MINERALS COUNCIL
SOUTH AFRICA

MPRDA Review Summit
Speech: Nombasa Tsengwa
Vice President: Minerals Council South Africa
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Honourable Minister Mantashe
Honourable Chair of the Portfolio Committee Luzipo
Director General Mbele
Fellow delegates

Good morning. We gather for an important review of the Mineral and Petroleum Resources Development Act and consider what it has achieved, what works and what needs more attention. The Act was one of the major pieces of legislation that truly marked a historic turning point in an industry that was exclusively male, with the clear division of black labour and white management. The Act came into effect in May 2004 and nearly two decades later we can look back at a mining industry that has become one of the most transformed of any sector in our economy.

The objective of the Act is clearly stated that it intends making ***provision for equitable access to, and sustainable development of, the nation's mineral and petroleum resources***.

Socio-economic transformation in the mining sector has been a priority for almost three decades in South Africa, even before the promulgation of the MPRDA. Major black economic empowerment (BEE) deals agreed before and since the promulgation of the Act have been changing the race and gender dynamics of the sector, ensuring that black people and women who were previously disenfranchised become owners, managers, suppliers, active participants in the value chains as well as beneficiaries of socio-economic development.

There are many narratives about the mining industry and its transformation and not all of them accurate or well informed. I intend outlining the successes, which are based on facts, clearly establishing what the mining industry has achieved in addressing our legacy and creating a sustainably transformed industry that benefits employees, host and labour-sending communities, society, investors and the country.

We must clearly consider the sustainable development of our natural resources to encourage inclusive economic growth and job creation to ensure the entire nation benefits from one of the world's richest endowments of minerals.

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South Africa has not fared well in this regard. Between 2001 and 2008, the South African mining industry contracted at a rate of 1% a year, while comparable mining jurisdictions grew at an average of 5% a year. In 2005, the Minerals Council noted the mining industry had missed a five-year commodity boom and that net fixed investment in the sector had plunged by a third between 2004 and 2006 which could "largely be attributed to the slow progress in dealing with applications for mining right conversions and new mining rights. Difficulties relating to financial provision requirements as well as the acquisition of water permits are compounding the problem."

If we consider where we are now, there are more than 5,000 mining and prospecting right applications as well as permits awaiting adjudication by the regulator. The bulk commodities miners have missed out on another cycle of increased international demand and attractive prices for their products because of binding rail, road and port constraints. The industry is grappling with a sixfold increase in electricity prices in little more than a decade and erratic supplies of energy.

In the first decade of democracy, mining's contribution to the economy was stagnant. In the next two decades it shrank by 4% in each of those decades. While commodity prices have masked this performance over the past three decades, input costs have consistently risen and narrowed profit margins. The industry simply cannot respond with production to higher commodity prices because there is not enough investment in mining. It is increasingly constrained by poor logistics and rising energy costs and erratic electricity supplies. Input costs have eroded profit margins, leaving little incentive for new fixed investments. About 45% of mining input costs are derived from government services like logistics, energy and water over which the sector has no control.

Net investment in mining, especially in new projects, has now dwindled to almost zero, which means the industry will struggle to respond to future commodity booms. The subdued investment climate is caused by structural constraints in logistics and energy, the slow pace of the government's structural reforms, and the negative perception of South Africa as mining investment destination. According to the latest Fraser Institute mining company survey, nearly 80% of respondents/potential investors cited criminality and the threat of attack as an overwhelming deterrent to investing in the country.

Strict local procurement targets, stringent broad-based black economic empowerment conditions along with increased community pressure on mines to deliver schools, housing and road, water and electricity infrastructure to fill the void left by dysfunctional municipalities combined to form the second biggest concern and a deterrent to investment.

The design of social and labour plans (SLPs) has resulted in sub-optimal outcomes lacking a lasting and significant impact in mine-host communities. The MPRDA requires one SLP per mining right instead of encouraging mining companies working together to deliver bigger projects with greater and lasting impact through regional planning, development, collaboration and a larger funding pool.

Policy uncertainty and deficiencies including regulatory duplication and inconsistencies, uncertainty concerning competing land ownership rights, and administrative interpretation and uncertain enforcement of regulations were deterrents to investment.

While the mining industry can talk of the billions of rands of value created in empowerment transactions and investments in communities, enterprise and supply development, and the creation of jobs, education programmes and training, we must also talk about the future economic sustainability of the sector to continue being a social partner that can and does make a difference.

Since 2000, empowerment deals in the mining sector alone have exceeded R300 billion, while the Act has facilitated the creation of companies such as Exxaro Resources, African Rainbow Minerals, Seriti Resources, Thungela Resources, United Manganese of Kalahari, Tshipi é Ntle Manganese Mining, Kalagadi Manganese and many more. African Rainbow Minerals is an early example of the creation -- in 1997 and JSE-listing in 2002 -- of a large, diversified black-owned and managed mining company.

Looking at just three of the listed mining companies created in empowerment transactions, African Rainbow Minerals, Exxaro and Thungela have a market capitalisation of R118 billion. Many more black-owned mining companies are not listed but which are important players in the economy. Seriti, for example, provides a third of Eskom's annual coal supply.

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A number of the biggest mining companies in South Africa are managed and controlled by black people and women. Three of the top six resources companies by market capitalisation are managed by South African women. Two out of three are black women.

- Anglo American Platinum – R217 billion market cap – Natascha Viljoen
- Kumba Iron Ore – R136 billion – Mpumi Zikalala
- Exxaro Resources – R56 billion - Nombasa Tsengwa

If we consider Anglo American, a local mining bellwether, it has contributed to 40 black economic empowerment transactions. This has resulted in the creation of some of the most successful black-owned and managed mining companies, including Thungela Resources, Exxaro Resources, African Rainbow Minerals, Royal Bafokeng Platinum, Seriti Resources, and Siyanda Resources – which are valued at a combined estimated value of more than R330 billion today.

Some of these mining companies were referred to as junior miners in the past, but they have now matured into listed corporates and form part of reputable employers in South Africa.

Anglo American's enterprise development programme, Zimele, has, in the 33 years of its existence, funded thousands of SMMEs, and helped to sustain more than 50,000 jobs in the process. In 2022 alone, Zimele supported 3,800 jobs and disbursed R2.9 billion worth of contracts to SMMEs through the participation of 813 small businesses.

Sibanye Stillwater noted that its discretionary procurement from companies with a BEE ownership greater than 25% made up three quarters or R21.5 billion of its R28 billion expenditure in 2022. Against the Mining Charter 2018 targets for goods and services, the company surpassed the 70% target for goods purchased from BEE companies, achieving 78% at its gold and platinum group metals mines. The purchase of services achieved 72% against the 80% target and compared to 65% the year before. Sibanye spent R2.2 billion on its social and labour plans in 2022.

At an industry level, the Minerals Council appointed its first woman as president in its 131-year history in 2021, with Nolitha Fakude heading the organisation, a position she still holds, championing transformation and the greater participation of women in the sector.

Based on data from the regulator, the number of women in mining has grown by 19% since 2019, reaching 73,000 employees from 61,000 four years ago. Women represent about 15% of the total mining workforce. Before 1996, women were forbidden by law from working underground, so we have made tremendous strides but there is still much to do before we reach gender equity. The Minerals Council has identified modernisation of mining as the main conduit towards greater employment of women in roles that were historically dominated by men. A mining company is trialling a new drill that is light and ergonomic enough for the employment of the first female rock drill operator. Not only will modernisation make mining safer and more productive for all employees, it makes it a viable career for those who were previously excluded.

There is much more for us to do to attract and retain women in mining through support and programmes.

If we look more broadly at what the industry has done to transform, I refer you to an independent study commissioned by the Minerals Council to determine what progress has been made. The study included companies representing more than 70% of all mining production in South Africa. It showed that these companies had achieved 39% (weighted average) historically disadvantaged South African (HDSA) shareholding against the 26% target set in the Mining Charter 2010.

The same study also showed that these mining companies exceeded all targets under Employment Equity, Procurement and Enterprise Supplier Development (ESD) and Mine

Community Development of the 2010 Mining Charter. They only fell short of achieving the Human Resources Development (HRD) target; achieved 4.8% instead of 5%.

Ideally, we would like a newer study to provide fresh insights. However, the virtually insurmountable challenge we face is that there is no scorecard against which to measure compliance with the Mining Charter 2018. Mining companies are submitting reports to the regulator, but these are not uniform, which makes data capturing and analysis incredibly difficult. Resolving this matter would provide a common understanding among all stakeholders of what has been achieved in realising the ambitions of the MPRDA and the underlying policy document, the Mining Charter. This will give us a base from which to continue our transformation journey.

Despite all these reporting challenges, the industry continues to work tirelessly to achieve the Mining Charter 2018 targets. The Minerals Council and its members are currently assessing progress made under the Employment Equity and Human Resources Development elements. These are the only elements that can be analysed because there is standardisation in the forms submitted to the Department of Employment and Labour.

There is an erroneous and damaging perception that the mining industry is not committed to transformation because it went to court to challenge a few clauses in the 2018 Mining Charter. There is no basis in fact for this perception. The industry's main challenge related to clauses that contradicted the MPRDA that dealt with the continued recognition of empowerment from past transactions, and local manufacturing targets that were ill conceived, practically unachievable and would have had devastating consequences for suppliers of equipment to mining companies and for mining right holders. However, the court also clarified the legal status of the Mining Charter -- which the court has adjudged to be policy and not a binding instrument – something which we as an industry had been saying since Mining Charter one.

Ensuring that the legal status of the Mining Charter was clarified was critical as all stakeholders needed to understand what the Charter is and how it can be enforced. This clarity has created certainty that will improve shareholder confidence and investment potential.

The rest of the Mining Charter was not challenged, and the industry has continued to strive to reach and exceed all the other targets, including the HDSA targets under Inclusive Procurement.

In June 2021, even before the judgment on the Review Application of Mining Charter 2018 was read, the Minerals Council and its members started engaging in work on Transformation Beyond Compliance. Mining companies realised that mere compliance with the Charter was not having the desired outcomes and impact that employees, entrepreneurs, or community members.

Billions of rands are spent annually by the sector on transformational efforts and initiatives, however, the positive impact of these investments is relatively small. The industry sought to unpack this dilemma, calling on various experts, even engaging experts from different sectors. A lot of reflection has gone into the process. We are now at a stage where we can start sharing some of this thinking and we hope to co-create a solution with all stakeholders, that seeks to positively impact the lives of employees, entrepreneurs, community members and all South Africans.

The solution we all come up with, should be binding on the industry to give effect to the spirit of the MPRDA.

This has been a long journey of socio-economic transformation for the sector with many successes and challenges along the way. The industry fully understands and commits to this journey, it knows that there are still many phases ahead if it is to experience a transformed mining sector that works for its people: employees, entrepreneurs, community members and all South Africans. We look forward to engaging with the regulator and our stakeholders in reviewing the Act, identifying and celebrating our successes and working together on challenges and weaknesses in the Act to ensure we sustainably and inclusively grow the mining sector and the South African economy for the good of all as we continue #MakingMiningMatter.

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