoting the work of the EMD | 8 recruitment of new members | 9 communicating with emerging miners through the Chamber's website and a LinkedIn group |



Emerging Miners' Desk Leadership Forum

An Emerging Miners' Desk Leadership Forum has recently been established. The Forum will have about 15 members who are the CEOs of EMD member companies and who will meet on a quarterly basis. The Forum will be one of the principal committees of the Chamber of Mines and hold two seats on the Chamber's Executive Council.

ADDITIONAL INFORMATION – LATEST MEDIA RELEASES

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To find out more about the Chamber's recent activities, take a look at the media releases listed below:

1 December 2017

Chamber launches major health screening initiative

27 November 2017

Chamber court application to review the reviewed Mining Charter postponed to February 2018

25 November 2017

Chamber expresses regret at S&P downgrade decision

23 November 2017

Three-year wage agreement reached in coal

20 November 2017

Chamber of Mines makes initial assessment of Davis Tax Committee's report

17 November 2017

Chamber of Mines opposes Eskom's application for 20% increase at NERSA hearings

14 November 2017

Chamber of Mines notes High Court judgement

14 November 2017

Hearing on application by parties to join Chamber's Charter Review Application

10 November 2017

Update: application for a declaratory order iro continuing consequences of ownership

6 November 2017

Chamber expresses disappointment at industry safety performance in 2017

25 October 2017

Chamber of Mines statement on Minister Gigaba's inaugural MTBPS

18 October 2017

Chamber of Mines extremely concerned about violent incidents in mining communities, conveyed concern to SAPS

18 October 2017

Chamber of Mines submits application to High Court for Mining Charter review and setting aside

11 October 2017

Chamber of Mines hosts the launch of the urban agriculture initiative

