

## **Hendrik Schmidt: State intervention in the mining sector is doomed to fail**

Honourable Chairperson

State involvement in the mineral sector is doomed to fail. Alexkor and the African Exploration, Mining and Finance Corporation (AEMFC), which is still affiliated to the Central Energy Fund, despite previous undertakings to spin it off, are prime examples of government inefficiency and bureaucracy – not to mention other failing state institutions such as Eskom, SAA and SABC.

Despite the Minister's assertions last year, the State-owned Mining Company or "SOMCO" Bill, has still not been tabled in Parliament. This has contributed to uncertainty – in particular government's intended roll as a referee and player.

Insofar as the Mineral and Petroleum Resources Development Act was intended to transform the industry and to create opportunities for formerly disadvantaged individuals, it has failed.

The Department strangely alleges that no figures are readily available to assess the impact of the Act. This is a veiled admission of failure by the department as these figures ought to be available at the drop of a hat.

Maybe they are, but it appears that the Department is too ashamed to make these figures known. With the introduction of the SOMCO, any intended benefit to historically disadvantaged South Africans will once again be threatened by the State's direct involvement in the mining sector. Clearly, government needs to acknowledge that the socialist, if not communist ideas, in the State Intervention in the Minerals Sector or SIMS report of 2010, are doomed to fail.

It is not the State's role to be a miner, it should not have the funds nor the appetite to venture into high risk mining endeavours which only provide returns many years down the line. Or does the Government intend to exploit the intended social responsibility benefits for its own gain? It has done so in the past with the deprivation of mineral rights from private owners.

The problem is, Honourable Minister, where will the government stop in its attempt to gain control? Will it stop with a 51% ownership requirement of mines, like in Zimbabwe? Or the imposition of "free-carried interest" (read "for nothing") which reared its ugly head in the MPRDA amendment bill adopted last year in a process that can only be described as the biggest shamble in the adoption of any bill thus far? Or by possibly 100% State owned mines crowding out private enterprise?

We need proper legislation, regulatory certainty, effective and speedy administration by the Department, aimed at attracting investors to invest the R1 billion rand required for exploration to unlock SA's 3.5 trillion US dollars value in minerals for the ultimate benefit of all who live in our country.

I thank you.

---

**James Lorimer:**[Policy uncertainty on mining leaves investors and SA twisting in the wind](#)

On the face of it, the Department of Mineral Resources looks to be quite well run. It has returned to an unqualified audit status. It talks a good case of how it is tackling its challenges and puts forward a rosy future, within even the next few months.

But to truly assess this department we have to look at how well the mining sector is faring in South Africa. Is it a place where investors can put their money with a credible belief that there is a worthwhile prospect of good returns? Is it delivering on its promise of improving the lives of all South Africans? Are the reports presented by the department credible?

There is reason to question the credibility of the department's reporting. About seven months ago I went to see for myself the effect of the widespread open-cast coal mining in Mpumalanga. One of the mines I visited was the Welgelegen Shanduka pit. This great scar in the earth, ripped through the middle of prime planting land is surrounded by the man-made mountains of discard. One of those artificial mountains, more than 50 metres high was burning on top. Coal dust is flammable so it's not uncommon for these fires to begin. The local resident I was with told me it had been that way for months. These fires pollute the air with choking fumes that invade the homes of those living nearby, should the wind be in the wrong direction. These fires are a health hazard, out of control and hard to put out.

So I asked a written question as to whether the Department was keeping tabs on these coal mine fires, both underground and above ground. Here's the answer:

**"There are no runaway fires at mines operating underground and opencast coal mines and coal waste dumps."**

I went back ten days ago and climbed that dump. Seven months since I was there and it was still on fire.

The Glissa coal mine near Belfast is still on fire. The fire is burning in buried discard and undermining heritage gravesites. There's also a fire at the nearby Vogelstruispoort mine. How many more coalmines have fires that can't be put out? Some have been burning, unstoppable for generations, like the old Transvaal and Delagoa colliery near Emalahleni, burning underground since 1953?

How does the Department think it can get away with such falsehoods? Do they not know what's going on? Does top management never visit these mines? Or are they so contemptuous of parliament they think they can answer how they like?

It begs the question, if the Department does not tell the truth when answering questions from Parliament, what else are they not telling the truth about?

There's also a lack of good administration in the sense that issues are not being dealt with properly.

In last year's debate I pointed out the Department was not following the proper processes to settle a dispute in the Northern Cape. That's where a company called Aquila applied for mining rights after spending R150 million proving the existence of Managenese deposits, only to be told a state owned mining company had been giving prospecting rights over the same area.

The minister then said, and these were his actual words, "The matter of Aquila Resources is on my desk. I will attend to it as a matter of urgency. We do not have time to waste; we have to get the country working."

Fine sentiments, but nothing was solved and now the Chinese owners of Aquila have taken the Department to court. How much money will be wasted on legal fees? Even worse, how much potential investment will go elsewhere because our mining regime has no credibility?

Then there's oil and gas. Shell was ready to pour billions of Rands into South Africa. But now they have reduced their office here from 42 people to 3, because they could no longer justify the expense of waiting for this government to provide a realistic regulatory framework.

There's promise after promise but no action. It seems this government has put new energy development on hold so it can pursue a dodgy nuclear deal with Tsar Vladimir, the neo-Imperialist who will make the ANC far richer than even the Chancellor House/Medupi contract did.

Disappearing investment shows our mining jurisdiction has little credibility with investors.

What about the workers? This government was warned about the Diamond Amendment Act. Nonsense, said the ANC, you're just protecting white privilege. We know how that turned out. Cutters and polishers down from thousands to hundreds. Some 24 thousand people working in the small diamond mine part of the industry down to less than five thousand. More rules, but less work. How credible is that piece of legislation with the workers who lost their jobs?

The Diamond and Precious metals Regulator, funded by this budget, admitted the other day that they don't share the Department's database, or SARS' database. That means some mines are not registered and are selling diamonds. So some parts of the industry are fiercely regulated, but others completely ignored. So who chooses who gets ignored? The potential for corruption is enormous.

No credibility.

Despite another forest of rules to direct mine involvement in communities, many mines lack credibility in the communities where they operate. Communities like Xolobeni on the wild coast or the Bapo ba Mogale are campaigning strongly against what they see as a department that is not looking after their interests. The Department has a credibility problem in these communities.

Sometimes it is not the department's fault, it's the fault of confusion and uncertainty in ANC policy. Like the fact that we're still sitting with the destructive MPRDA looming over of the industry.

So why is the process of amending it so slow? We're not really told, but we can deduce, by a process like Kremlinology, that it is because Minister Rob Davies is still fighting to reintroduce developmental pricing, an enthusiasm he pursues with a tireless lack of judgment. We hear Minister Ramatlhodi is standing up against this. If this is true, well done Minister and I hope you win. But in the meantime the industry drifts with no certainty as to whether South Africa will be a good place to invest.

Investment is not good for its own sake, it's good because it creates and sustains jobs.

This lack of credibility with workers, investors, communities and in Parliament is a problem, because it drives away potential investors who cannot then trust the jurisdiction.

How can this be fixed? Very briefly, like this:

- Rewrite the MPRDA so that mining is governed by certain legislation rather than uncertain regulation;
- Write it with the intention of attracting investment;
- Fix procedures so that licensing and investor issues are dealt quickly and professionally;
- Fast track new diamond legislation, and this time listen to the industry;
- And give communities and landowners real power to negotiate with prospective miners.

If the government does this it will allow the industry to grow to where the whole country benefits. If this is not done, investors and citizens will be left as they are now, twisting in the wind.