

THIS is GOLD

FACT SHEET JULY 2018

TRANSFORMATION IN THE GOLD MINING SECTOR



The gold mining industry is committed to address the legacies of the past and to meaningfully contribute towards the promotion of an inclusive industry and economy. The Mining Charter is a central instrument for achieving transformation.

BACKGROUND TO THE CHARTER

The Mining Charter, which set targets for achievement by end of December 2014, provides a framework for transformation of the mining and minerals industry.

The first Broad-Based Black Socio Economic Empowerment Charter for the South African Mining and Minerals Industry (the Mining Charter), which came into effect in May 2004, spelled out a shared vision agreed by all participating stakeholders – including government, organised labour and the industry – of “a globally competitive mining industry that draws on the human and financial resources of all South Africa’s people and offers real benefits to all South Africans. The goal of the empowerment charter is to create an industry that will proudly reflect the promise of a non-racial South Africa”.

It provides a framework and guidelines to transform the minerals sector in South Africa by:

- rendering it more accessible to previously disadvantaged South Africans (HDSAs) and women;
- promoting equitable employment opportunities;
- extending the gains of the business of mining into host communities and communities in labour-sending areas;

- migrating a significant portion of the equity in mining businesses to HDSAs, or black economic empowerment or BEE.

The two main thrusts for change in the charter are contained in the ownership or equity levels, with HDSA ownership set at 15% and 26% after five and 10 years respectively, and in employment equity, with HDSA representation in management set at 40% after five years.

TIME LINE OF EVENTS

2004	2010	15 JUNE 2017	15 JUNE 2018
First Mining Charter comes into effect	Second Mining Charter comes into effect	Reviewed Mining Charter released by previous Minister of Mineral Resources, Mosebenzi Zwane	Minister Mantashe released Draft Mining Charter for comment

THE REVISED CHARTER OF 2010

The first version of the charter, or the original Mining Charter, was later revised, and came into effect in 2010, with the publication of specific targets to be met by end of December 2014. The nine pillars of the revised 2010 framework are:

- reporting
- ownership
- housing and living conditions
- procurement and enterprise development
- employment equity
- human resources development
- mine community development
- sustainable development (incorporating health and safety and environmental management)
- growth and beneficiation



Employment equity

Mining companies continue to focus on workplace transformation with appreciable improvements in two of the four categories (the 2010 Mining Charter specified a target of 40% HDSAs in all reporting categories by 2014):

- Top management (including boards of directors): In 2016, 49.3% of top management were HDSAs (50.4% in 2014).
- Senior management: In 2016, 48.3% of senior management were HDSAs (41.9% in 2014).
- Middle management: In 2016, HDSAs made up 49.8% of middle management (50.9% in 2014).
- Junior management: In 2016, HDSAs made up 58% of junior management (54% in 2014).
- Core and critical skills: In 2016, HDSAs filled 84.4% of core and critical skills positions (75.5% in 2014).

INCLUSIVE APPROACH

The 2004 and 2010 Mining Charters were, in effect, social compacts that were developed after extensive negotiations between all social partners. Through the Minerals Council South Africa, the gold industry participated in their development.

A NEW MINING CHARTER

In June 2017, the former Minister of Mineral Resources attempted to impose a unilaterally developed Reviewed Mining Charter that, if implemented, may have caused serious damage to the industry and the national economy. The Minerals Council had to approach the courts to ensure a sustainable future for the industry and those that depend on it.

In February 2018, Mr Zwane was replaced as Mineral Resources Minister by Mr Gwede Mantashe in the country's new President's first cabinet reshuffle. This was followed by a commitment by President Cyril Ramaphosa to engage on a new charter. The Minerals Council, honouring a call by President Ramaphosa to give charter negotiations a chance, agreed to postpone litigation to review and suspend former Minister Zwane's Charter.

The Minerals Council has actively participated in the two technical task teams established by the Minister of Mineral Resources – one on transformation and the Mining Charter and the other on competitiveness and inclusive growth as well as the Committee of Principals – with a view to develop a new Mining Charter that will facilitate the further transformation and sustainability of the industry.

It is anticipated that a new Mining Charter will be published in due course.

OWNERSHIP – ONCE EMPOWERED ALWAYS EMPOWERED?

By the end of 2017, AngloGold Ashanti, Gold Fields, Harmony and Sibanye-Stillwater had substantially complied with the charter requirements.

However, it became clear that the Department of Mineral Resources (DMR) and the industry, represented by the Minerals Council, had a difference of opinion the understanding of the ownership element. The DMR's understanding was that empowerment transactions concluded after 2004 which had since been affected by a reduction in BEE ownership levels, owing to BEE asset disposal or other reasons, should be excluded from the calculations used to determine BEE ownership levels.

The mining industry on the other hand believed that previous deals should have been included in the ownership calculation as it represented meaningful economic participation by Historically Disadvantaged South African (HDSA) beneficiaries since before 2002. The industry was never of the view that the Mining Charter required mining companies to maintain a 26% HDSA ownership once it has been achieved and believes that the exclusion of past HDSA transactions would result in a material misrepresentation of all the meaningful economic HDSA participation facilitated by mining companies in good faith.

In March 2015, then Minister of Mineral Resources, Ngoako Ramatlhodi announced that the DMR and the Minerals Council would jointly pursue a declaratory order, seeking clarity on the assessment of the ownership element, particularly in respect of the continuing consequences of previous BEE deals. It subsequently became clear that the legal mechanism available to the parties, required a clear applicant and respondent, with an identifiable and clear point of dispute, and so a joint approach was not possible. The Minerals Council continued with the declaratory order process on the same basis, and in alignment with the original intention.

In April 2018, the High Court issued a majority judgement in relation to the continuing consequences of previous BEE ownership transactions, thereby supporting the Mineral Council's view that ownership transactions be recognised for regulatory certainty even in the event of the BEE holder having reduced its equity, either in part or in full.

Transformation

In 2016, ownership of the industry by HDSAs stood at 39%. The Minerals Council has valued empowerment transactions between 2000 and 2014 at R205 billion, with value transfer of R159 billion to HDSA entities (including black-owned companies, entrepreneurs, employees and community trusts) in this period. Dividend distributions added a further R2.2 billion to this value.



PROGRESS AGAINST CHARTER TARGETS

In 2015, a template was designed by the DMR and mining companies were required to provide the necessary information to assess their success in achieving the key elements of the Charter. The following table provides a synopsis of each of the Charter's nine pillars, their targets and the gold companies' performance as at 31 December 2017.

Pillar	Target	AngloGold Ashanti	Gold Fields	Harmony	Sibanye-Stillwater
1. REPORTING					
Companies developed Social and Labour Plans (SLPs) to achieve Charter adherence. SLPs are approved by the DMR, and companies report annually to the DMR on their compliance.	Annually	✓	✓	✓	✓
2. OWNERSHIP					
Mining companies were required to have transferred 26% of equity to HDSA entities. Beneficiaries could include entrepreneurs, employees and community trusts.	26%	✓	✓	✓	✓
3. HOUSING AND LIVING CONDITIONS					
Companies housing employees in hostels were required to have achieved single person rooms. The construction of family units was also required. Companies have done so through upgrading hostels for hostel dwellers, converting hostels into family units and establishing home ownership programmes which include the construction of houses and financing schemes. See the factsheet on housing and living conditions.	Occupancy rate of one room per person	100%	100%	100%	100%
	Family units established	100%	100%	Family units established (included in mine community development through the conversion of old hostels into family units).	100%

Pillar	Target	AngloGold Ashanti	Gold Fields	Harmony	Sibanye-Stillwater
4. PROCUREMENT AND ENTERPRISE DEVELOPMENT					
Companies are required to achieve a certain level of procurement spending at BEE-owned entities in order to encourage the development of BEE-owned suppliers in the industry.	Capital goods: 40%	60%	80%	76%	81%
	Services: 70%	63%	83%	76%	77%
Mining companies have done a great deal to develop BEE suppliers and/or encourage ownership transformation of supplier companies.	Consumer goods: 50%	74%	88%	82%	78%
To encourage local procurement, and to ensure foreign suppliers contribute to transformation, foreign suppliers are required to transfer to a social fund for every supply contract. This element of the pillar has not yet been operationalised because the framework for defining and measuring multinational suppliers' contributions has not yet been clarified by the DMR.	Annual spend on procurement from multinational suppliers: 0.5% of the value of any supply contract.	AngloGold Ashanti is awaiting clarity from the DMR and to establish the Social Development Fund.	0.86%	Harmony encourages multinationals to contribute to socio-economic development initiatives.	Sibanye-Stillwater does not procure goods from international/multinational suppliers as per the company's understanding of the definition.
5. EMPLOYMENT EQUITY					
Workplace diversity and equitable representation at all levels are seen as catalysts for social cohesion, transformation and competitiveness. Specific emphasis has been placed on demographic representation particularly insofar as women are concerned.	Top management (Board): 40%	43%	33%	57%	45%
	Senior management (Exco): 40%	43%	88%	51%	40%
	Middle management: 40%	54%	58%	52%	36%
	Junior management: 40%	60%	49%	64%	50%
	Core skills: 40%	53%	73%	68%	84%
6. HUMAN RESOURCE DEVELOPMENT					
The development of employee skills is an integral part of workplace social transformation and sustainable growth. Companies are required to contribute to the development of requisite skills, including support for South African-based research and development initiatives intended to develop solutions in exploration, mining, processing, technology efficiency, beneficiation and environmental conservation.	5% of total payroll	5.14%	100%	6%	4.22%

Pillar	Target	AngloGold Ashanti	Gold Fields	Harmony	Sibanye-Stillwater
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7. MINE COMMUNITY DEVELOPMENT

Under this pillar, in order to achieve a social license to operate, companies need to make meaningful contributions towards community development particularly in communities close to the mines and in labour sending areas. Development programmes must be based on a clear assessment of development needs, in line with local authority Integrated Development Plans (IDPs).	Up-to-date project implementation	West Wits and Vaal River SLPs approved by DMR.	90%	65% Harmony has submitted third generation draft SLPs to the DMR. Review and consultation on mine community development projects with the relevant DMR offices and municipalities is underway.	Mine community development and projects identified in line with IDPs over the last three years spent R10 million on local economic development.
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8. SUSTAINABLE DEVELOPMENT AND GROWTH

This pillar required companies to meet specific obligations in respect of health, safety and environmental management. As one of the most regulated industries in South Africa, the mining industry has highly developed health, safety and environmental strategies in place to improve the industry's management and performance in this regard.	Implementation of approved EMPs: 100%	DMR approved revised EMP for both West Wits and Vaal River in 2012. Formal environmental performance assessments were conducted and submitted to the DMR in 2014.	100%	100%	76.51% gold operations 42.33% South African PGM operations
	Implementation of the tripartite action plan on health and safety: 100%	97%	86%	100%	100%
	Percentage of samples in South African facilities: 100%	100%	100%	100%	100%

9. BENEFICIATION

The Charter encourages companies to work on the beneficiation of the minerals they mine. The incentive is that beneficiation achievements may be used to offset BEE ownership requirements, although the gold companies also benefit from their shareholding in Rand Refinery. All gold produced by the companies is fully refined and beneficiated to a final product which is sold to customers.

However, in practice, this aspect of the Charter has not yet been operationalised because the framework for measuring beneficiation and the offset methodology have not yet been finalised.

The progress and scores in this table have been computed by the online system used by the DMR and in some cases differ from those computed by the mining companies. These will be dealt with in future interactions with the DMR.



This is Gold is an industry initiative started by South African gold producers to provide insight into the gold industry, its processes and its contribution. We aim to provide honest, balanced information that can be used to understand the history of gold mining in South Africa, the work being done by the industry now and the plans in place for the industry's future.

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