

# SUMMARY

## SADPO POSITION PAPER ON SOUTH AFRICAN ARTISANAL AND SMALL-SCALE DIAMOND MINING POLICY FRAMEWORK

### INTRODUCTION

SADPO is a non-profit organization that seeks to streamline and promote the alluvial and smaller diamond mining industry, and officially recognizes marine diamonds as being alluvial diamonds. Currently SADPO represents more than 60% of the current legal alluvial and small Kimberlite diamond miners of South Africa. This document summarizes SADPO's position on the steps required to rejuvenate the artisanal, small, and junior diamond mining sectors in South Africa.

### DEFINITIONS

As per Table 1, attached hereto, SADPO would suggest defining the Artisanal and Small-Scale Mining (ASM) grouping into three categories and to include the very important exploration and prospecting side of our industry, with the following added:

- Artisanal miner – employing 10 persons or less per shift per operation;
- Small scale miner – employing 25 persons or less per shift per operation;
- Junior miner – employing 50 persons or less per shift per operation;
- Prospecting operations – employing 35 persons or less per shift per operation.

### 1. CURRENT STATE OF THE SMALL SCALE AND JUNIOR DIAMOND MINING INDUSTRY IN SOUTH AFRICA:

Two independent studies (Farrell, 2012 and Dlakavu, 2020) have found that there has been a significant decrease in the number of operational companies within the South African small scale and junior diamond sector. According to Dlakavu (2020) there were 2000 companies operational in 2012. This number has dropped to 200 in 2020. An estimation of around 20 000 jobs were lost during this period particularly in rural communities where unemployment is rampant. The reason for this has been cited as mining legislation that makes possible investment into this sector difficult and unfeasible.

### 2. THE SADPO POSITION ON POLICY CHANGE:

SADPO proposes the allocation of appropriate mining permit parameters for artisanal, small-scale, and junior diamond miners, respectively. In addition, SADPO also proposes changes to legislation that governs the issuing of Prospecting and Mining Rights for alluvial diamonds specifically to enable much needed investment. These changes would make the process more transparent and virtually corruption proof. It would also instantly broaden transformation initiatives and strengthen the empowerment and development goals of the MPRDA in a more practical and achievable manner.

These different Permits/Rights and their suggested regulatory parameters are summarised in Table 1 (end of document).

### 3. THE DIAMOND SECTOR DEVELOPMENT FUND:

A blanket statutory contribution towards a Diamond Mining Development Fund ("DMDF"), calculated based on turnover is proposed. This statutory contribution should be applicable to all the permits/rights.

The impact that this Development Fund could have is illustrated below, based on the R12billion turnover of South African diamond mines for 2019 (KPC Stats), of which 25% is generated by the alluvial and small mines.

- 3.1 R12.0 billion x 25% = R3.0 billion ÷ 200 operations = average turnover R15 000 000/operation p/a (KPC STATS)
- 3.2 Average profit margin of the alluvial operations is +/- 5% of turnover = R750 000p/a
- 3.3 Contribution to DMDF of 2% of on average turnover of R15 000 000 = R300 000 per operation per annum
- 3.4 BBEE of 30% in each of these operations = R225 000 p/a

**Table 2: Comparison of the current contribution of a small diamond mine toward BBEE compared to the proposed Development Fund contribution.**

	<b>BBEE</b>	<b>Proposed Development Fund</b>
<b>Calculation Basis</b>	30% of profit	2% of turnover
<b>ZAR Contribution per annum</b>	R225 000	R300 000 (+R225 000 from Government contribution on a Rand for Rand basis)
<b>% of Profit</b>	30%	40% (70% including Gov contribution)

The SADPO proposal therefore suggests 2% of turnover (R15 000 000) which equates to R300 000 towards BBEE and SLP requirements. Note that this equates to 40% of profit and is significantly more than current BBEE contributions. By pro-actively building resources in the Development Fund SADPO's proposal aims to facilitate the advancement of empowerment objectives for an industry constrained by a lack of funding.

Due to the nomadic nature of the alluvial diamond mining industry, the current Social and Labour plan model has failed.

SADPO proposes a replacement of current Social and Labour Plan contributions and all communal responsibilities. It is proposed that 25% of the contribution to the Small Diamond Miners Development Fund should be allocated towards regional social needs (**All the training of own employees remains the responsibility of the employer/permit/right holder**). This may include the funding of the supplier development imperative as well as capital projects for the benefit of the communities. This would ensure meaningful sustainable development of Social and Labour projects in rural areas.

This would ensure the total production contributed by these sectors contributes to transformation of the artisanal, small scale and junior mining development. It also solidifies sustainability of these sectors and that the optimum contribution is being made towards economic growth.

#### **4. SADPO PROPOSAL ON ILLEGAL MINING:**

All mining activity which takes place without a permit issued by the relevant authority, constitutes illegal mining.

SADPO proposes reviewing current methods of regulation by targeting the leaders of illegal of mining syndicates over the individual miners who form a part of it. It also proposes the strengthening of regulatory compliance by the South African Diamond and Precious Metals Regulator (the Regulator) through collation with the South African Police Service. [MARTIN, 2019].

The SADPO policy change proposals are aimed at facilitating collaboration and co-existence across the different sectors within diamond mining. It is also aimed at ensuring the effective collaboration between all relevant stakeholders and the removal of all criminal activity that currently confounds efforts to advance growth within smaller diamond mining sectors.

#### **5. SADPO PROPOSAL ON INSTITUTIONAL AND SUPPORT MECHANISMS:**

The Council for Geoscience and MINTEK should be restructured to provide meaningful information and technical support to small diamond miners at no cost. **A modern, real-time, and transparent cadastre system** is fundamental to the successful working of a robust Artisanal, Junior and Senior Mining Sector and should be a priority intervention by the DMRE.

#### **6. SADPO PROPOSAL ON ENVIRONMENTAL MANAGEMENT, WATER USAGE AND HEALTH AND SAFETY:**

A simplified and Risk based application and monitoring system for Environmental Management and Water used should be implemented. In respect of artisanal mining, small-scale mining, junior mining and prospecting permits, the proposal is that all applicable regulations must be risk-based and confirmed by a risk analysis.

#### **7. SADPO PROPOSAL ON TAXATION AND ROYALTY REGIME:**

The three smaller mining permits discussed herein as well as the Prospecting Permit, must be exempt from the provisions of the current Mineral and Petroleum Resources Royalty Act (Act No 28 of 2008) and the Mining Charter.

#### **8. SADPO PROPOSAL ON REPORTING:**

SADPO proposes the avoidance of onerous administrative burdens on all the above-mentioned permits and rights. Considering their limited resources smaller diamond mining sectors, are neither in a position to afford the compliance costs associated with extensive reporting requirements, nor

are they able to readily access the knowledge, and skills required for them to comply. User friendly applications should be provided for tracking and reporting basic information to the DMRE.

## **9. SADPO PROPOSAL ON ENFORCEMENT:**

As has already been indicated in the SADPO proposal on illegal mining, enforcement agencies must be adequately equipped to ensure that all mining happens within the legal framework. In this regard SADPO proposes the enhancement of capacity in the Regulator and other Law Enforcement Agencies, to ensure the monitoring of compliance and regulation is achieved successfully.

## **10. SADPO POSITION ON BENEFICIATION AND THE STATE DIAMOND TRADER:**

SADPO recognizes South Africa's objectives relating to beneficiation, particularly as recorded in the National Development Plan, and strives to contribute to the advancement of these objectives. Based on the realities of the alluvial diamond mining business, SADPO invites engagement with the DMRE and other key stakeholders on possible methods to practically contribute to the collective objective of advancing beneficiation. It is however critical to understand that certain populations of diamonds, specifically those produced by alluvial diamond mines, are generally only of interest to foreign companies.

Currently 15% of value that must be beneficiated to qualify for exemption of the 5% export levy, it is proposed that this percentage of value be decreased to 5% for exemption qualification for alluvial diamond mines as it is more achievable and could potentially lead to a greater availability of diamonds to local benefactors.

The SADPO proposal is that all mining/right holders must register their production cycle with the State Diamond Trader (SDT). Thereafter a certificate must be issued by the SDT within two days upon being notified of their volume production for that specific cycle irrespective of whether the SDT has viewed their production.

## **11. CONCLUSION:**

SADPO welcomes the opportunity to contribute to the DMRE's review of policy regulating the artisanal and small-scale diamond mining industry. It is eager to offer input on measures to advance the sustainability of this industry as well as support the viability of livelihoods of millions of people whose lives are adversely impacted by current exclusions from the diamond mining regulatory framework.

Through this position paper, SADPO hopes to achieve the following: engage in an exchange of ideas and opinions with key stakeholders who can apply themselves to relevant issues and provide active participant in engagements. It also hopes to achieve the necessary awareness needed to stimulate engagement in previously overlooked areas which then enacts expansion in participation.

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**Table 1: Permit types proposed by SADPO to rejuvenate the ASM and Junior Diamond Mining Sector in South Africa**

Permit/Right Type	Size	Duration	Equipment Used	Application Process	BBBEE	SLP Contribution	Water Right	Rehabilitation Guarantee
Artisanal Mining Permit	<5 ha	2 years	Pick and Shovel	Simplified - Tick Box 30 Days to Approve/Reject after acceptance	Contributes 2% of turnover to Development Fund	Incorporated in Development Fund Contribution	Issued by DMRE	None
Small Scale Mining Permit	<45 ha (Rooikoppe)	3 years Renewable 2years	Small mechanised	Simplified - Tick Box 60 Days to Approve/Reject after acceptance	Contribute 2% of turnover to Development Fund	Incorporated in Development Fund Contribution	Issued by DMRE (5000m3/mnt h)	Based on size of operation and applicant's history
Junior Mining Permit	>45 ha	5 years renewable 2 years	Medium Mechanised	Simplified 120 Days to Approve/Reject after acceptance	Contribute 2% of turnover to Development Fund	Incorporated in Development Fund Contribution	Issued by DMRE (7500m3/mnt h)	Based on size of operation and applicant's history
Prospecting Right	Determined by deposit	Determined by size to be prospected	Determined by Deposit	120 days after Approve/Reject acceptance	Contribute 2% of turnover to Development Fund	None	Issued by DMRE (7500m3/mnt h)	Based on size of operation and applicant's history
Mining Right	Determined by deposit	Determined by deposit	Determined by Deposit	180 days after Approve/Reject acceptance	12,5 % BBBEE on issuing of Right – 5 years to achieve full compliance (26%). Pay 2% of turnover to Development Fund until full compliance is achieved, then 1%)	Incorporated in Development Fund Contribution	Issued by DWAF	Based on size of operation and applicant's history