Mining Charter could extinguish alluvial diamond miners

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South Africa's alluvial diamond producers are small, but valuable contributors to the country's mining economy, but they are in danger of being washed away by the Mining Charter III (MCIII).

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This previously productive and successful small or junior diamond mining industry consists of just 180 remaining entrepreneurial mining operators employing around 5,000 people at an annual salary bill of R550m. It is the primary employer in remote rural areas in which alluvial diamond mining is conducted, and where existing unemployment levels are estimated to be as high as 80%.

The alluvial diamond mining industry has experienced steady decline since 2004 when the Mineral and Petroleum Resources Development Act (MPRDA) was implemented. At the time, there were 2,000 diamond miners employing some 25,000 people. Since 2013, there has also been a 61% decrease in prospecting right applications in the Northern Cape where the bulk of alluvial diamond mining takes place - largely the ambit of entrepreneurs, local private operators and farmers. Like many other mining sectors, the diamond mining sector is also seeing rapid growth of illegal operations. Much of this on the back of ill-considered policy.

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MCIII – which currently makes no distinction between the inherent structural and funding differences between junior miners versus large listed mining companies - will precipitate further drastic decline of South Africa’s entrepreneurial miners and job losses in vulnerable rural communities. It’s key failing is that MCIII fails to acknowledge that South Africa’s mining sector is not a homogenous grouping of only large mining conglomerates but made up of players of all sizes from small, privately funded operators and mid-sized operators to large multinational and publicly-owned operations.

Under the coordination of the South African Diamond Producers Organisation (Sadpo), the alluvial diamond mining industry has attempted to highlight the diversity of the junior sector and the challenges of the one-size-fits all approach to minerals policy by regulators, to no avail. A special dispensation for small and junior diamond miners in terms of the provisions of MCIII is critical to continued investment in the alluvial diamond industry and the long-term sustainability of South Africa's minerals sector.

The key challenges in complying with MCIII includes:

- ## BEE ownership - existing mining rights

  There is no disputing the need for transformation in the small and large sectors of the local exploration and mining industry, but the same blanket approach applied to large public companies is simply unworkable for small, self-funded businesses. In the case of small operations, a BEE partner does not buy in with an upfront investment but receives dividends that are used to buy in over a period of time, putting pressure on an already stressed entity in terms of profitability. Banks, mineral investment funds and the IDC do not provide funding for alluvial diamond mining transactions and there is no support from government to provide finance for BEE entrepreneurs who wish to invest in the industry. The expectation that a small, privately funded business is able to achieve the same ownership targets of a large public company without facing financial ruin is simply unattainable.
- ## BEE ownership requirements - pending applications

  The processing of pending applications in terms of 2010 Charter requirements is supported – applications for mining rights submitted to the Department of Mineral Resources which have yet to be granted as at the effective date of MCIll will be adjudicated under the 2010 Mining Charter, with a minimum of 26% BEE shareholding. However, complying with MCIII ownership requirements of 30% within five years will be disruptive and negative to existing BEE ownership and the Junior diamond sector as a whole.
- ## Bee ownership - new mining rights

  Certain provisions are unclear and will result in discretionary and inconsistent application. Currently, the 'undefined' ownership as per the Implementation Guidelines refers to attainment of the minimum 30% BEE shareholding distributed to all BEE shareholders, without following percentages prescribed in the Mining Charter, 2018.
- ## Inclusive procurement supplier and enterprise development

  The requirement that within five years, 70% of mining goods must be South African manufactured goods produced by companies controlled by historically disadvantaged South Africans are impractical and impossible to achieve. The alluvial diamond mining industry utilises sophisticated earthmoving, processing and diamond recovery equipment that is manufactured by long-standing and well-established international manufacturers and are not available locally, thus compliance is impossible.
- ## Employment equity

  MCIII requires 1.5% job reservation for employees with disabilities and a minimum threshold of black people representation from 50%-70% at various management levels from junior to middle, senior and executive – these management levels simply do not exist in small businesses. MCIII also calls for the implementation of equity equivalent schemes in respect of host communities and alignment with Social and Labour Plans; and structuring of beneficiation equity equivalent arrangements. The junior diamond mining industry cannot comply with these employment numbers if the business structure and growth does not support it.

- **Human resources development and mine community development**

  MCIII calls for a mandatory skills levy provided for under the SDLA as well as 5% of annual payroll must be spent on essential skills development activities including science, technology, engineering and mathematical skills, graduate training programmes and R&D initiatives. Again, these criteria are financially and structurally unattainable for the small and Junior diamond sector. Sadpo supports both Human resource development and mine community development and proposes that profitable small diamond companies should contribute 1% of production turnover to a dedicated fund to support skills development and mine community development

MCIII overlooks the cost constraints and economic plight of junior diamond operators, in an environment where all producers are price-takers and cannot cover the additional burden of costly BEE deals, more onerous compliance requirements, unrealistic procurement obligations, enterprise development and employment equity by simply raising selling prices. The requirements of MCIII and the recently tabled Implementation Guidelines (Dec 2018), aside from being impractical from a situational perspective, will further increase operating costs of mining operations, unsustainably so for junior operations. The inevitable outcome will be the shutdown of operations and retrenchments in rural areas where there simply are no other prospects of decent employment.

Downstream impact

The downstream impact will also be significant – diamond traders, cutting and polishing industries, jewellery manufacturing and retail sales into global markets will be severely impacted. The collapse of entrepreneurial businesses that have been shut out of the large mining industry will be disastrous. Upstream suppliers of good and services stand to lose some R2.1bn in turnover derived from alluvial diamond mining activities.

Synergy

Worldwide, including in many countries in Africa such as Botswana and Namibia, junior exploration and mining businesses are the backbone of a healthy minerals industry. History shows that most discoveries of new deposits are made by prospectors and Junior explorers and miners, as they are typically less risk-averse and more focused on exploration and early stage development as a means of survival, compared to risk averse senior companies.

Mineral discoveries that are small- or mid-tier are exploited by junior miners, whereas bigger deposits requiring large capital expenditure are typically built and mined through joint ventures between junior and senior companies or sold to senior companies. This synergy between junior and senior companies is well documented worldwide and benefits the entire minerals sector. A further reality is that ore bodies are finite thus we need synergy between junior explorers who make discoveries to replace old and depleted assets mined by the Senior mining operators, thereby ensuring the long term sustainability of the minerals sector. This synergy is lacking in the current South African mining industry.

Fatal pitfalls

While alluvial diamonds are the highest risk commodity to mine globally, the industry also has the lowest cost-entry relative to other minerals for small and junior miners. It currently produces around 300,000 carats per year valued at R4.2bn, with foreign exchange earnings from production estimated at R3.2bn. The alluvial diamond industry stands ready to be a driver of transformation and an incubator of black-owned and operated entrepreneurial mining businesses – but only if MCIII policy makers recognise the fatal pitfalls of applying a 'one-size fits all' approach designed for a handful of large publicly-owned companies, to an industry dominated by small, privately-funded, entrepreneurial mining businesses.

There is an urgent need for consultation between government and the junior mining industry to agree on amendments to

MCIII that will enhance and promote transformation and empowerment in the industry, and at the same time ensure that the junior sector is able to survive and continue to play the vital role in SA’s broader minerals industry.

ABOUT THE AUTHOR

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