



CHAMBER OF MINES
of South Africa

ILLEGAL MINING IN SOUTH AFRICA

A submission by the
Chamber of Mines

27 March 2017



About the Chamber of Mines



- Voluntary employer organisation that supports and promotes the SA mining industry
- Chamber member companies represent more than 90% of South Africa's mineral production by value
 - Together these companies contribute around R11bn in taxes per annum and around R5bn in royalties
 - They employ around 450,000 000 people directly
 - Through the multiplier effect of 10:1, these individuals support around 4.5 million people
 - Further, for every direct mining job, it is estimated that two additional jobs are created in upstream and downstream industries
- Members include:
 - 38 major mining companies, 32 junior mining companies and four association (which in turn represent more that 100 members of small and medium sized enterprises)
- Member are required to sign and adhere to a Membership Compact, a code of ethical business conduct, to which the commit to comply

Illegal mining is on the rise...

- Illegal mining activities takes place on the surface and underground, at closed-off, abandoned and operating mines
- Illegal miners travel up to 3km underground, sometimes living there for several days at a time
- Whilst some illegal miners act out of economic desperation, we cannot ignore that illegal mining activities are directly linked to lucrative illicit trade in precious metals and diamonds (and even wildlife, weaponry and drug trades at a global level)
- Illegal miners often risk their own health and safety, as well as the health and safety of others, with flagrant disregard for the law

What is artisanal mining? What is illegal mining?



What is ASM?

According to the ICMM, artisanal and small scale mining (ASM) includes a range of operations from “*small, informal subsistence activities through to organised formal small commercial mining activities*”

ASM is “*broadly understood to refer to mining activities that are labour-intensive and capital-, mechanisation- and technology-poor*”

ASM incorporates both formal and informal activities, where informal activities include those operating outside the legal framework of the host country (that is, illegal mining)

What is ‘illegal mining’?

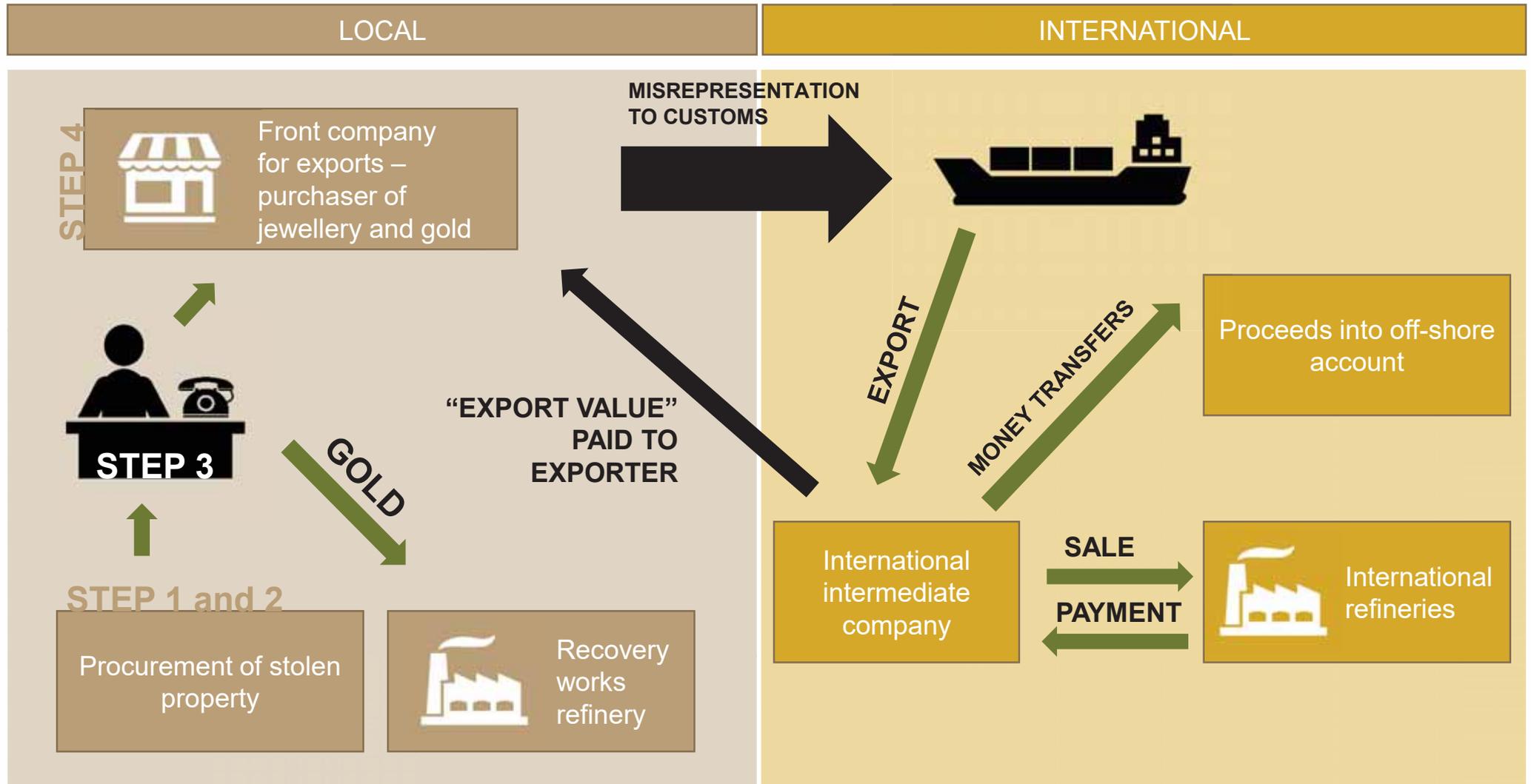
In SA, mining and related activities are regulated by numerous statutes.

MPRDA , Sect 3 MPRDA provides for state custodianship of mineral resources for the benefit of all South Africans. The state (through the DMR) may grant authorisations contemplated in MPRDA, incl prospecting and mining rights, mining permits, and environmental authorisations.

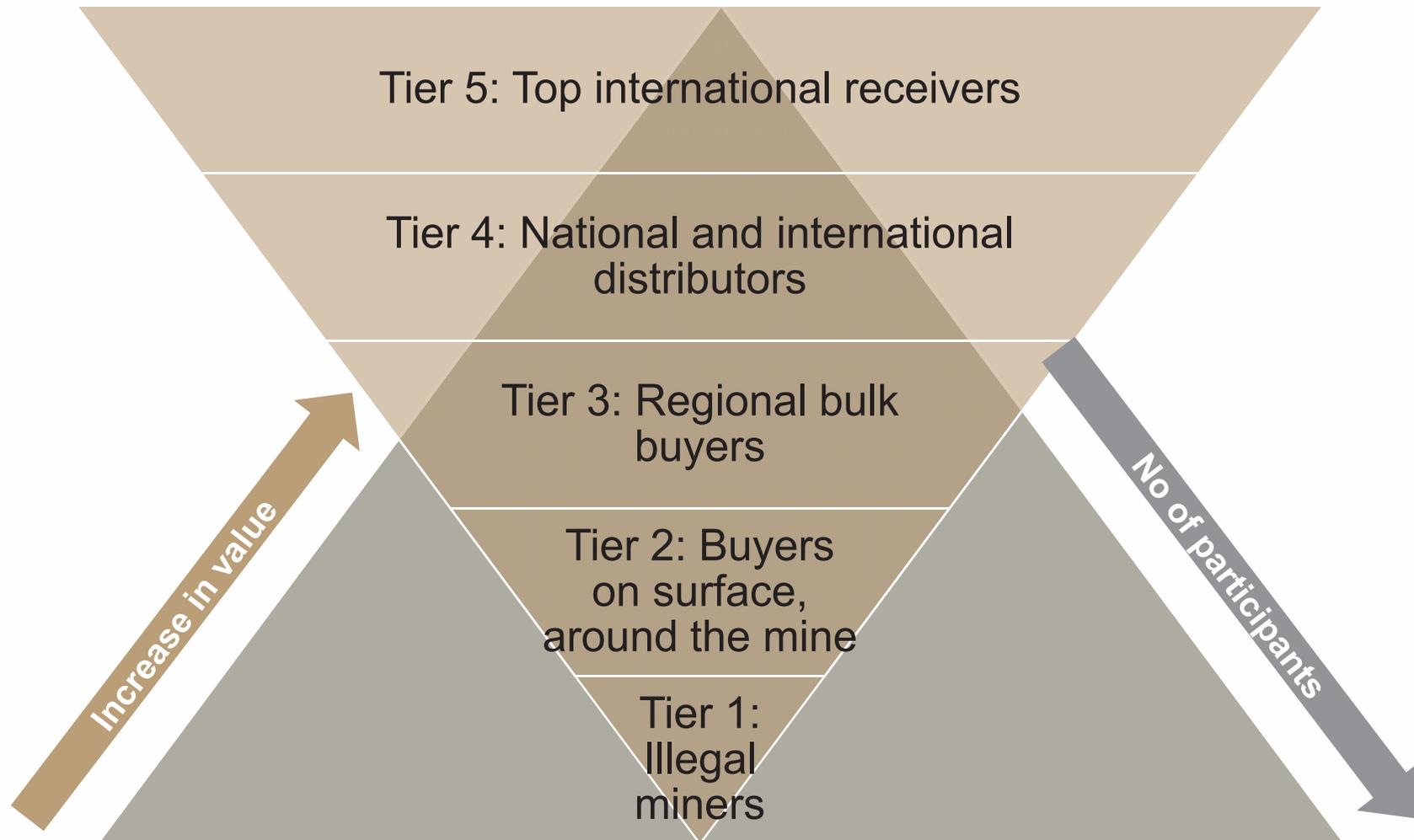
Legislation also prohibits the holding/ trading without a permit of certain metals in an unwrought state.

All other statutes should apply as intended

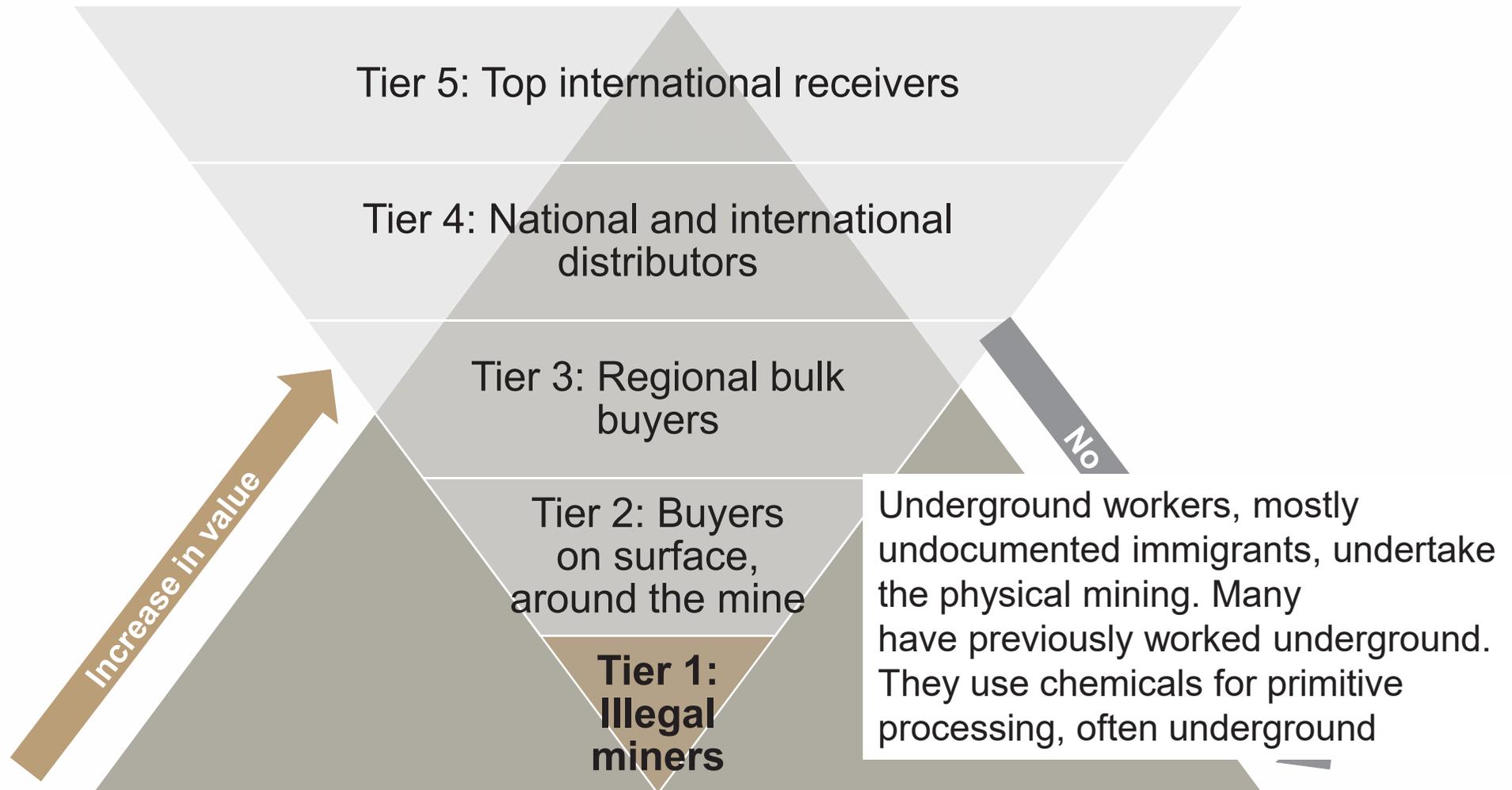
Scope and impact of illegal mining



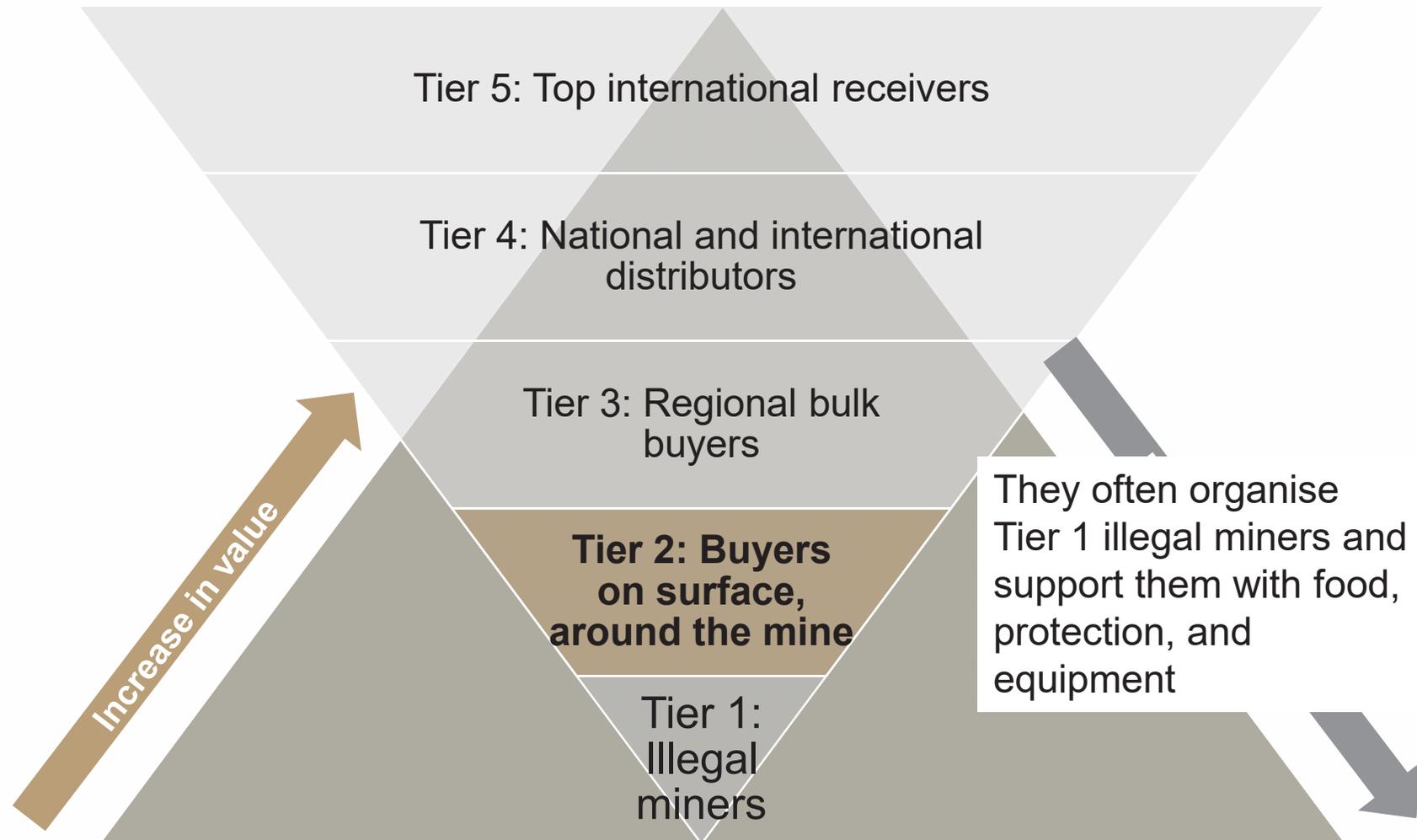
Value change in illegal mining (gold)



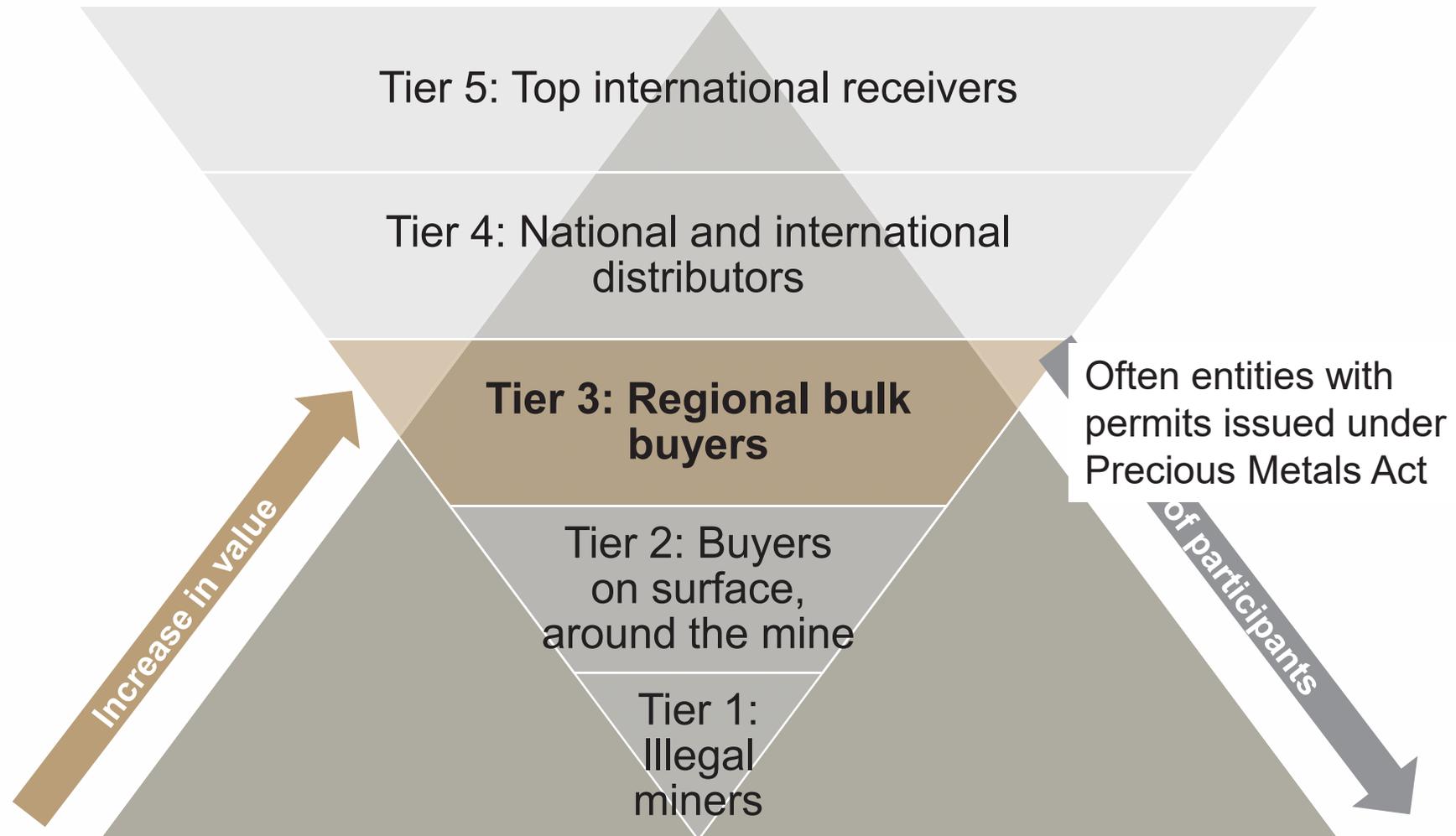
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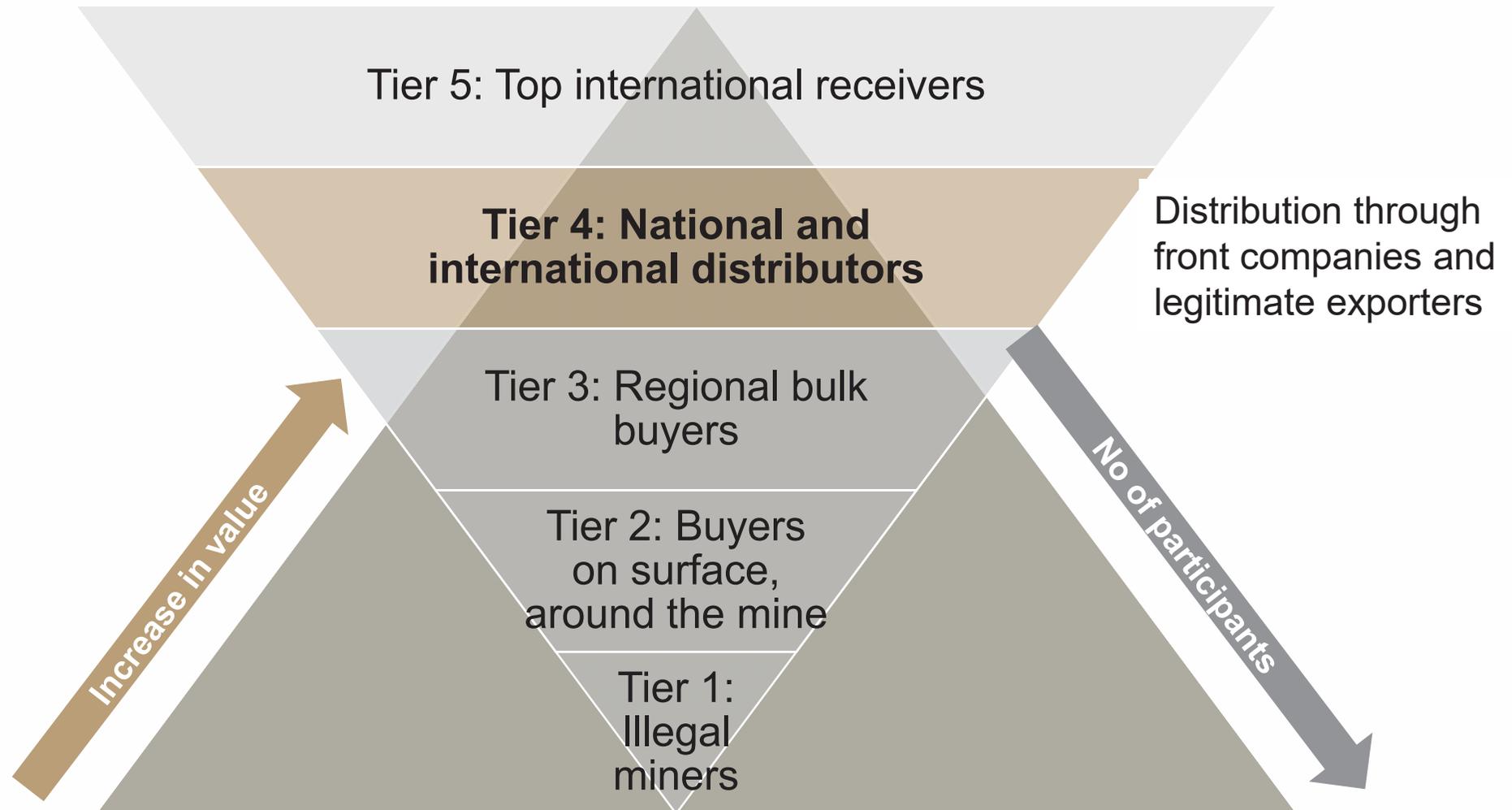
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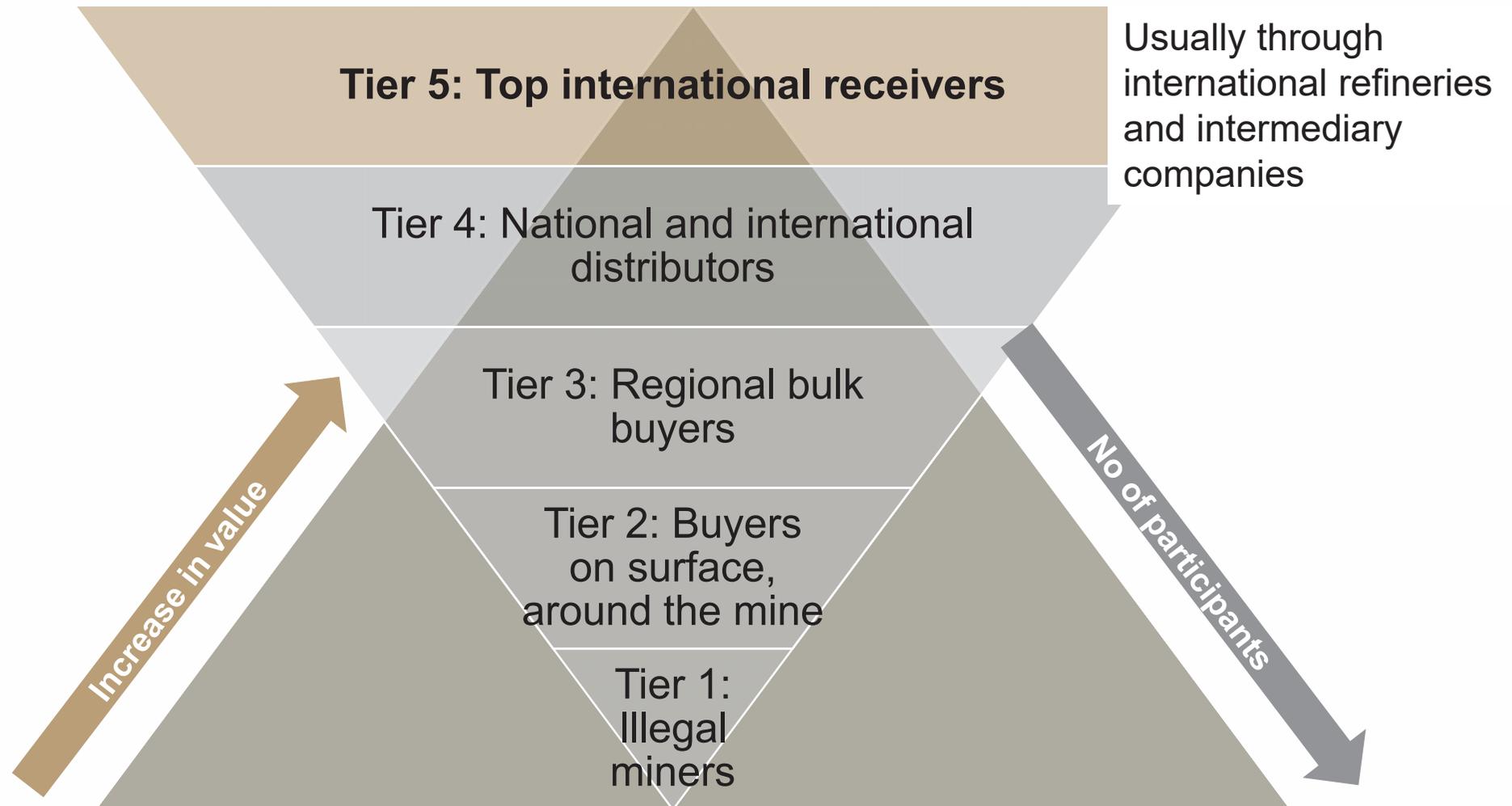
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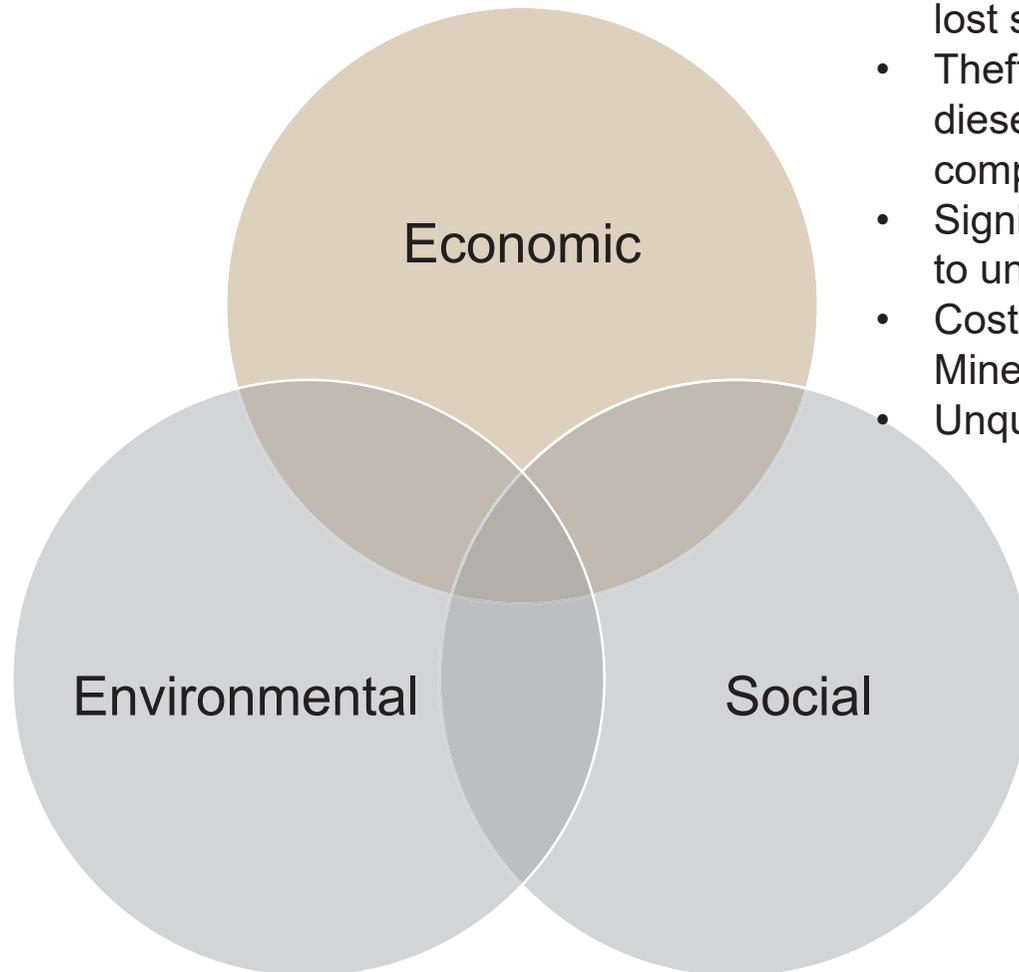
Value change in illegal mining (gold)



Economic, Social and environmental impacts



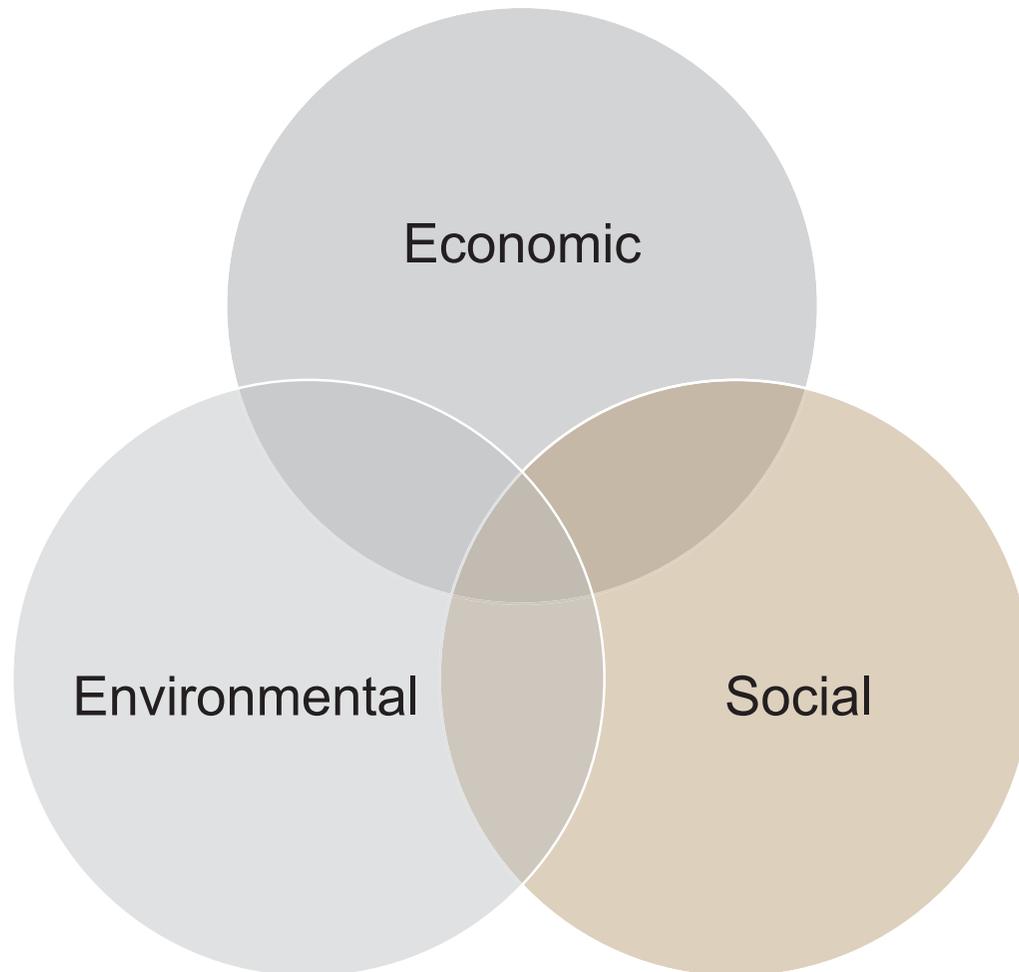
Economic, social and environmental impacts



- Costs industry and fiscus more than est R20bn/year in lost sales, taxes and royalties
- Theft of copper, electricity cables, dragline cables, diesel, and materials prejudice economic viability of companies and pose risks to mine infrastructure
- Significant increase in security costs and cost related to unnecessary stoppages, repairs and maintenance
- Cost to State and mining companies to commission Mines Rescue Services for rescues
- Unquantified environmental and social costs

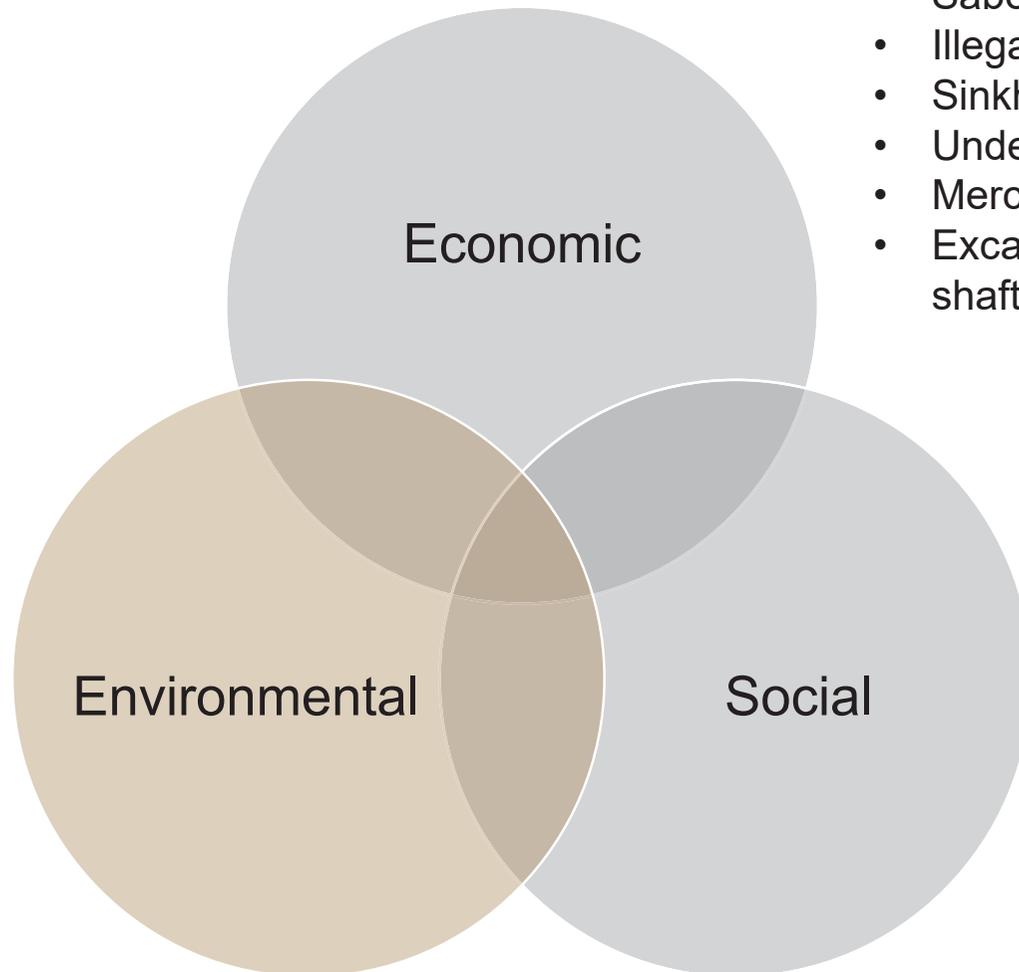


Economic, social and environmental impacts



- Influx of undocumented immigrants - 90% of arrested illegal miners undocumented immigrants
- Significant safety and health risks to illegal miners and miners at legal operations, as well as communities
- Increase in crime and illegal trade - explosives, diesel, copper cables and other equipment from mines
- Destroys the social fabric of mining communities – fear, coercion, human rights abuses, prostitution, substance abuse
- Number of mining accidents/incidents and near-misses in recent years related to illegal mining
- Risk of interruption of electricity supply (theft of copper cable) to underground workings
- Threats to employees, booby traps, tampering with mine equipment

Economic, social and environmental impacts



- Sabotaged pipelines contaminate the environment
- Illegal water usage and wastage
- Sinkholes created due to water pipeline 'spiking'
- Underground fires and explosions
- Mercury contamination of environment
- Excavation and reopening of sealed and rehabilitated shafts, with associated hazards



Illegal mining on surface and abandoned mines



Mine Rescue Services

- Contract to support DMR with search, rescue and recovery activities at closed or abandoned mines
- Cost to the DMR, reputational and relationship damage
- Placing lives of volunteer brigadesman at risk



Illegal mining in operating mines

- Illegal miners gain access to underground mining areas in a number of ways, including
 - access through unguarded unprotected ventilation shafts
 - via interlinked shafts of neighbouring mines
 - vehicular access in vehicles providing legitimate services to mines
 - bribing/corruption of mine security personnel
 - selling of clock cards by employees
 - re-employment of dismissed employees by neighbouring mines
 - via contractors (inadvertent accessibility or collusion on the contractors part)
 - using explosives to blast open concrete seals of surface shafts entries

Desperate and dangerous



Undermining survival tactics underground

- Food provided to illegal miners by runners and colluding employees – highly lucrative
- Inventive operators:
 - for example, food hidden in 210L drums and empty cement bags, and refilled the exact specifications of a normal cement bag
 - gumboots used to transport up 6 loaves of bread
- Efforts to restrict food to illegal miners:
 - prohibition of food among legitimate miners (but has been met with stiff opposition from organised labour)
 - Switching off water and air conditioning plants during inactive mining periods, such as off weekends
 - Both means have been successful, resulting in the voluntary surfacing of illegal miners



Further self regulatory measures

- Shaft layouts
- Crime information
- Operational response
- Awareness and rewards campaign
- Zero tolerance
- Access control systems
- Shaft perimeter defense



Violence and 'turf wars' escalating

- Turf wars amongst criminal groups on the rise –
 - Stricter controls and closures by DMR and mining sector has successfully narrowed the number of places available for illegal miners to work which has led to turf wars

TRAUMATISED LOCALS

Chamber progressive efforts supporting small scale miners

- Emerging miners cover a diverse group of mining and mining-related entities, incl prospecting and smaller producing companies, and associated companies such as contractors
- Emerging Miners' Desk established to provide advice and support, and to act as a resource centre for the smaller member companies – largest grouping of emerging miners in the country
- While the Chamber presents a consolidated position on key policy areas, it is sensitive to the needs of smaller members who may lack capacity and resources to implement policy and legislation
- There are a number of areas where smaller companies may require assistance:
 - raising finance
 - technical aspects of mining such as geology and engineering
 - in skills development
 - and compliance with the MPRDA and associated Mining Charter
- Majority of emerging miners operate in coal sector, followed by diamonds and manganese and iron ore



Framework agreement for a sustainable mining industry entered into with social partners



Objective - ensuring rule of law, peace and stability

- Law enforcement
- Establishment of NCSMT
- Denounce violence, taking active measures to eliminate violence and intimidation
- Improving case management and capacity to speed up prosecutions
- Priority crime committee

Multi-stakeholder efforts NPMF and standing committee on security

- Chamber Standing Committee on Security (SCOS) members deal with all issues relating to security at mines and product theft from mines
- SCOS led the establishment of the multi-stakeholder National Precious Metals Forum (NPMF) over a decade ago
 - Functions of NPMF were recently absorbed into the SCOS following re-structuring within certain SAPS structures
- Provincial multi-agency forums exist in five of the nine provinces
 - these feed into national multi-disciplinary co-ordinating body, which deals with illegal mining and smuggling of precious metals and diamonds across the five syndicate levels
 - these forums implement provincially-based disruptive operations and measures to identify and apprehend illegal miners, including providing awareness and training to SAPS and other authorities in identifying the different forms of precious metals, especially PGMs
- There has also been regional and international engagement to create global awareness

Multi-Stakeholder efforts - national and international initiatives

- South Africa and the Russian Federation engaged in talks with the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the United Nations Office on Drugs and Crime (UNODC) to develop a global strategy to assist in dealing with the crime phenomenon.
- In April 2013, South Africa tabled a resolution, dealing with the combating of transnational organised crime and possible links to illicit trafficking in precious metals
- The resolution was adopted by the Economic and Social Council (ECOSOC) on 25 July 2013. The resolution stressed the need to develop comprehensive, multi-faceted and coherent strategies and measures, including both reactive and preventative measures, to counter illicit trafficking in precious metals.
- UNICRI was mandated by the ECOSOC in its resolution 2013/38, to develop an international strategy to combat illicit trafficking in precious metals.
- UNICRI has completed the assessment and has present the technical report together with an international strategy and national action plan.

Multi-Stakeholder efforts - national and international initiatives



- 20th June 2016, Presentation to the South African Chamber of Mines Council on UNICRI Assessment project and findings. Endorsed by Council
- 4th August 2016, UNICRI meeting with the Chamber of Mines CEO to propose a National Precious Metals Action Plan. Concept note presented and in principle agreement obtained supporting the proposal made by UNICRI
- Meeting still to be arranged to engage with the Department of Policy Monitoring and Evaluation (DPME) to develop a National Action Plan involving Illegal Mining to:
 - To establish a terms of reference for the national action plan.
 - Agree on an approach for a funding model for the project and consideration of a national budget by Government (consideration that a national budget be funded by interested donors in South Africa or elsewhere and or the Mining Sector and or the Chamber of Mines, and or government of South Africa)
- In a separate development, it was announced in February 2014 in the Budget Speech, that second-hand goods made from precious metals are to be excluded from obtaining notional input tax under the VAT legislation, as a measure to avoid fraudulent claims in this regard

Can illegal mining be legalised?

- This is the wrong question, in our view. This should *not* be a debate about legalising that which is against the law because legislation and regulations were put there for a purpose
- We should be asking, how we – as a country and an industry - can support artisanal and small scale mining in a way that:
 - Optimally turns the country's mineral resources to account
 - Is fair and aligned with the objectives of the MPRDA and the Mining Charter
 - Ensures that mining operations contribute to (and do not harm) communities in which they reside
 - Does not compromise the safety and health of all miners or communities, or the environment
 - Makes a fair and sustainable contribution to the fiscus
 - Does not compromise the security of SA's borders, or its communities



How can ASM be promoted, within regulation?

Three ways

1. Work *within* existing laws
2. Existing laws need to be *amended*
3. Need to get *exemption* from existing laws

Questions we need to ask:

- How will compliance be monitored, and does the State have the resources to do this?
- How will it be determined which laws/regulations illegal miners should be exempt from – and will there be conditions attached?
- How will this further the ends of the MPRDA, and be of benefit to South Africans

Remember that illegal mining is profitable because illegal miners do not comply with the law

How do we address illegal mining?

- No single stakeholder can address the challenge of illegal mining on its own - collaboration is key
- The industry, individually and through the Chamber of Mines, remains committed to working with other stakeholders to address this serious challenge
- Until all the underlying factors contributing to illegal mining are addressed, we will be addressing only the symptoms
- Whole legal enforcement system needs to be addressed - socio-economic issues, as well as policing, prosecution, immigration and border control
- Industry cannot support moratorium on arrests of illegal miners operating at existing mines



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