



**ANGLO
AMERICAN**

Mr. Ngaba Ngcobo
Chairperson of the Portfolio Committee
on Minerals and Energy
National Assembly
90 Plein Street
Cape Town
8000

2 June 2008

Dear Mr. Ngcobo

SUBMISSION ON THE MPRDA AMENDMENT BILL [B10D-2007]

Attached hereto is the Anglo American South Africa (Anglo) representation on the MPRDA Amendment Bill.

Anglo welcomes the opportunity to make its submission in respect of the Bill. We hope that this submission supports and assists Government in ultimately placing on the statute books an Act which, in its final form, balances the interests of the nation and investors.

We request that we be included in the list of interested parties that will make representations in person.

Yours sincerely,



Lindiwe Zikhali-Ngobese
Head of Regulatory Affairs

Anglo Operations Limited

44 Main Street Johannesburg 2001 PO Box 61587 Marshalltown 2107 South Africa
Tel +27 (0)11 638 9111 Internet www.angloamerican.co.uk

Registered Office as above. Incorporated in the Republic of South Africa. Registration Number 1921/006730/06.
Company Secretary D J Afison

Directors P M Baum (Chairman) D D Barber G G Gomwe (Zimbabwean) B Magara (Zimbabwean) N B Mbazima (Zambian) R Médori (French) D J Morris
T M P Phaswana K E Redman (British)

A member of the Anglo American plc group

ANGLO AMERICAN SOUTH AFRICA LIMITED

**Submission on the Mineral and Petroleum Resources Development
Amendment Bill [B10D-2007]**

June 2008

INTRODUCTION

Anglo American South Africa Limited (Anglo) welcomes the opportunity to make further submissions in respect of the Mineral and Petroleum Resources Development Bill [B10D-2007] (the Bill). We hope that this submission supports and assists Government in ultimately placing on the statute books an Act which, in its final form, balances the interests of the nation and investors and promotes the development of mining and processing of minerals in South Africa in a sustainable manner.

ANGLO IN CONTEXT

Anglo American plc is one of the world's largest mining and natural resource groups. With its subsidiaries, joint ventures and associates, it is a global leader in platinum group metals, and diamonds, with significant interests in coal, base and ferrous metals, and industrial minerals. The Group is geographically diverse, with operations in Africa, Europe, South and North America, Australia and Asia, some 64 countries in total. Anglo's South African operations represent a material contribution to the business of the Group and generated 45% of the Group's operating profit in the year ended December 31, 2007. Anglo is the largest private sector investor in South Africa. Accordingly, Anglo has taken a direct interest in the Bill's developments.

The following is an evaluation of, and commentary on, certain aspects of the Bill, as well as some suggestions on how the Bill can be amended to address the possible negative effects of the Bill without, in our view, adversely affecting Government's objectives.

Our submissions on the Bill are outlined below.

GENERAL PROVISIONS

Clause 8(a) – Amendment of section 11 of Act 28 of 2002

Anglo reiterates its previous submission on the requirement that any change of interest in an unlisted company which holds a prospecting right or mining right requires written approval by the Minister. The proposed amendment will add further delays to decision-making in the mining industry, and may lead to unintended consequences.

It is submitted that the current wording of section 11(1) be retained. Alternatively, the provision could be extended to include approval for a reduction in BEE equity ownership below that which pertained at the time of granting or conversion of mineral rights.

Clause 13(e)(b) – Amendment of section 17 of Act 28 of 2002

A new concept of concentration of mineral resources is introduced in this section. However, the concept is not defined.

It is submitted that a clear definition of concentration of mineral resources is inserted in the Act to eliminate ambiguity and uncertainty.

Clause 13(f) – Amendment of section 17 of Act 28 of 2002

Reference is made to conditions that the Minister may impose regarding the participation of the community. It is suggested that the conditions to be imposed by the Minister be set out in the Act. The Act should also provide for consultation with the applicant on viable options to facilitate community participation, and to provide an opportunity for the applicant to present to the Minister the extent to which participation by the community has already been facilitated, where this has been achieved. The Act must also provide for community participation in the mineral resources industry to be on a commercial basis.

It is submitted that conditions to be imposed by the Minister be set out in the Act, and that community participation be facilitated on a commercial basis. It is also submitted that the applicant should be consulted on viable options to facilitate community participation, and to provide an opportunity for the applicant to present to the Minister the extent to which participation by the community has already been facilitated, where this has been achieved.

Clause 14(b) – Amendment of section 18 of Act 28 of 2002

Anglo reiterates its previous submission that the proposed additional requirement for a certificate issued by the Council of Geoscience to be included in the requirements for the application for a renewal of a prospecting right is burdensome, and will lead to further delays in the renewal of the right.

It is submitted that this provision be deleted in its entirety.

Clause 22(b) – Amendment of section 26 of Act 28 of 2002

Anglo recognises the need for Government to facilitate the beneficiation of minerals to enable the development and growth of certain skills and industries. However, when prescribing levels of beneficiation, the Minister should also take into account existing beneficiation efforts by the mining industry, and not seek to deviate mining companies from their core business – which is mining.

It is submitted that current beneficiation efforts be recognised and acknowledged.

Clause 34(h)(9),(10) and (11) – Amendment of section 43 of Act 28 of 2002

Anglo reiterates its previous submission regarding cumulative impacts.

It is submitted that cumulative impacts should be considered upfront, and not at mine closure stage. It is further submitted that proposed sub-paragraphs (9), (10) and (11) be deleted, and sub-paragraph (12) should be amended accordingly.

COMMENTS ON DRAFTING

1. Clause 1(c) - reference to "competent authority" should be amended to "community".
The proposed definition of "community" should be amended to read as follows:

"community" means a group of historically disadvantaged persons with interest or rights in a particular area of land on which the members have or exercise those rights communally in terms of an agreement, custom or law: Provided that where as a consequence of the provisions of this act, negotiations or consultations with the community is required, the community shall include the members or part of the community directly affected by mining on land occupied by such members or part of the community.
2. Clause 1(j) - definition of "exclusionary act" should be deleted.
3. Clause 1(n)(b)(i) - reference to "subsection (i)" should be amended to "subsection (a)".
4. Clause 1(n)(b)(iii) - reference to "subsections (ii)(a) and (ii)(b)" should be amended to "subsection (b)(i) and (b)(ii)".
5. Clause (s) - definition of "Registrar" should be inserted after the definition of "Regional Mining Development & Environmental Committee".
6. Clause 14(c) - the words "compliance with the" should be deleted.
7. Clause 20(b) - numbering of the paragraph should be amended to (d), instead of (c).

8. Clause 25 - it is not clear why reference to section "21" is deleted. The reference should be retained, as section 21 of the Act remains in force.
9. Clause 28 - the phrase "the granting of such right will" is different from that contained in the Act, yet it is not underlined to indicate amendment of an existing provision. Wording contained in the Act should either be retained or its amendment be clearly indicated.
10. Clause 32(e) - the words "of potential" should be inserted between "management" and "pollution".
11. Clause 32(h) - the proposed sub-paragraph (8) should be amended to read as follows:
"Procedures and requirements on mine closure as it relates to the compliance with the conditions of an environmental authorisation, are prescribed in terms of the National Environmental Management Act, 1998."
12. Clause 32(h) - "of" should be inserted in the proposed sub-paragraph (13)(c) between "holder" and "a permit".
13. Clause 36(a) - the word "results" should be amended to "result".
14. Clause 37(a) - the following phrases should be underlined, as they are not contained in the existing provisions of the Act:

"to address any contravention in the environmental authorisation";

"the holder of an old order right or the previous owner of works";

"in consultation with the Minister of Environmental Affairs and Tourism".

15. Clause 40(b) - reference to "subsection (2)(b)" should be amended to read "subsection (3)(b)".
16. Clause 53(d) - the word "accept" should be amended to read "accepts".
17. Clause 54 - the additional word "operation" in paragraph (a) should be deleted.
18. Clause 66(b) - the phrase "during office hours" should be inserted at the beginning of the paragraph (b).
19. Clause 69(b) - the proposed amendment of paragraph (c) of section 98 of the Act is not in line with the current wording of section 26(3), which requires provision of a written notice or consultation with the Minister. Existing wording in section 98(c) should be retained.
20. Clause 102(2)(b) - the phrase "unless the omission of such area or share was a result of the administrative error" should be moved below so as to apply to both subparagraphs (a) and (b).
21. Clause 86(a)(5) - reference to sections 38 and 41(2) should be deleted, as the sections are repealed in terms of this proposed amendment Bill.