

**DRAFT FRAMEWORK AGREEMENT FOR A SUSTAINABLE MINING INDUSTRY ENTERED INTO
BY ORGANISED LABOUR, ORGANISED BUSINESS AND GOVERNMENT 14 JUNE 2013**

1. Preamble

- 1.1. The mining industry is central to our economy and job creation. Similarly the rule of law and stability is a fundamental pillar of our democracy and a necessity to ensure economic and social development. We as Government, Labour and Business will work together to ensure the sustainability of the mining sector for the future of our country and our people.
- 1.2. The mining industry today faces tough choices. We note that global economic growth will be lower. Our largest trading partner – Europe – is still in recession and the composition of growth in China is changing. The result is that demand for South African exports, including exports of gold, platinum and other commodities is lower. Export earnings are lower, sustainability of mines is under threat, and government revenues are likely to be lower.
- 1.3. We recognise that deepening workplace conflict has led to violence and stoppages. This has impacted negatively on production, investment, workers and communities.
- 1.4. We recognise the need to expedite further transformation in the mining sector.
- 1.5. Workers want to see more changes in their working and living conditions as well as career prospects.
- 1.6. Having stated the above, we commit to work together to put in place processes that will bring about real changes, while working together to sustain and improve production by:
 - 1.6.1. Ensuring law and order and ending violence and conflict.
 - 1.6.2. Bringing about the changes required for peaceful and sustained development for decades.
 - 1.6.3. Repositioning the mining industry to become attractive to investors and more meaningful contributor to job creation.
 - 1.6.4. Responding to the immediate economic situation.
- 1.7. The opportunity for us as leaders is to strengthen our collaboration and cooperation as we can ill afford business as usual.

2. Guiding Principles

2.1. We agree to the following guiding principles:

- 2.1.1. Democracy requires respect for the rule of law by all members of society while we work together to ensure that the benefits and costs of development are more fairly shared.
- 2.1.2. Continued violence can increase loss of life, damage to property and unprocedural work stoppage will make the impact of lower economic growth harder.
- 2.1.3. Managers and leaders of the mining sector must ensure that appropriate capability is developed to manage people issues more constructively.
- 2.1.4. Transformation of the industry has to ensure that ordinary workers see a real change in their career prospects, their working conditions and their communities.
- 2.1.5. We can only get there if we work together, moving as fast as possible.
- 2.1.6. Workers, the unemployed and vulnerable groups are the biggest losers in unstable economic conditions. Our experience from 2008 global financial crisis highlights that job losses are often difficult to reverse and that regaining market share is not easy for firms given the high levels of global competition.
- 2.1.7. To succeed, this agreement requires that stakeholders dedicate the necessary capacity and time; accept that economic realities constrain our decisions; and communicate their commitments as well as progress in implementation consistently and strongly to their members.

3. Roles and Commitments

3.1. Through various processes, stakeholders in mining identified their key strengths and resources as the basis for their commitments. The core task now is to ensure more coherent, urgent and visible implementation.

3.2. **Government commits to:**

- 3.2.1. Improve the effectiveness of mechanisms for legal and regulatory compliance.
- 3.2.2. Ensure that there is always a resilient framework for labour relations.
- 3.2.3. Ensure consistency and certainty in development and application of regulation.

- 3.2.4. Accelerate efforts to upgrade human settlements in mining towns by all spheres of government.
- 3.2.5. Mobilise technical expertise to identify and address the basic factors underlying workplace conflict and to improve negotiations structures at all levels.
- 3.2.6. Support and implement initiatives that will mitigate against lower growth given the negative impact on employment creation and retention.
- 3.2.7. Continue to improve core infrastructure to support production growth in the sector.
- 3.2.8. Improve capacity to intervene effectively and increase delivery.
- 3.2.9. Communities will be encouraged to support improved human settlements and social cohesion and solidarity amongst all the stakeholders in the mining industry.
- 3.2.10. Initiate a process to transform the migrant labour system.

3.3. *Business commits to:*

- 3.3.1. Work with government and labour to identify and address factors behind workplace conflict.
- 3.3.2. Improve internal security measures and consistently implement them at workplaces
- 3.3.3. Negotiate in the workplace and the industry in ways that support long-term development and constructive, peaceful labour relations.
- 3.3.4. Assist with resources and technical support for upgrading human settlements around mining towns.
- 3.3.5. Support a constructive and sustainable adaptation to the current economic realities, maintaining and growing investment, production and employment as far as possible.
- 3.3.6. Assist workers with financial literacy and financial planning.
- 3.3.7. Adhere to regulatory compliance.
- 3.3.8. Support the process to transform the migrant labour system.

3.4. *Labour commits to:*

- 3.4.1. Help to manage workplace conflict by identifying and dealing with its root causes, and by ensuring that members know about this agreement and initiatives to bring about real change.

- 3.4.2. Support the changes in labour relations at the workplace and sectoral level needed for more constructive, peaceful and representative bargaining and dispute settlement.
- 3.4.3. Negotiate in the workplace and the industry in ways that support long-term development, and work with members to end violence and avoid stoppages.
- 3.4.4. Education of workers on labour relation legislation, company policies and acceptable practices for workplace conduct.
- 3.4.5. Work with Government and Business to improve investor sentiment.
- 3.4.6. Work with Government and Business in developing community and residential areas near the mines.
- 3.4.7. Support the process to transform the migrant labour system.

4. Ensuring Security, Law and Order

- 4.1. It is important to ensure that law and order prevails and that persons and property are protected so as to provide a conducive environment for development.
- 4.2. Parties reaffirm their commitment to the Framework for Peace and Stability in the Mining Industry that was signed on 25 February 2013.

4.3. Government commits to:

- 4.3.1. Act decisively to enforce the rule of law, maintain peace during strikes and other protests relating to labour disputes, ensure protection of life, property and the advancement of the rights of all citizens, including crime prevention measures.
- 4.3.2. Ensure that law enforcement agencies act in a manner that is fair, impartial and objective and that all care is taken to protect life and property.
- 4.3.3. Put in place adequate and appropriate capacity in the form of detectives and specialist prosecution teams to prosecute cases on violence, intimidation, assault and murder.
- 4.3.4. Prioritise the investigation and finalisation of cases arising from lawlessness in and around mining areas, in appropriate designated courts.
- 4.3.5. Take measures to stop the carrying of weapons during protest action or strikes.
- 4.3.6. Enforce municipal by-laws related to gatherings and demonstrations.

- 4.3.7. Establish a Mine Crime Combating Forum (MCCF).
- 4.3.8. Develop protocols for security and law enforcement in mining areas together with Business and Labour.

4.4. *Business commits to:*

- 4.4.1. Take measures to protect staff members from violence and intimidation and to ensure that security personnel act in accordance with the law at all times.
- 4.4.2. Participate in the Mine Crime Combating Forum (MCCF).
- 4.4.3. Take all legal steps to mitigate against unprotected labour actions.
- 4.4.4. Provide venues for police operations where required.
- 4.4.5. Work with Government and Labour in developing protocols for security and law enforcement in mining areas.
- 4.4.6. Where possible, inform police of all planned and unplanned strikes and protests.
- 4.4.7. Enforce the principle of no carrying or harbouring of any weapons on company property at any time in line with existing laws of the country.

4.5. *Labour commits to:*

- 4.5.1. Support on-going interventions that would address workplace conflict and build cordial industrial relations at a sector and firm level.
- 4.5.2. Denounce violence and take active measures to eliminate violence and intimidation.
- 4.5.3. Work with law enforcement authorities to prevent labour disputes from becoming violent, including informing the police timeously of any protest or strike action that could potentially require policing.
- 4.5.4. Participate in Mine Crime Combating Forum (MCCF) and enable MCCF engagement with mining communities.
- 4.5.5. Respect the rule of law and all due processes addressing criminal activity.
- 4.5.6. Desist from violence, intimidation and murder and actively discourage members from taking the law into their own hands; to prevent single incidents from spiralling out of control.

- 4.5.7. Condemn and prevent the carrying of weapons during strike action and take reasonable measures to ensure that members do not carry weapons during strike action.
- 4.5.8. No carrying or harbouring of any weapons on company property at any time in line with existing laws of the country.
- 4.5.9. Adhere to legal procedures for marches and protest action.
- 4.5.10. Ensure that there will be peaceful demonstrations and respect for people and property.

5. Strengthening Labour Relations

- 5.1. It is the right of workers to join unions, to declare disputes, to strike and to engage in any form of peaceful protest. These rights must be practiced in accordance with the law. The rights of others to similarly engage in such activities must be recognised.
- 5.2. The Labour Relations Act (LRA) lays the primary foundation for labour relations in South Africa. This would require more active labour market policy intervention that supports organised and improved collective bargaining structures at a sector and at workplace level in line with the objectives of the LRA.
- 5.3. The principle of majoritarianism remains one of the main pillars in the construct of our labour market regulatory system. The stakeholders in the labour market have lived with this principle for many years. While it has served the system of our industrial relations very well, some have raised concerns of its unintended consequences including but limited to the possibility that it may infringe on the constitutional rights of other organisations and individuals' freedom of association. These concerns warrant a need for evaluation.

5.4. Government commits to:

- 5.4.1. Work with Business and Labour to resolve issues speedily through existing legally mandated institutions.
- 5.4.2. Advocate speedy resolution of labour disputes in the best interest of members and South Africa.
- 5.4.3. Work with Business and Labour to fast-track resolution of disputes over membership status, verification of membership figures and recognition agreements.

- 5.4.4. To stabilise the current labour relations environment through working together in developing a protocol for verification of union membership.
- 5.4.5. Government will work in partnership with Business and Labour to develop capacity of union leaders and workers on labour relations matters.
- 5.4.6. Working with Business and Labour, government will explore various instruments to address any possible unintended constitutional consequences in the application of the majoritarian principle including but not limited to introducing an instrument in law to balance the exercise of the majoritarian principle in a manner that does not unfairly prejudice other parties, if found appropriate.

5.5. *Business commits to:*

- 5.5.1. Respect the rule of law and the legal framework in labour relations matters.
- 5.5.2. When taking decisions, to take account of the broader context in South Africa, in particular the need to reduce poverty, inequality and unemployment.
- 5.5.3. To respect agreements and legal obligations concluded through proper forums, chambers, councils and similar forums.
- 5.5.4. Contributes to creating cordial relations between unions in the sector.
- 5.5.5. Employers will follow proper labour relations procedures in the spirit of the law.
- 5.5.6. Resolve labour disputes as speedily as possible in best interest of members and South Africa.
- 5.5.7. Commit to the development of a pre-negotiations framework.
- 5.5.8. Recognise cultural diversity in the workplace.

5.6. *Labour commits to:*

- 5.6.1. All labour disputes will be managed within the legal framework of the country.
- 5.6.2. Trade unions will respect the rights of employers to take the necessary steps, within the confines of the law, against workers involved in unprotected strike action, violence and intimidation.

- 5.6.3. Resolve labour disputes as speedily as possible in the best interest of members and South Africa.
- 5.6.4. Take responsibility to educate members on labour relations issues.
- 5.6.5. Work with Government and Business to verify membership data and to facilitate recognition agreements that are fair and reasonable.
- 5.6.6. Allow for freedom of association and to respect the right of workers to join any union of their choice without fear, intimidation or violence.
- 5.6.7. Commit to the development of a pre-negotiations framework.
- 5.6.8. Ensure that they have the appropriate infrastructure and practices to adequately represent their members at all times.

6. Roadmap for Future Work

6.1. A number of issues that have been of concern to workers, employers and government cannot be resolved overnight and require in-depth discussion among parties. Over and above existing agreements and commitments, the parties agree to address the following:

6.1.1. Accelerating the implementation of Human settlement interventions.

6.1.1.1. Eight mining areas have been identified for intervention and further categorised into those requiring immediate and urgent intervention. The Rustenburg platinum belt or area was identified as one of those that requires immediate intervention. Partnerships between Government and Business have already been identified in prioritised areas.

6.1.2. Improve workplace relations.

6.1.3. Short-term and medium-term measures to deal with levels of indebtedness of workers, engagement with investors, impact of leadership changes on the sector.

6.1.4. Long-term policy measures will be put in place to support growth and stability and deal with areas contributing to policy. In addition uncertainty in sector regulations, tax policy, improvements to labour sending areas and re-skilling of workers, among others will be addressed.

6.2. Possible Short-Term and Medium-Term Sector Measures

6.2.1. Stakeholders will work jointly to identify sustainable support measures required for the sector.

6.2.2. Government will undertake an assessment of economic and social conditions in surrounding and labour sending areas.

- 6.2.3. Government will ensure that the legislative and regulatory programmes provide predictability and certainty for the industry.
- 6.2.4. Business to inform individual employees upon receipt of emolument garnishee orders and consider steps to assist employees who are highly indebted.
- 6.2.5. Government to take steps to prevent the abuse of workers by unscrupulous micro-lenders, including reviewing the regulations around salary deductions and garnishee orders.
- 6.2.6. Stakeholders will engage actively with local and foreign investors to ensure that South Africa remains an attractive investment destination.

6.3. Possible Long-Term Sector Measures to Support Growth and Stability

- 6.3.1. The process for the annual assessment of the implementation of the Mining Charter must take place, with regular and inclusive communications.
- 6.3.2. All stakeholders must participate in the development of the long term strategy and support initiatives for necessary restructuring and re-skilling of workers to achieve competitiveness, sustainable growth and transformation of the mining industry.
- 6.3.3. Government to enhance an environment supportive of investment.
- 6.3.4. Stakeholders to review the culture introduced to mining communities by the migrant labour system.
- 6.3.5. Improvement of socio-economic conditions in labour sending areas.

6.4. Implementation Structures

- 6.4.1. Stakeholders recognise the criticality of proper implementation and coordination, combined with monitoring and evaluation regarding agreed deliverables.
- 6.4.2. To ensure more consistent implementation and common action to address blockages and new issues as they arise, the parties will therefore:
 - 6.4.2.1. For the next 12 months, meet on a quarterly basis, convened by the Deputy President.
 - 6.4.2.2. The Mining Industry Growth and Development Task Team (MIGDETT) will be charged with on-going support for implementation of the commitments made here, as well as supporting communication of progress and requirements to the

constituencies. This will require expansion of the current composition of MIGDETT, especially at sub-committee level.

7. Communication

- 7.1. All the parties will report back to their members on a regular basis so as to ensure broader understanding of the progress and challenges faced.
- 7.2. Parties further commit to act together to promote South Africa in the national interest, including investor relations management when required.

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