“Making illegal mining – legal”: The case of South Africa

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Who is CSMI?

Our focus is responsible mining in Africa

We **train** practitioners and leaders, equipping them to manage the sustainability challenges of Africa’s mining sector.

We are a highly-networked centre for applied **research** and **analysis**, providing strategic advice, customised studies, and regulatory and policy reviews in health and safety, environment and socio-economic development.

We are an independent, authoritative space for **dialogue** on how to manage mining development more responsibly.

Centre for Sustainability in Mining and Industry

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**University of the Witwatersrand**

**Johannesburg**
Discussion points

- Background and context
- Global landscape of ASM
- The case of South Africa
- ASM and formalisation
- African Mining Vision
- A proposed framework for ASM
- Conclusion
Background and context

- There is no universal definition of ASM
- The difficulties stem from the fact that the circumstances from which ASM activities originate differ from country to country – historical, cultural, social, economic etc.
- Each country has a context-specific definition

<table>
<thead>
<tr>
<th>Country</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cote d'Ivoire</td>
<td>Level of mechanization</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>Annual production, level of mechanization</td>
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<tr>
<td>Ghana</td>
<td>Capital investment, number of participants</td>
</tr>
<tr>
<td>Guinea</td>
<td>Type of minerals exploited</td>
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<tr>
<td>Senegal</td>
<td>Depth of working, crude production levels</td>
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<tr>
<td>Tanzania</td>
<td>Capital investment, labour and technology requirements</td>
</tr>
<tr>
<td>Zambia</td>
<td>Size of concession</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>Size of concession, capital investment</td>
</tr>
</tbody>
</table>

(Source: Economic Commission for Africa, 2002)
Background and context (cont.)

(Source: CSMI, 2016)
Background and context (cont.)

Framework for ASM tolerance (Source: CSMI, 2016)

Police arrest illegal miners at George Harrison Park in Langlaagte. Image by Mark Olalde
Global landscape of ASM

- ASM contribution to mineral production:
  - 10 per cent of the world’s mined gold
  - 15-20 per cent of mined diamonds
  - 20-25 per cent of mined tin and tantalum
  - 80 per cent of coloured gemstones

Source: International Institute for Environment and Development (IIED)
Global landscape of ASM (cont.)

Estimate of 9 million ASM workers in Africa, making this by far the largest mining workforce on the continent. ~50% of them are women. Source: PACT, 2008)
The case of South Africa

ASM opportunities

- Low value minerals
- Industrial minerals
- Construction materials
- Gold, diamonds

- Sector employs between 10,000 and 30,000 people
- ASM activities widespread across the country
- Majority of ASM activities take place outside the legal framework
- The bulk of ASM activities exploit low value minerals
- There are ASM operators that mine high value minerals
- ASGM in South Africa is concentrated in Zama-Zama mining
The case of South Africa (cont.)

- Zama-zama is a local term meaning “we are trying” and is used to describe illegal artisanal miners that work mostly in abandoned and disused shafts in South Africa.
- Zama-Zama mining is often linked to people that have been employed in LSM and would include those that have been retrenched.

**Quick Facts**

- 70% of all arrested illegal miners are illegal immigrants.
- 14,000 people estimated to be involved in illegal mining.
- R6 billion annual value of illegal mining.

*Source: Chamber of Mines, 2016*
The case of South Africa (cont.)

- The association of Zama-Zama mining activities with criminality and organized syndicates

(Source: Johnson, 2016)
Govt to ‘amend and relax’ laws for small-scale miners in bid to combat illegal mining
ASM and formalisation

**Formalisation:** Process of integrating illegal mining activities into the legal and formal economic systems by recognizing local arrangements in legislation, reducing barriers to legalisation and creating clear benefits from participation in the formal system (McQuilken and Hilson, 2016)

- **Recognition of ASM**
- **Inclusion in existing mining legislation**
- **Development of specific ASM laws**
- **Establishment of support frameworks**
- **Provision of extension services**

**South Africa**
- Recognition of the sector in 1994
- Mineral and Mining Policy in 1998
- National Small-Scale Development Framework in 1999
- NSC framework in 2000
- MPRDA in 2004
- SSM Directorate in 2004
- SSMB in 2006
- Other parallel initiatives
ASM and formalisation (cont.)

Policy and legislative gaps
Costly and onerous processes
Top-down approaches
Poor understanding of the sector
Misaligned interventions
ASM and formalisation (cont.)

- MPRDA does not cater for the needs and spectrum of ASM activities
- Pro-large scale mining
- Requirements costly and onerous

<table>
<thead>
<tr>
<th></th>
<th>Mining permit</th>
<th>Mining right</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Definition</strong></td>
<td>Allows one to conduct mining operations</td>
<td>Allows one to conduct mining operations</td>
</tr>
<tr>
<td><strong>Area</strong></td>
<td>5 hectares</td>
<td>&gt; 5 hectares</td>
</tr>
<tr>
<td><strong>Validity and renewal</strong></td>
<td>2 years renewable 3 times for max. 1 year each time</td>
<td>30 years renewable many times for a max. of 30 years each time</td>
</tr>
<tr>
<td><strong>Special requirements</strong></td>
<td>Consultation, Financial &amp; tech ability, Environmental authorisation (BAR or EIA)</td>
<td>Social &amp; Labour plan, Mining Work Program, Consultation, Financial &amp; tech ability, Environmental authorisation (BAR or EIA)</td>
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African Mining Vision

**African Mining Vision:**

“Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development”

**AMV tenet on ASM:**

“harnessing the potential of ASM to stimulate local and national entrepreneurship, improve livelihoods and advance integrated rural social and economic development and transforming the ASM sector through holistic integrated formalisation programmes”
The ASM sector can be transformed into an engine for sustainable development, particularly in rural areas, if challenges are adequately addressed through a series of well-targeted interventions.
African Mining Vision (cont.)

ASM Triangle of Transformation

SUSTAINABLE LIVELIHOODS

Transition through education, access to finance markets etc.

INFORMAL ASM

Formalisation: Legal, viable, safer, environmentally responsible

FORMAL ASM

Transition through education, access to finance markets etc.

(Source: Mutemeri, 2016)
A proposed framework for ASM

- Recommendations from the SAHRC study (2015)
  - Need to build evidence-base on unregulated artisanal mining sector to build trust and networks in the sector.
  - Research that would provide understanding of the size, share, nature and scope of unregulated artisanal mining sector in South Africa
A proposed framework for ASM (cont.)

The criteria for tolerance:
- Where the illegal activity is taking place in relation to the activities of the rightful owner
- Link to criminal activities, for example gangs and international crime syndicates
- The participants’ willingness to formalisation
- Participants’ willingness to pay taxes and royalties
- Economic contribution to local communities and links to other sectors of the economy
- Health, safety and environmental considerations
- The overall impacts to local communities
A proposed framework for ASM (cont.)

- Options for South Africa

1. Lower the barriers of compliance
2. Increase the support to ASM
3. Alternative options
Conclusion

• South Africa should consider a targeted domestication of the AMV focusing on the ASM and this should include:
  – Baseline for the sector
  – Stakeholder engagement and discussions
  – Development of policy and legislative frameworks and intervention strategies for ASM
Thank you

Any questions?

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