

BERAKAH VALUE INVESTMENTS

Compliance with the Mining Charter

10 YEARS ON: WHAT HAS BEEN ACHIEVED? IMPLICATIONS FOR SOUTH AFRICA'S
INDUSTRIAL DEVELOPMENT



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Abstract

The Mining Charter, which is provided for in Section 100(2)(a) of the Minerals and Petroleum Resources Development Act (MPRDA) 28 of 2002, was developed as an attempt by South African the government to legislate and regulate transformation in the mining industry. The Mining Charter was proposed by companies within the industry. In order to avoid more binding regulation, mining industry players suggested the development and promulgation of the Mining Charter to be used as a self-regulatory instrument. Nearly 12 years after the mining industry agreed to comply with the requirements of a charter which they suggested, and whose provisions they played a major role in determining, the level of compliance remains a point of contestation. The Department of Mineral Resources' (DMR) report on the level of compliance concludes that companies are only seeking to protect their "social licence to operate"¹. This suggests that companies have not fully embraced the spirit and the letter of the Mining Charter. Is the Department's interpretation of events warranted, and if so what have been the reasons?

This paper will review what has been achieved by the mining sector generally in relation to the Mining Charter targets, as reported by the DMR, and where available, as reported by the individual companies themselves. The paper has four main objectives:

1. Determine the level of compliance with the targets of the different elements of the Mining Charter by mining companies;
2. Determine whether there is any divergence between what the DMR says has been achieved by the mining companies and what mining companies perceive themselves to have achieved;
3. If there is non-compliance with the charter, the paper will identify the hurdles to compliance; and
4. Determine the potential impact non-compliance could have on South Africa's industrial development.

Though it is recognised that the mining industry is not comprised of homogenous entities all behaving in the same manner, the aim of the paper is to assess the level of compliance of the industry overall, not individual entities, and how this could broadly influence the pace and direction of industrial development in the country.

The state of compliance with the mining charter can inform the ability of the mining industry to support the industrialisation of the economy in a more broadly inclusive and beneficial manner. The Mining Charter requires transformation of the mining industry's approach to human resources development, employment equity, mine community development, procurement and enterprise development, as well as beneficiation amongst other elements. The mining economy supports industrial development through the manner in which they handle these and other aspects of their business. Failure to comply with the mining charter could well slow or stunt industrial development in South Africa.

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¹ Department of Mineral Resources, 2015, *Assessment of the Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry*, Pretoria.

1 Introduction

The Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry (Mining Charter) was signed by the DMR, the Chamber of Mines, South African Mining Development Association and the National Union of Mine Workers on 11 October 2002, and promulgated in 2004. When it was first promulgated, it was accompanied by a Scorecard for the Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry (Mining Charter Scorecard) which was designed to “facilitate the application of the Charter in terms of the Mineral and Petroleum Resources Development Act requirements for the conversion of all the ‘old order rights’ into new rights within a five-year conversion window period”². The Mining Charter Scorecard was intended to measure the “progress by stakeholders in achieving the aims of the Charter” which could be measured in two ways, by measuring “the specific targets set in the Charter”³ or “the targets set by companies”⁴. Both the Mining Charter and Scorecard were revised in 2010.

The revised Mining Charter was initiated through the undertaking of mining industry stakeholders to mitigate various constraints that were evident in infrastructure inadequacies, the regulatory framework and the low levels of exploration in research and development. Both versions of the Mining Charter (2004 and 2010) had six objectives (see Table 1). All of the objectives in the 2004 Mining Charter have been kept in the 2010 version, with the two major changes being that objectives 3 and 4 have been combined and another objective added to the 2010 version of the Mining Charter (highlighted in bold).

Table 1: Mining Charter Objectives (Source: 2004 and 2010 Mining Charters)

2004 Mining Charter Objectives	2010 Mining Charter Objectives
1 Promote equitable access to the nation's mineral resources to all the people of South Africa;	1 To promote equitable access to the nation's mineral resources to all the people of South Africa;
2 Substantially and meaningfully expand opportunities for HDSA's including women, to enter the mining and minerals industry and to benefit from the exploitation of the nation's mineral resources;	2 To substantially and meaningfully expand opportunities for HDSA to enter the mining and minerals industry and to benefit from the exploitation of the nation's mineral resources;
3 Utilise the existing skills base for the empowerment of HDSA's;	3 To utilise and expand the existing skills base for the empowerment of HDSA and to

² Department of Mineral Resources, 2004, *Broad-Based Socio-Economic Charter for the South African Mining Industry*, Pretoria.

³ ibid

⁴ ibid

4 Expand the skills base of HDSA's in order to serve the community;	serve the community;
5 Promote employment and advance the social and economic welfare of mining communities and the major labour sending areas; and	4 To promote employment and advance the social and economic welfare of mine communities and major labour sending areas;
6 Promote beneficiation of South Africa's mineral commodities.	5 To promote beneficiation of South Africa's mineral commodities; and 6 Promote sustainable development and growth of the mining industry.

1.1 Mining Charter Elements

The Mining Charter of 2004 zoomed in on 14 elements of the mining industry that needed to be focused on in pursuit of the transformation agenda. The mining companies committed to making the requisite changes or work with government on 10 of these 14 elements in 2004, which all had (vague) targets for each company in the industry to achieve. When the Mining Charter was revised in 2010, only nine elements remained a part of the Mining Charter (see Table 2).

Table 2: Mining Charter Elements (Source: 2004 and 2010 Mining Charters)

2004 Mining Charter Elements	2010 Mining Charter Elements
1. Human Resource Development;	1. Human Resource Development;
2. Employment Equity;	2. Employment Equity;
3. Migrant Labour;	3. Mine Community Development;
4. Mine Community and Rural Development;	4. Housing and Living Conditions;
5. Housing and Living Conditions;	5. Procurement and Enterprise Development;
6. Procurement;	6. Ownership;
7. Ownership and Joint Ventures;	7. Beneficiation;
8. Beneficiation;	8. Reporting (Monitoring and Evaluation); and
9. Financing Mechanisms; and	9. Sustainable Development and Growth of the Mining Industry.
10. Consultation, Monitoring, Evaluation and Reporting.	

Table 3 below details the definitions of each of the mining company related elements and the targets set in the 2004 and 2010 Mining Charters, with the relevant changes between Mining Charter revisions highlighted, wherein the mining companies had commitments that they were meant to achieve. The four that are not included in the table below are the elements which companies had no commitments towards. They are the elements which government had to take responsibility for and therefore had no bearing on the Mining Charter Scorecard for mining companies.

Table 3: Mining Charter Elements and Targets (Source: 2004 and 2010 Mining Charters)

Element	2004 Mining Charter Target(s)	2010 Mining Charter Target(s)
Human Resource Development	<p>Companies committed to working together with other stakeholders in addressing the mining industry skills gap in the following manner:</p> <ul style="list-style-type: none"> • To offer every employee the opportunity to become functionally literate and numerate by the year 2005 in consultation with labour; • To implement career paths to provide opportunities to their HDSA employees to progress in their chosen careers; and • To develop systems through which empowerment groups can be mentored as a means of capacity building. 	<p>Mining companies committed to invest a percentage of annual payroll . . . in essential skills development activities reflective of the demographics, but excluding the mandatory skills levy, including support for South African based research and development initiatives intended to develop solutions in exploration, mining, processing, technology efficiency (energy and water use in mining), beneficiation as well as environmental conservation and rehabilitation; as follows:</p> <ul style="list-style-type: none"> • Target for 2010 = 3%; • Target for 2011 = 3.5%; • Target for 2012 =4%; • Target for 2013 = 4.5%; and • Target for 2014 = 5%.
Employment Equity	<p>Companies shall publish their employment equity plans and achievements and subscribe to the following:</p> <ul style="list-style-type: none"> • Establish targets for employment equity, particularly in the junior and senior management categories . . . and management level. The stakeholders aspire to a baseline of 40 percent HDSA 	<p>In order to create a conducive environment to ensure diversity as well as participation of HDSA at all decision-making positions and core occupational categories in the mining industry, every mining company must achieve a minimum of 40% HDSA demographic representation at:</p> <ul style="list-style-type: none"> • Executive Management (Board) level

	<p>participation in management within 5-years;</p> <ul style="list-style-type: none"> • South African subsidiaries of multinational companies and South African companies, where possible, will focus their overseas placement and/or training programmes on HDSA; • Identification of a talent pool and fast tracking it. This fast tracking should include high quality operational exposure; • Ensuring higher levels of inclusiveness and advancement of women. The stakeholders aspire to a baseline of 10 percent of women participation in the mining industry within 5-years; and • Setting and publishing targets and achievements. 	<p>by 2014;</p> <ul style="list-style-type: none"> • Senior management (EXCO) level by 2014; • Core and Critical skills by 2014; • Middle management level by 2014; and • Junior management level by 2014. <p>In addition, mining companies must identify and fast-track their existing talent pools to ensure high level operational exposure in terms of career path programmes.</p>
Migrant Labour	<p>Stakeholders undertake to:</p> <ul style="list-style-type: none"> • Ensure non-discrimination against foreign migrant labour. 	<p>This element was removed from the 2010 version of the Mining Charter.</p>
Mine Community Development	<p>Stakeholders, in partnership with all spheres of government, undertake to:</p> <ul style="list-style-type: none"> • Co-operate in the formulation of integrated development plans for communities where mining takes place and for major labour-sending areas, with special emphasis on development of infrastructure. 	<p>Mining companies must adhere to the following:</p> <ul style="list-style-type: none"> • Mining companies must invest in ethnographic community consultative and collaborative processes prior to the implementation/development of mining projects; and • Mining companies must conduct an assessment to determine the developmental needs in collaboration with mining communities and identify projects within the needs analysis for their

		contribution to community development in line with Integrated Development Plans (IDPs), the cost of which should be proportionate to the size of the investment.
Housing and Living Conditions	<p>Stakeholders, in consultation with the Mine Health and Safety Council, the Department of Housing and organised labour, undertake to:</p> <ul style="list-style-type: none"> • Establish measures for improving the standard of housing including the upgrading of hostels, conversion of hostels to family units and the promotion of home ownership options for mine employees; and • Establish measures for improving of nutrition of mine employees. 	<p>Mining companies must implement measures to improve the standards of housing and living conditions for mineworkers as follows:</p> <ul style="list-style-type: none"> • Convert or upgrade hostels into family units by 2014; • Attain the occupancy rate of one person per room by 2014; and • Facilitate home ownership options for all mine employees in consultation with organised labour by 2014.
Procurement and Enterprise Development	<p>Procurement can be broken down into three level, namely: capital goods; service; and consumables. Stakeholders undertake to give HDSAs a preferred supplier status, where possible, in all three levels of procurement. To this end stakeholders undertake to:</p> <ul style="list-style-type: none"> • Identify current levels of procurement from HDSA companies; • Commit to a progression of procurement from HDSA companies over a 3 to 5-year time frame reflecting the genuine value added by the HDSA provider; • Encourage existing suppliers to form partnerships with HDSA companies, where no HDSA Company tenders to supply goods or services; and 	<p>Local procurement is attributable to competitiveness and transformation, captures economic value, presents opportunities to expand economic growth that allows for creation of decent jobs and widens scope for market access for South African capital goods and services. In order to achieve this, mining industry must procure from BEE entities in accordance with the following criteria, subject to the provisions of the Reporting element:</p> <ul style="list-style-type: none"> • Procure a minimum of 40% of capital goods from BEE entities by 2014; • Ensure that multinational suppliers of capital goods annually contribute a minimum of 0.5% of annual income generated from local mining companies

	<ul style="list-style-type: none"> Stakeholders commit to help develop HDSA procurement capacity and access Department of Trade and Industry (DTI) assistance programmes to achieve this. It is envisaged that information on all HDSA companies wishing to participate in the industry will be collected and published. 	<p>towards socio-economic development of local communities into a social development fund from 2010; and</p> <ul style="list-style-type: none"> Procure 70% of services and 50% of consumer goods from BEE entities by 2014. The targets above are exclusive of non-discretionary procurement expenditure.
Ownership and Joint Ventures	<p>Government and industry recognise that one of the means of effecting the entry of HDSA's into the mining industry and of allowing HDSA's to benefit from the exploitation of mining and mineral resources is by encouraging greater ownership of mining industry assets by HDSA's. Ownership and participation by HDSA's can be divided into active or passive involvement. In order to increase participation and ownership (which was divided into active or passive involvement) by HDSA's in the mining industry, mining companies agree:</p> <ul style="list-style-type: none"> To achieve 26% HDSA ownership of the mining industry assets in 10 years (2014) by each mining company; and That where a company has achieved HDSA participation in excess of any set target in a particular operation then such excess maybe utilised to offset any shortfall in its other operations. <p>All stakeholders accept that transactions will take place in a transparent manner and for fair market value.</p>	<p>Effective ownership is a requisite instrument to effect meaningful integration of HDSA into the mainstream economy. In order to achieve a substantial change in racial and gender disparities prevalent in ownership of mining assets . . . stakeholders commit to:</p> <ul style="list-style-type: none"> Achieve a minimum target of 26% ownership to enable meaningful economic participation of HDSA by 2014; and The only offsetting permissible under the ownership element is against the value of beneficiation.
Beneficiation	<p>This Charter will apply to mining companies in respect of their involvement in</p>	<p>Beneficiation seeks to translate comparative advantage in mineral resources endowment</p>

	<p>beneficiation activities, specifically activities beyond mining and processing. These include production of final consumer products. Mining companies will be able to offset the value of the level of beneficiation achieved by the company against its HDSA ownership commitments. Mining companies agree to:</p> <ul style="list-style-type: none"> • Identify their current levels of beneficiation; and • Indicate to what extent they can grow the baseline level of beneficiation. 	<p>into competitive advantage as fulcrum to enhance industrialisation in line with state development priorities. In this regard, mining companies must facilitate local beneficiation of mineral commodities;</p> <ul style="list-style-type: none"> • Mining companies may offset the value of the level of beneficiation achieved by the company against a portion of its HDSA ownership requirements not exceeding 11%.
Financing Mechanism	<p>The industry agrees to assist HDSA companies in securing finance to fund participation in an amount of R100 billion within the first 5-years. Participants agree that beyond the R100 billion-industry commitment and in pursuance of the 26% target, on a willing seller – willing buyer basis, at fair market value, where the mining companies are not at risk, HDSA participation will be increased.</p>	<p>This element was removed from the 2010 version of the Mining Charter.</p>
Consultation, Monitoring, Evaluation and Reporting	<p>Companies undertake to report on an annual basis their progress towards achieving their commitments, with these annual reports verified by their external auditors. A review mechanism will be established which again provides flexibility to the company commitments. Parties hereto agree to participate in annual forums for the following purposes:</p> <ul style="list-style-type: none"> • Monitoring progress in the implementation of plans; 	<p>Every mining company must report its level of compliance with the Mining Charter annually. The DMR shall monitor and evaluate, taking into account the impact of material constraints which may result in not achieving set targets.</p>

	<ul style="list-style-type: none"> • Developing new strategies as needs are identified; • Ongoing government/industry interaction in respect of these objectives; • Developing strategies for intervention where hurdles are encountered; • Exchanging experiences, problems and creative solutions; • Arriving at joint decisions; and • Reviewing the Mining Charter if required. 	
<p>Sustainable Development</p>	<p>This element was not part of the 2004 version of the Mining Charter.</p>	<p>Every mining company must implement elements of sustainable development commitments included in the “Stakeholders’ Declaration on Strategy for the Sustainable Growth and Meaningful Transformation of South Africa’s Mining Industry of 30 June 2010 and in Compliance with all Relevant Legislation”, as follows:</p> <ul style="list-style-type: none"> • Improvement of the industry's environmental management; • Improvement of the industry's health and safety performance; and • Enhancement of the capacity and skills in relevant South African research and development facilities in order to ensure quality, quick turnaround, cost effectiveness and integrity of such facilities. To this extent, mining companies are required to utilise South African based facilities for the analysis of samples across

		the mining value chain.
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1.2 Changes from 2004 to 2010

The shortcomings of the 2004 Mining Charter were self-evident. With the exception of the 26% ownership target and the R 100 billion financing support, none of the remaining eight elements had clear targets for the mining companies to reach. It was left up to the mining companies to determine for themselves the best interpretation of what was required of them for each element. The ambiguity inherent in the 2004 Mining Charter elements gave rise to various interpretations, which afforded the industry an opportunity to exploit intrinsic weaknesses. This resulted in low levels of compliance.

Due to the definitional weaknesses of the 2004 Mining Charter, reviewing it focused predominantly on setting definitions and targets for the 2010 Mining Charter elements that were deemed acceptable to all stakeholders. The fundamental questions about whether the definitions and targets achieved the objectives of the Mining Charter, on the one hand, and whether the objectives were themselves clearly defined, on the other hand, were left unanswered. Important questions left unaddressed include:

1. What does equitable access to the nation's mineral resources look like?
2. How many or what percentage of HDSA would be needed to say the mining sector has substantially and meaningfully expanded opportunities for HDSA to enter the mining and minerals industry and to benefit from the exploitation of the nation's mineral resources?
3. How can the existing skills base be best utilised and expanded for the empowerment of HDSA and to serve the community?
4. What is needed to promote employment and advance the social and economic welfare of mine communities and major labour sending areas?
5. What is the best way to promote local beneficiation of South Africa's mineral commodities?

Developing clear answers for these and other questions would have made the development of clearer Mining Charter targets possible and ensured that monitoring and evaluating progress of those targets could be conducted against a clear set of objectives. There were other, largely cosmetic, changes to the Mining Charter, but the clarification of definitions (including the addition of a definition chapter) and additions of targets for nearly all the elements were the main changes to the 2004 Mining Charter.

1.3 Why Transform the Mining Sector

There are two primary reasons that necessitate the transformation of the mining industry in South Africa: its impact on manufacturing and the need to drive inclusive economic growth.

The mining industry was an important catalyst for South Africa's industrialisation. The South African economy is now more diversified than it was, but the mining industry remains an important pillar of the economy. Investment in the South African mining industry has a strong positive impact on the output of

the manufacturing sector. It is important to have increasing mining industry investment for manufacturing output to grow across sectors that lead to inclusive economic growth in South Africa.

The mining industry itself is a great source of wealth creation for its participants. In order for economic growth to be inclusive in character in South Africa, the bulk of the mining sector benefits must accrue to a broader beneficiary group in terms of ownership, community development, skills transfer and higher salaries those employed in the sector. Unfortunately, the wealth created by the South African mining industry has historically accrued to a small minority within the South African population. The transformation project seeks to address this historic imbalance while ensuring continuing investment into and sustainability of the industry.

1.4 Objective of this Paper

The paper has four main objectives:

1. Determine the level of compliance with the targets of the different elements of the Mining Charter by mining companies;
2. Determine whether there is any divergence between what the DMR says has been achieved by the mining companies and what mining companies perceive themselves to have achieved;
3. If there is non-compliance with the charter, the paper will identify the hurdles to compliance; and
4. Determine the potential impact non-compliance could have on South Africa's industrial development.

Assessment of the mining industry's compliance with the Mining Charter can be taken at two points in time – 2009, five years after the 2004 Mining Charter and 2015, five years after the 2010 Mining Charter. This paper reviews compliance at the latter point, being the most recent point.

2 Mining Industry Compliance with the Mining Charter

Reviewing the compliance level of mining companies is important for at least two reasons:

- 1 Non-compliance with the provisions of the Mining Charter and the MPRDA can result in the suspension or cancellation of the mining rights and/or permits of the mining companies; and
- 2 Non-compliance can have a meaningful impact on the economic trajectory and stability of South Africa over the medium to long term.

The level of compliance can help gauge two things: the level of buy-in from the mining industry and/or the level of difficulty that mining companies are faced with when trying to comply with the provisions of the Mining Charter. This section reviews the Mining Charter compliance reports from the DMR, the Chamber of Mines and individual mining companies to determine whether there is compliance with the Mining Charter, the level of that compliance, and whether there is agreement or divergence on the level of compliance between government and the mining industry.

The primary document relied upon to present the DMR's view is the Assessment of the Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry published in May 2015, a report which "presents the findings of the assessment of implementation of the Mining Charter against each element, effectively quantifying progress of implementation of the instrument in an aggregated manner over a ten year window period"⁵. The Chamber of Mines has a number of reports and factsheets showing the results of their research that is relied upon for this paper. For the company view, the annual reports, sustainability reports and compliance reports of individual companies are reviewed.

2.1 Compliance with the 2010 Mining Charter: DMR

In compiling their report, the DMR used data and information submitted by mining companies on their web-based (self)-reporting system. At that point in time, 962 mining rights were due for assessment. The 962 excluded "prospecting rights authorised to undertake bulk samples for feasibility studies, mining permits, mining rights of less than a year in operation . . . smelters and refineries"⁶. Only 442 submitted their information, and after consolidating the mining rights that constitute the same mining operation and removing submissions with glaringly erroneous data, only 375 submissions could be used for the assessment.

The assessment was conducted using two approaches: the employment weighted and un-weighted approaches. The former aggregates the results in a manner that gives more weight to mining operations that have more people employed, while the latter allots an equal weighting to each mining operation. In keeping with the DMR assessment, the findings of both approaches will be provided in table form in this paper. Each company gets scored using the Mining Charter Scorecard principles for each element and the scores get aggregated (using both approaches where applicable) to arrive at an overall score for the sector.

2.1.1 DMR Assessment Results

Having received the data submitted by the mining companies, the DMR analysed the level of compliance with the Mining Charter targets using the Scorecard principles as a guide. The results of their analysis for each of the Mining Charter elements have been summarised in Table 4 below.

Table 4: DMR Mining Charter Assessment Results (Source: Department of Mineral Resources)

	Employment Weighted Result	Not-Weighted Result
Reporting (Has the company	Mining rights representing 95% of total employment of the 962 mining rights due to submit data submitted the requisite data for assessment.	442 out of 962 submitted reports – 45.95%. 375 reports were for active mining rights with full details.

⁵ Department of Mineral Resources, 2015, *Assessment of the Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry*, Pretoria.

⁶ *ibid*

reported – Yes or No)		
<p>Ownership (Has the company achieved equal or greater than 26% HDSA ownership, is it broad-based and does it have trickle-down cash-flows for HDSAs)</p>	<p>Weighted total industry simple average HDSA ownership is 32.5%.</p> <p>When the data is weighted 90% of submissions had HDSA ownership at or greater than 26%.</p> <p>1% concluded empowerment transactions with all requisite identifiable beneficiaries, but with no reported trickle cash flow to HDSA partners.</p> <p>20% have fulfilled the full requirements of meaningful economic participation as inscribed in the Mining Charter.</p> <p>10% have less than 26% HDSA ownership.</p>	<p>Total industry simple average HDSA ownership is 30.6%.</p> <p>79% of submissions of not-weighted data have reportedly met and exceeded the target of 26%.</p> <p>3% concluded empowerment transactions with all requisite identifiable beneficiaries, but with no reported trickle cash flow to HDSA partners.</p> <p>6% have fulfilled the full requirements of meaningful economic participation as inscribed in the Mining Charter.</p> <p>21% have less than 26% HDSA ownership.</p>
<p>Housing and Living Conditions (100% hostel conversion/reduction of occupancy)</p>	<p>Not Applicable.</p>	<p>55% of the mining right holders with hostels met the target for improving the living conditions of the mineworkers by either reducing occupancy rate to one person per room or converting hostels to.</p>
<p>Procurement (Capital Goods = 40%, Services = 70%, Consumables = 50% and multinational suppliers spend = 0.5%)</p>	<p>81.6% of mining right holders met the 40% of capital goods target.</p> <p>64.8% of right holders met the 70% of services target.</p> <p>82.7% of right holders met the 50% consumables target.</p>	<p>39.1% of right holders met the 40% of capital goods target.</p> <p>32% of right holders met the 70% of services target.</p> <p>57.8% of right holders met the 50% consumables target.</p>

	14.9% of right holders met the 0.5% multinational suppliers' contribution target.	3.4% of right holders met the 0.5% multinational suppliers' contribution target.
Employment Equity (Top Management = 40%, Senior Management = 40%, Middle Management = 40%, Junior Management = 40% and Core Skills = 40%)	Not Applicable.	54.1% of top management is HDSA. 50.7% of senior management is HDSA. 52.7% of middle management is HDSA. 62.8% of junior management is HDSA. 75.2% of core skills are HDSA.
Human Resource Development (5% of total annual payroll)	56.8% of right holders met the 5% of total annual payroll spend target.	35.3% of right holders met the 5% of total annual payroll spend target.
Mine Community Development (meet targets of approved projects)	Not Applicable	36% of mining right holders have met their set target on mine community development.
Sustainable Development (EMPs = 100%, Tripartite Action Plan = 100% and Percentage of samples in South African facilities = 100%)	48.6% of the rights assessed met the EMP target. 1.4% of right holders met the target for implementing all sub-measures of the tripartite action plan. 84% of the right holders met and exceeded the target of utilising South African based research facilities.	44.5% of the rights assessed met the EMP target. 2.6% of right holders met the target for implementing all sub-measures of the tripartite action plan. 66% of the right holders met and exceeded the target of utilising South African based research facilities.

The assessment of the DMR indicates an overall failure of the industry to meet the 2010 Mining Charter targets. However, upon close inspection, without any detailed analysis of the primary data, it would appear that the mining companies struggling the most with meeting the Mining Charter targets are those that employ fewer people. This is evidenced by the differences in the weighted and not-weighted results for each element of the Mining Charter. If the elements of the Mining Charter and their respective targets are regarded as the appropriate target interventions to bring about meaningful transformation, then some investigation into the feasibility of their attainment by mining companies with smaller labour forces requires some investigation. Where necessary, the right support mechanisms must be put in place.

It is difficult to choose one element of the Mining Charter that can be deemed more important than the others, but a measure that can be inspected given the government's aims to combat poverty and inequality is the extent of economic benefit. The DMR reports the percentage of mining right holders that have provided economic value to HDSAs. The extent of economic benefits to HDSAs, is calculated by taking the current value of HDSA shareholding, then adding the total dividends paid to HDSAs and finally subtracting from that the outstanding loan balance. By this measure, 37% and 64% (weighted and not-weighted) of right holders have provided no economic benefit to HDSA beneficiaries. This measure does not account for the economic value of the increases in employment of HDSAs at the various management levels, but it's an indicator of the level of wealth transfer in the industry.

2.2 Compliance with the 2010 Mining Charter: Chamber of Mines

The Chamber of Mines is an industry body, currently with 69 members representing 90% of South Africa's mineral production, contributing R 18 billion in taxes and employing 495,568 people (97% of the total mining industry labour force). A self-declared key role of the Chamber of Mines is "to facilitate interaction among mining employers to examine policy issues and other matters of mutual concern to crystallise and define desirable industry standpoints"⁷. Another key function is to represent some sectors in collective bargaining with organised labour. The Chamber of Mines "continuously looks for ways to advance the position of, and make improvements in the South African mining industry"⁸.

The Chamber of Mines conducted its own research to determine the level of compliance with the Mining Charter which they have made publicly available. Table 5 below provides a side-by-side comparison of the results from the compliance reports of the DMR and Chamber of Mines respectively. Though some of the results can be directly compared, the numbers reported were measured using measurement methods with sufficient differences to make comparison difficult. Some of these differences include the fact that while the DMR weights all its results by employment, some of the Chamber of Mines results are weighted by production volumes and mineral sales and the employment figures used by the DMR differ from those used by the Chamber of Mines. Furthermore, the Chamber of Mines often report figures that are measuring whether the industry as a whole has reached the target while the DMR reports what share of companies in the industry have reached the target.

⁷ Chamber of Mine, 2016, Viewed 15 May 2016 from <http://www.chamberofmines.org.za/about/purpose-and-vision>.

⁸ Chamber of Mine, 2016, Viewed 15 May 2016 from <http://www.chamberofmines.org.za/about/departments>.

Table 5: Comparative DMR and Chamber of Mines Mining Charter Compliance Results (Source: DMR & Chamber of Mines of South Africa)

Element	Mining Charter Scorecard		DMR: (i) Comparison to target; (ii) % of submissions that has met target		CoM: (i) Comparison to target; (ii) % of submissions that has met target
	Description	Target	Un-weighted	Weighted ¹	Weighted ²
Ownership	HDSA ownership %	26%	(i) 30.6%	(i) 32.5%	(i) 38% ³
	% of companies achieving 26%	100%	(ii) 79%	(ii) 90%	(ii) 100%
	% of companies with BEE, community & ESOP	(not agreed)	6.30%	20%	41%
Housing and Living Condition	% reduction of occupancy rate towards 2014 target	100%			(ii) 73%
	% of hostels into family units	100%	(ii) 55%		(ii) 63.4%
Procurement and enterprise development	Capital goods	40%	(ii) 39.6%	(ii) 82.1%	(i) 72%
	Services	70%	(ii) 33.2%	(ii) 64.9%	(i) 63%
	Consumable goods	50%	(ii) 60%	(ii) 85.2%	(i) 72%
	Annual spend on procurement from MNCs	0.50%	(ii) 3.3%	(ii) 14.9%	(ii) 20%
Employment equity	Top Management (Board)	40%	(i) 54.1%		(i) 50.4%
	Senior management (Exco)	40%	(i) 50.7%		(i) 41.9%
	Middle management	40%	(i) 52.7%		(i) 50.9%
	Junior management	40%	(i) 62.8%		(i) 54%
	Core skills	40%	(i) 75.2%		(i) 75.5%
Human resource development	HRD expenditure as % of total annual payroll % of companies achieving the target	5%	(ii) 38.1%	(ii) 56.9%	(i) 5.5%; (ii) 100%
Mine community development	Implement approved community projects % of companies meeting target	Up to date implementation	(ii) 36%		(i) 70.6%

Sustainable development and growth	Implementation of approved EMPs	100%	(ii) 44.5%	(ii) 48.6%	(i) 90.6%
	Implementation of the tripartite action plan on health and safety	100%	(ii) 2.8%	(ii) 1.6%	(i) 86.2%
	Percentage of samples in SA facilities	100%	(ii) 65.5%	(ii) 84.2%	(i) 84.6%

¹: Weighting based on DMR employment figures

²: Weighting based on Chamber employment figures, except for ownership which is based on volumes and mineral sales

³: Based on Independent Chamber Ownership Collation report

With the exception of Employment Equity, the DMR and Chamber of Mines do not agree on any of the results presented. They either have differing measurement approaches or they simply report different results even when using similar measurement approaches. Even where Employment Equity is concerned, DMR and the Chamber of Mines only agree on the fact that the targets were achieved, but not on the totals. While the DMR makes the case that the Mining Charter has largely not been complied with, the Chamber of Mines contends that there is broad compliance by mining companies.

2.3 Compliance with the 2010 Mining Charter: Company

Some of the mining companies report on their own performance in their annual reports. The reports wherein they publish their Mining Charter compliance figures include the annual financial statements and the annual sustainability reports.

Appendix provides the figures for nine of the companies that have reported on their Mining Charter compliance levels. On the basis of these reports, it would appear that the companies that report on their compliance levels are those that have met the targets in the Mining Charter Scorecard. Additionally, the companies that do report on their compliance levels tend to be the major mining companies.

2.4 Overall Mining Industry Compliance

If the 2010 Mining Charter is assumed to capture the vision of what a transformed South African mining industry must be, then the objective answer to whether the industry has transformed or not is an unequivocal no. The overall mining industry has some way to go to achieve all the targets set out in the 2010 Mining Charter. This is not to say that there aren't individual companies that have achieved the targets, only that overall, more work must be done. Whether one gives more credence to the DMR or Chamber of Mines report, it is obvious that many of the targets have not been achieved.

More important questions can be asked however. What should a transformed mining industry look like? What components of the mining industry would lead to meaningful impact if properly transformed? What are the targets that the industry should be aiming for? A transformed mining industry (and South African economy) must be representative and economically equitable. The transformation process itself should be a dynamic, focused and relatively short-term process. The 2010 Mining Charter elements remain relevant going forward, but the targets set against them are rather random and not based on any reasons that obviously match the objectives.

With the exception of the ownership target, set to ensure minority shareholder protection, the remaining targets are clearly the outcome of negotiation between government and the industry without any other basis for the targets. For example, there is no logical reason to only have 40% of the industry's top, senior, middle and junior management being HDSA when the definition of HDSA captures 96% of the country's population. There is no reason for beneficiation activity to be a substitute for HDSA ownership – in fact the Mining Charter must set forth a beneficiation target that requires a significant share of locally mined resources to be beneficiated locally.

For meaningful transformation of the mining industry to take place, the targets must aim to be more inclusive by being more representative of the country's demographics and ensure the development of local industries. The timeline to achieve those targets must be compact and clear, with immediate consequences for failure. Non-compliance should not be an option.

3 Hurdles to Compliance

This section is not intended to excuse failure to meet the Mining Charter targets, only to highlight possible hurdles that companies may encounter in their attempts to do so. These obstacles may also help to explain the reason small to medium sized mining companies appear to be less likely to comply with the Mining Charter targets than the major companies.

3.1 Unclear Measurement Criteria

The divergence between the DMR and Chamber of Mines reports highlights an important challenge that mining companies are faced with: ambiguity of measurement criteria and methods. Assuming that neither the DMR nor the Chamber of Mines has deliberately attempted to falsify the companies' performance, the fact that they have used differing figures and methods to determine compliance is reason for concern. There needs to be agreement on which numbers (DMR or Chamber of Mines), measurement methods and how to weight the results. Given the now clearer targets (as compared to the 2004 Mining Charter), reaching agreement on an objective measure of progress should be

easier. Knowing how compliance will be measured will make even clearer to the mining companies how to go about reaching the targets.

3.2 Cost of Compliance

There are numerous costs that must be covered in order for a mining company to be able to comply with the Mining Charter. Broadly stated there are two cost categories associated with compliance with the Mining Charter: Reporting Costs and Execution Costs.

The costs that can be categorised as reporting costs include those costs associated with monitoring and evaluation of targets, progress, changes in the status of the different objectives and drafting of reports for the DMR showing the compliance levels of mining companies with the requirements of the Mining Charter. The costs that can be categorised as execution costs include those associated with the development and execution of social labour plans, the expenditure on training of HDSAs, the attraction and retention of HDSA staff at every level of human resources, the conversion of hostels and building of family units and ensuring that the sustainable development targets are met.

Even when considering that some of the costs are beneficial to the businesses themselves, there are instances in which these costs are new to the business, and therefore have an impact on the business' bottom line. These costs have not as yet been quantified by mining companies to make a cost-benefit analysis possible. Mining companies ought to quantify these costs so that proper analysis of their impact on the companies themselves and the economy at large can be calculated and put in perspective.

3.3 Absence of Action against Non-compliance

Regulation is most effective when the incentive structure for compliance is fair and enforceable. Given the genesis of the Mining Charter, it is clear that there is broad agreement on its fairness within the mining industry. In order for it to be enforceable, two key components need to be in place:

1. Ability to detect non-compliance; and
2. Enforcement of agreed upon penalties for non-compliance.

As things stand, detection is improbable for two main reasons. The first reason is the fact that reporting is done on a voluntary basis. Mining companies submit their information to the DMR themselves on an annual basis and the validity of the data they submit is largely unverified. The second reason is the DMR's lack of capacity to thoroughly investigate the validity of the data received.

Those that are found to be non-compliant either from the data they submit or from the random audits that the DMR does face no consequences for their failure to comply with the Mining Charter. Even though the Minister of Mineral Resources has the power to either suspend or revoke the licences of non-compliant mining companies, this is not a tool that has been used. Ensuring that the DMR can both detect and punish non-compliance is as important as ensuring that there is agreement on compliance measurement methods.

4 Challenges to Transformation

4.1 Unclear Vision

The 2010 Mining Charter provides the mining industry with clear targets they should aim for to achieve transformation in different parts of their businesses. Unfortunately, this strategy was not developed around any particular vision of what a transformed mining industry and South African

economy must look like. The stated vision of the Mining Charter is “To facilitate sustainable transformation, growth and development of the mining industry”⁹. Although the Charter Objectives attempt to expand on this vision, they do not provide sufficient detail to properly inform what the targets should be.

The main improvement to the 2004 Mining Charter was the clarification of the vague the targets. A necessary improvement to the 2010 Mining Charter must be to defining a clear vision for a transformed mining industry. This will make more obvious the tools that must be used and the targets that must be achieved to realise that vision. Neither government nor industry players have put forward a vision of what the mining industry of the future ought to look like in South Africa. As a result, most of the regulatory requirements in the mining industry are aimed at tweaking current conditions instead of creating a future, more inclusive reality.

4.2 Regulatory Uncertainty

The absence of a vision for the economy and mining industry lends itself to a constantly changing regulatory environment. Moreover, the changes appear whimsical due to the absence of an articulated destination. With a vision, changes to the regulatory environment would be informed by the challenges that present themselves to the attainment of that vision and would be easily explained and accepted. Without the vision, those changes just create and increase uncertainty which negatively impacts investor (mainly local) confidence. Regulatory uncertainty makes it less attractive to do business or to invest in a country so investment in new mines or the expansion of existing mine capacity reduces significantly.

During the first five years of the implementation of the Mining Charter (i.e. between 2004 and June 2009), the DMR received over 22 000 applications for new mining rights, mining right conversions, reconnaissance permits and prospecting rights, corroborative of the continued investor confidence in the mining sector, created by the new, seemingly more stable regulatory framework.¹⁰ Stability of the regulatory environment does not mean, and should not be interpreted to mean that there are no changes to the regulatory environment. For the purposes of this paper, a stable regulatory environment is one in which changes to regulations can be logically explained and/or are self-explanatory, necessitated by the failure to achieve set objectives or changes in key factors. Achieving stability requires the creation of a framework within which changes occur. This framework is best informed by a vision. Such a vision would have to be developed by the government in consultation with the mining industry.

The vision provided in the 2010 Mining Charter isn’t sufficient to provide a destination towards which the mining industry is driving. Even when read in conjunction with section 100(2)(a) of the Minerals and Petroleum Resources Development Act (MPRDA) and section 9 of the Constitution, the 2010 Mining Charter vision provides insufficient detail to inform how the mining industry ought to be regulated in pursuit of that vision. What a transformed mining industry (the end goal) looks like must be better articulated, then how to get there in a sustainable manner can be determined.

5 Impact on Industrial Development

A shift from the primary sectors (agriculture and mining) to the secondary sectors (manufacturing) is widely recognised as an important step in economic development. This shift helps to move economies from having factor driven economic growth to efficiency driven economic growth, and

⁹ Department of Mineral Resources, 2004, *Broad-Based Socio-Economic Charter for the South African Mining Industry*, Pretoria.

¹⁰ Department of Mineral Resources, 2009, *Mining Charter Impact Assessment Report*, Pretoria.

takes them closer to innovation driven growth. The South African economy's shift from the primary sector to the secondary sector (manufacturing) was historically supported by the growth of the supporting industries that evolved to meet the needs of the mining industry.

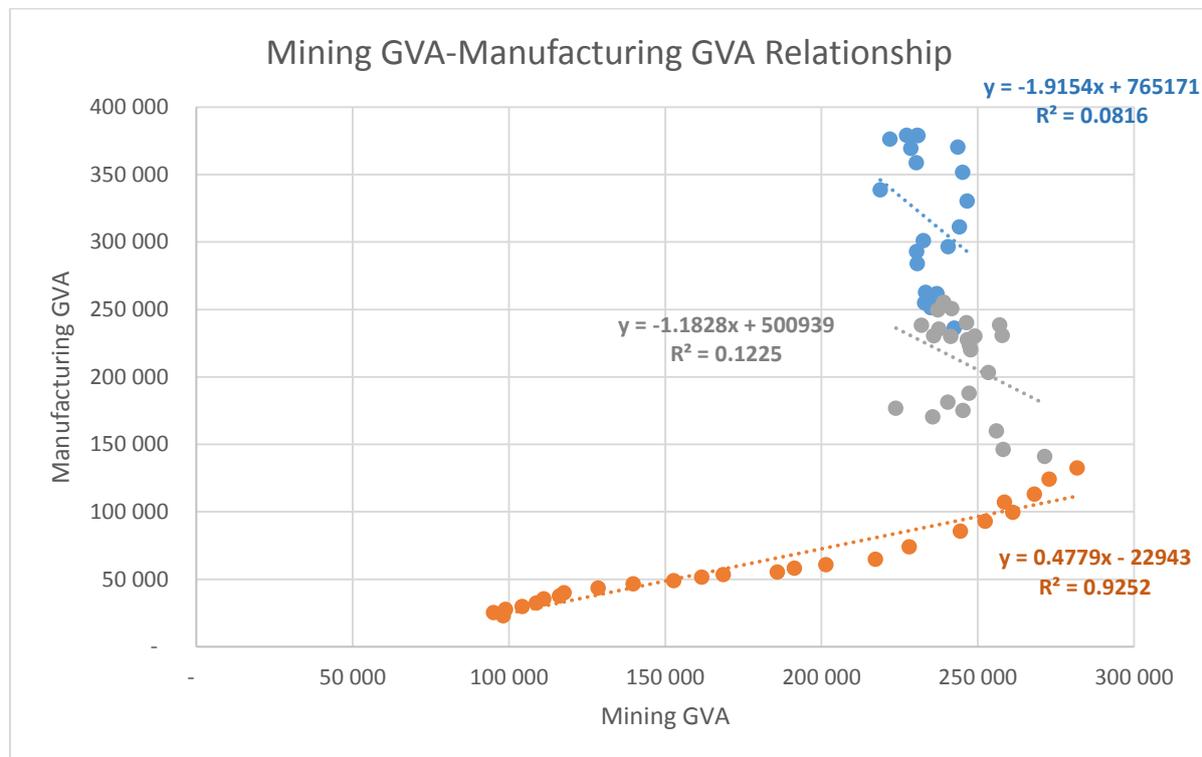


Figure 1: Mining GVA-Manufacturing GVA Scatterplot (Source: South African Reserve Bank)

A simple scatter plot suggests that the relationship between mining gross value added (GVA) and manufacturing GVA in South Africa can be broken down into three distinct periods post-World War II: 1946 – 1970, 1971 – 1993 and post-1994. In that first period the variations in the level of manufacturing could almost entirely be explained by the variations in the level of mining activity (with an R-squared of 0.925). This period covers the development of the Free State goldfields and the South African mining industry enjoyed an average annual growth rate of 4.5%. During that period, the manufacturing sector grew at an annual average rate of 7.6%.

The period between 1971 until 1993 was a period of stagnation for the mining industry, with an average annual growth rate of negative 0.6% while manufacturing grew at an average annual rate of 2.5%. It is during this second period that the manufacturing industry first overtook the mining sector in terms of the size of its GVA. The relationship between the mining GVA and manufacturing GVA in South Africa was significantly weaker over this period (R-squared of only 0.123). The relationship between mining GVA and manufacturing GVA weakened further post-1994.

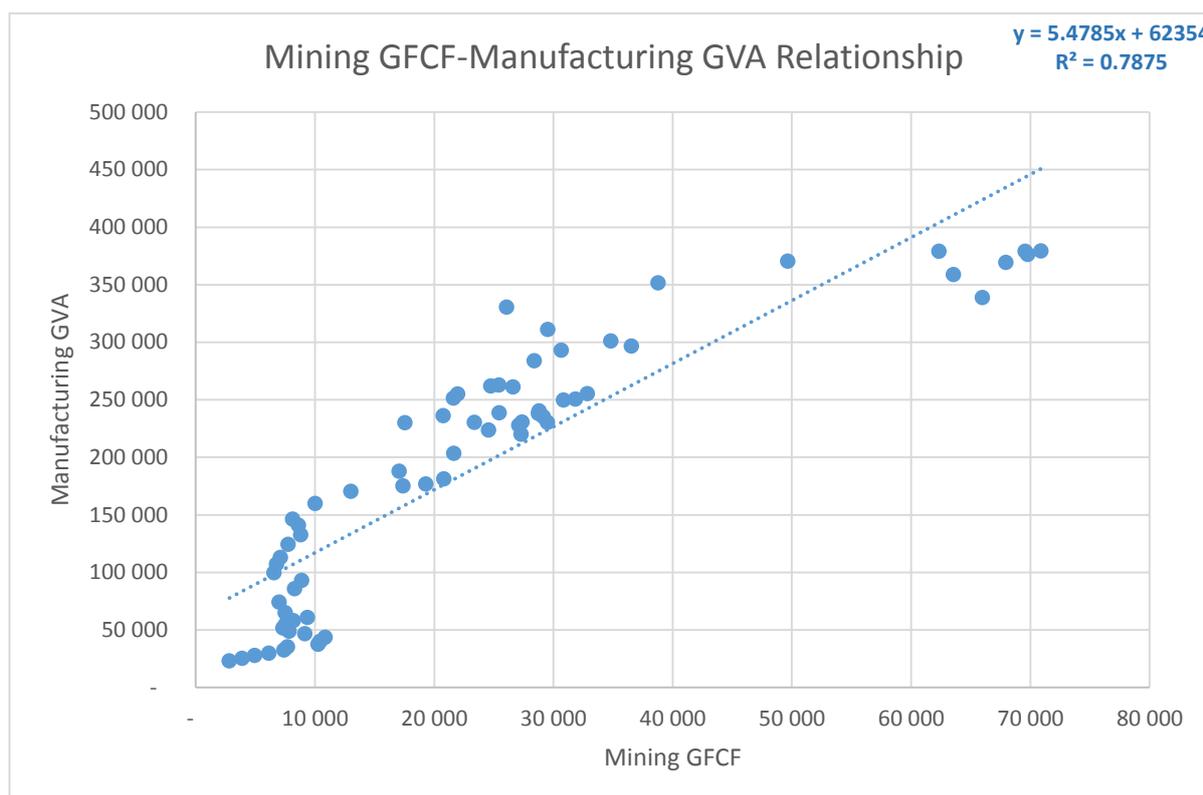


Figure 2: Mining GFCF-Manufacturing GVA Scatterplot (Source: South African Reserve Bank)

The level of investment into the mining industry has a material impact on the level of manufacturing in South Africa. While the relationship between mining GVA and manufacturing GVA has morphed over time, the relationship between mining gross fixed capital formation (GFCF) and manufacturing GVA has remained fairly consistent over the period between 1946 and 2014. A regression analysis of the impact of these two variables (mining GVA and mining GFCF) against manufacturing GVA (one year lagged) indicates that 89.9% of the variation in manufacturing GVA can be explained by variations in mining GVA and mining GFCF. Adding a third variable (manufacturing GFCF) increases the explanatory power to 93.7% (see Appendix for regression output).

It is worth noting in Table 6 that an increase of R 1.00 in mining GFCF leads to an increase of R 4.86 in manufacturing GVA. When manufacturing GFCF is added to the regression, mining GFCF still has an impact of R 2.46 on manufacturing GVA. This is likely due to the fact that new mines are effectively new markets for the South African manufacturing industry to cater to, both downstream and upstream. Not only does the manufacturing industry serve as a feeder industry into the mining sector, it also benefits from increased disposable incomes in the towns surrounding mining operations due to the new incomes streams they provide. This also partially explains the significantly lower impact of an increase in mining output when compared to the industry's investment levels. New investments have a significantly wider impact than the increase of output in existing operations.

Investment in the mining industry is very important to industrial development. Proper transformation of the mining industry has previously had, and will likely continue to have an impact on mining industry investment, growth and sustainability. As a result of the material impact that mining GFCF has on manufacturing, transforming the mining industry plays an important role in the continued industrialisation of South Africa's economy.

Table 6: Manufacturing GVA Regression Output 1 (Source: Thulani Madinginye Computations)

<i>Regression Statistics</i>	
Multiple R	0.948204441
R Square	0.899091661
Adjusted R Square	0.89598679
Standard Error	35646.65003
Observations	68

<i>ANOVA</i>					
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	2	7.35915E+11	3.67958E+11	289.5744735	4.24257E-33
Residual	65	82594437771	1270683658		
Total	67	8.1851E+11			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>
Intercept	-94308.38388	20449.07214	-4.611866164	1.92411E-05	-135148.001
Mining GFCF (2010 Prices)	4.864577801	0.251423754	19.34812331	1.13711E-28	4.36244989
Mining GVA (2010 Prices)	0.758544158	0.095222992	7.965976911	3.35445E-11	0.56837071

5.1 The Need to Industrialise

Rapid and sustained poverty reduction requires inclusive growth that allows people to contribute to and benefit from economic growth.¹¹ An estimated 45.5% of all South Africans (some 23 million people) lived below the poverty line of ZAR 620.00 per month in 2015 and the Gini coefficient, a measure of inequality, stood at 0.69 in 2011.¹² Few countries in the world are more in need of sustainable inclusive economic growth than South Africa.

An important difference between pro-poor economic growth and inclusive economic growth is that pro-poor growth focuses on “the welfare of the poor while inclusive growth is concerned with opportunities for the majority of the labour force, poor and middle-class alike”¹³. Inclusive economic growth requires real empowerment of people that leads to economic independence.

In order for rapid economic growth to lead to substantial poverty reduction, it has to be broad-based across sectors and inclusive of the large part of the country’s labour force. Both the pace and pattern of economic growth are therefore critical for achieving high, sustainable, poverty reducing economic growth. Productivity must be improved and new employment opportunities created for growth to be inclusive. In order for this growth to reduce inequality, the average growth rate of the incomes of the poor must be higher than that of the population as a whole.

The structural patterns of the South African economy are a relic of its apartheid and colonial past. A large section of the South African population remains outside the machinations of the formal economy for a number of reasons including a lack of formal education, a lack of recognised skills, an

¹¹ World Bank, 2009, *What is Inclusive Growth*, viewed on 10 May 2016, from <http://siteresources.worldbank.org/INTDEBTDEPT/Resources/468980-1218567884549/WhatIsInclusiveGrowth20081230.pdf>,

¹² Statistics South Africa, 2014, *Poverty Trends in South Africa*, Pretoria.

¹³ World Bank, 2009, *What is Inclusive Growth*, viewed on 10 May 2016, from <http://siteresources.worldbank.org/INTDEBTDEPT/Resources/468980-1218567884549/WhatIsInclusiveGrowth20081230.pdf>,

inability to access funding opportunities and a lack of income due to unemployment. The economy is also characterised by persistent inequality which can be a source of political instability.

Inclusive “economic growth encompasses equity, equality of opportunity, and protection in market and employment transitions”¹⁴. This includes equality of opportunity where access to markets and resources are concerned. The inclusive growth approach takes a longer term perspective because it primarily focuses on productive employment as a tool to ensure income redistribution. This requires reshaping the ownership and employment patterns in the economy, not bigger welfare programmes which tend to be unsustainable in the long run.

Given the skills and education levels of the majority of the South African population, the best path to inclusive economic growth is the development of the industrial sector. The industrial sector is here defined to cover manufacturing, construction, mining and public utilities.

5.2 Importance of Proper Transformation

The South African economy as it is currently structured is characterised by unequal access to opportunities, markets and resources for different racial groups and between genders. In order for South Africa to have inclusive growth, the industries that must grow must be those which can be accessible to the vast majority of those outside the formal economy. Labour intensive mining is one such industry. The manufacturing and construction sectors which it supports also make up a component of such industries.

Transformation of the South African economy is critical for inclusive growth. More Historically Disadvantaged South Africans (HDSA) must have access to opportunities for training, employment, career growth, management and ownership of assets. The 5.146 million unemployed HDSA¹⁵ (Including Black people, Coloured people, Indian people and White females) must be accordingly trained for suitable productive employment across the economy. Failure to properly transform the South African economy so as to ensure improved equity, equality of opportunity, and protection in transitions, will hamper the achievement of inclusive economic growth through broad-based industrialisation.

5.3 The Mining Charter as a Tool for Inclusive Growth

The Mining Charter is an attempt at creating a mining industry that is more inclusive of formerly excluded groups. It is a tool which aims to equalise access to opportunity for training, development, career growth and ownership within the industry for a broader section of the South African population. It aims to achieve equality of opportunity within the mining industry. It is also a tool intended to support the sustainability of the mining industry and the development of the communities surrounding mining operations. In this sense, it is a tool for inclusive economic growth.

The implementation of the Mining Charter enabled diversification of the mining industry in South Africa in terms of a number of commodities mined, volumes produced, revenue generation and job creation. The GFCF in the mining industry declined by 19% and 12% in 2004 and 2005 respectively, after which it increased until it only declined again in 2010 by 4% (see Figure 3).¹⁶ Between 2006 and 2014 mining GVA increased by 83%. This serves to demonstrate two key points:

¹⁴ World Bank, 2009, *What is Inclusive Growth*, viewed on 10 May 2016, from <http://siteresources.worldbank.org/INTDEBTDEPT/Resources/468980-1218567884549/WhatIsInclusiveGrowth20081230.pdf>,

¹⁵ Statistics South Africa, 2015, *South African Statistics*, Pretoria.

¹⁶ Statistics South Africa, 2015, *South African Statistics*, Pretoria.

1. The regulatory uncertainty that results when the Mining Charter is due for review has a material negative impact on the level of investment into the mining industry in South Africa; and
2. The Mining Charter (once clarified to all stakeholders) led to significant increases in mining industry investment.

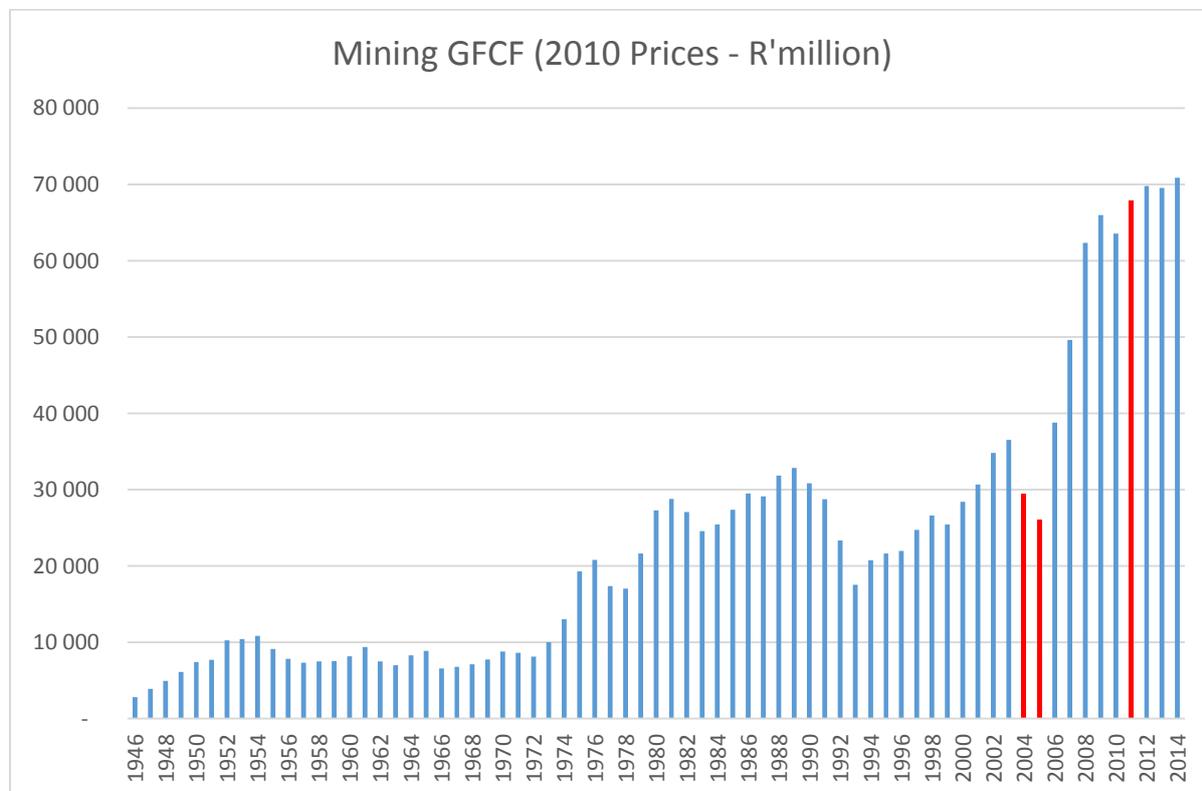


Figure 3: Mining Industry Gross Fixed Capital Formation (Source: Statistics South Africa)

Going forward, it is important to minimise the level of uncertainty associated with Mining Charter reviews without compromising on the achievement of inclusive economic growth that results from equality of opportunity. This uncertainty, because of its impact on mining GFCF, which in turn has an impact on manufacturing GVA, has a negative impact on the development of industrial sectors in the South African economy. When the objectives, the targets and measurement methods of the Mining Charter are clear, companies are more likely to comply which create a stable regulatory environment in which investments thrives.

6 Conclusion

This paper set out to achieve four main objectives:

1. Determine the level of compliance with the targets of the different elements of the Mining Charter by mining companies;
2. Determine whether there is any divergence between what the DMR says has been achieved by the mining companies and what mining companies perceive themselves to have achieved;
3. If there is non-compliance with the charter, the paper will look to identify the hurdles to compliance; and
4. Determine the potential impact non-compliance could have on South Africa's industrial development.

Regardless of which report is relied upon, it is evident that overall, mining companies have not achieved all of their targets among the different elements of the Mining Charter. The DMR and the Chamber of Mines have a difference of opinion regarding the gap between the targets and the progress made by mining companies, indicating differences between the methods and data used for measuring progress.

When studying the reports, it is also evident that mining companies with smaller labour forces (and presumably lower revenues) struggle the most to meet the targets. No information was found detailing the challenges companies face in meeting the targets, as reported by the companies themselves. As a result, given the differences in the employment weighted results and the un-weighted results, the paper concluded that there are three main hurdles to compliance:

1. Unclear measurement criteria which makes it difficult for mining companies to reach specific targets;
2. The cost of compliance including reporting and execution costs; and
3. The absence of action against non-compliance as a deterrence.

Non-compliance with the Mining Charter can impact South Africa's industrial development primarily because of its importance for the achievement of inclusive economic growth. Failure to transform the mining industry keeps significant numbers of South Africans outside the formal economy and without access to opportunities. In order for South Africa to achieve inclusive economic growth in a broad-based manner across sectors, more must be done by mining and other companies, in collaboration with the government, to ensure increased access to training, work, management and ownership opportunities for HDSA.

Appendices

Appendix 1

Table 7: Chamber of Mines Members (Source: Chamber of Mines of South Africa)

Chamber of Mines Members				
Anglo Coal	De Beers	Kangra Group	Platinum Group Metals	SA Diamond Producers Association
Anglo Platinum	Dedicoal	Kumba Iron Ore	PPC Cement	South32
AngloAmerican	DRD Gold Limited	Kuyasa Mining	RBM	STA Coal
AngloGold Ashanti	Exxaro Resources	Ledjadja Coal	RioTinto	Thebe Mining Investments
Aquarius	Glencore	Lonmin	Royal Bafokeng Platinum	Total Coal SA
ARM Coal	Glencore Xstrata	Mbuyelo Group	SA Energy Coal	Trans Hex Group
ARM Platinum	Gold Fields	Msobo Coal	Samancor	Tshipi e Ntle Manganese Mining
Aspasa	Harmony	Mvelo Minerals	Sasol Mining	Vaalbult
Clay Brick Association	Imerys	Northam Platinum	Shanduka Coal	Vametco
Coal of Africa	Implats	Optimum Coal	Shanduka Resource Services	Village Main Reef
Coastal Fuels	Ivanplats	PanAfrican Resources	Sibanye Gold	Wesizwe
Corobrik	Jindal Africa	Petra Diamonds	Siyanda Coal	
Cronimet Mining AG	Kalagadi Manganese	Phalaborwa Mining Company	Siyanda Resources	

Appendix 2

Table 8: Company Mining Charter Compliance Reports Figures (Source: Company Annual Financial Reports and Sustainability Reports)

	Reporting	HDSA Ownership	Housing & Living	Procurement & ED	Employment Equity	HR Dev.	Mine Com. Dev	Sustainable Dev.
African Rainbow Mineral (2014)	Annually	26%	One Room per Person	Capital = 62%; Services = 70%; Consumable = 55%	Board = 37.5%; Senior Man. = 44.1%; Mid. Man. = 54.4%; Jnr. Man. = 67.1%	Percentage of payroll invested = 8.3%	Not 100%	
Anglo American Platinum (2015)	Quarterly		One Room per Person	Capital = 55%; Services = 66%; Consumable = 60%; Multinationals = 0%	Board = 45.5%; Senior Man. = 45.4%; Mid. Man. = 61%; Jnr. Man. = 69%; Core = 82%	Percentage of payroll invested = 3.9%	Projects worth R236 million implemented in communities	EMP = 100%; Tripartite Action Plan = 100%; South African Facilities = 100%.
AngloGold Ashanti (2015)		26.8%	One Room per Person	Capital = 53%; Services = 73%; Consumable = 67%	Board = 55.6%; Senior Man. = 40%; Mid. Man. = 49.3%; Jnr. Man. = 57.4%; Core = 52.6%	Percentage of payroll invested = 6.59%	Social and Labour plans approved by DMR	EMP = Approved; Tripartite Action Plan = 95.8%; South African Facilities = .
Exxaro Resources (2014)	Annually	52.09%	One Room per Person	Capital = 34%; Services = 69%; Consumable = 71%	Board = 67%; Senior Man. = 42%; Mid. Man. = 57%; Jnr. Man. = 73%; Core = 98%	Percentage of payroll invested = 9.95%	1.8% of net profit after tax	EMP = 91%; Tripartite Action Plan = 98%; South African Facilities = 100%.
Gold Fields (2014)	Annually	35%	One Room per Person	Capital = 82%; Services = 73%; Consumable = 85%; Multinationals = 0.23%	Board = 50%; Senior Man. = 50%; Mid. Man. = 63%; Jnr. Man. = 52%; Core = 72%	Percentage of payroll invested = 10%	96% of the projects were implemented	EMP = 100%; Tripartite Action Plan = 100%; South African Facilities = 100%.
Harmony Gold (2014)	Annually	26%	97.8% One Room per Person Occupancy	Capital = 82.6%; Services = 73.9%; Consumable = 67.6%;	Board = 60%; Senior Man. = 46.5%; Mid. Man. = 38.6%; Jnr. Man. = 56%; Core = 62.6%	Percentage of payroll invested = 5.95%	86.4% of the projects were implemented	EMP = 87.5%; Tripartite Action Plan = 100%; South African Facilities = 100%.

				Multinationals = 0%				
Impala Platinum (2015)	Annually	30.4%	One Room per Person	Capital = 43.4%; Services = 72.3%; Consumable = 71.8%; Multinationals = 35.2%	Board = 66.7%; Senior Man. = 50%; Mid. Man. = 39%; Jnr. Man. = 51.3%; Core = 74.6%	Percentage of payroll invested = 6.8%	98.2% of the projects were implemented	EMP = 87.5%; Tripartite Action Plan = 100%; South African Facilities = 100%.
Kumba Iron-ore (2014) Sishen Kolomela Thabazimbi	Annually	26%	All employees reside in family units	Capital = 54%; Services = 82%; Consumable = 74%	Board = 50%; Senior Man. = 38%; Mid. Man. = 53%; Jnr. Man. = 60%; Core = 89%	Percentage of payroll invested = 5%	100% of the projects were implemented	EMP = 100%; Tripartite Action Plan = 100%; South African Facilities = 98%.
			All employees reside in family units	Capital = 68%; Services = 83%; Consumable = 75%	Board = 50%; Senior Man. = 45%; Mid. Man. = 59%; Jnr. Man. = 67%; Core = 92%	Percentage of payroll invested = 5%	100% of the projects were implemented	EMP = 100%; Tripartite Action Plan = 100%; South African Facilities = 100%.
			All employees reside in family units	Capital = 80%; Services = 81%; Consumable = 74%	Board = 50%; Senior Man. = 62%; Mid. Man. = 59%; Jnr. Man. = 57%; Core = 84%	Percentage of payroll invested = 8%	100% of the projects were implemented	EMP = 100%; Tripartite Action Plan = 100%; South African Facilities = 100%.
Royal Bafokeng Platinum (2015)	Annually	52%	Not all employees reside in family units	Capital = 72.7%; Services = 75.6%; Consumable = 76.8%	Board = 54.6%; Senior Man. = 66.7%; Mid. Man. = 58.6%; Jnr. Man. = 83.7%; Core = 99.5%	Percentage of payroll invested = 10%	100% of the projects were implemented	

Appendix 3

Table 9: Manufacturing GVA Regression Output 2 (Source: Thulani Madinginye Computations)

<i>Regression Statistics</i>					
Multiple R		0.967773			
R Square		0.936585			
Adjusted R Square		0.933612			
Standard Error		28478.61			
Observations		68			

<i>ANOVA</i>					
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	3	7.66604E+11	2.55535E+11	315.0735161	2.92745E-38
Residual	64	51906008727	811031386.4		
Total	67	8.1851E+11			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>
Intercept	-56225.4	17470.77939	-3.218251986	0.002025787	-91127.26451
Mining GFCF (2010 Prices)	2.456677	0.43997263	5.58370336	5.14647E-07	1.577730284
Manufacturing GFCF (2010 Prices)	1.749229	0.28436636	6.151322517	5.57402E-08	1.181142084
Mining GVA (2010 Prices)	0.500717	0.086857332	5.76482183	2.54736E-07	0.327199577

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