

EARLY VOLUNTARY ADOPTION OF ECONOMIC EMPOWERMENT IN THE MINING SECTOR WILL DRIVE BEST PRACTICES

By Matthias Langheld

Economic empowerment in the Namibian mining sector is currently voluntary. Whilst the Mining Charter provides guidance, it is unlegislated and as a consequence, the sector has to navigate in an environment with some level of uncertainty on empowerment requirements. Implementing an economic empowerment transaction is in all instances a complex matter.

Economic empowerment is a growth strategy which addresses one of the main challenges in Namibia – inequality. Addressing inequality should ideally be achieved through means where the result creates more value than before and not through a mere reallocation of wealth or resources.

Innovative and sustainable solutions

The voluntary adopted Mining Charter specifies that mining companies should offer a minimum of 5% of their shares to previously disadvantaged Namibians. First-comers to empowerment transactions in the mining sector should be able to significantly influence the thinking around economic empowerment by setting benchmarks for innovative and sustainable solutions. These solutions should work for both the company and previously disadvantaged Namibians and should assist Government in achieving the growth objectives for Namibia.

The adoption of the national umbrella empowerment charter, NEEEF, remains on the cards. It was initially set for implementation in 2015, but was postponed due to a number of amendments and further engagement and consultation with industry. With the future implementation of NEEEF it is expected that the Mining Charter will become the mining sector's legislated guideline for empowerment transactions.

The Mining Charter's current minimum requirement of a 5% shareholding is far lower than the national requirement of 25%. This is because of the capital intensity of the mining sector and the expectation that there would not be adequate levels of capital available in Namibia to finance shareholdings in excess of that amount.

Finding the right partner

Implementing an economic empowerment transaction is, in all instances, a complex matter and is unique to each company and situation. Finding a partner or consortium which has a meaningful strategic fit with the local mining company is one of the most critical elements of a successful transaction. The partner's track record, management skills, ability to add value, and shareholder base are all important considerations. Its ability to facilitate the participation of a broad base of Namibian shareholders, including staff, and communities where the mine has its operations, is important to ensure sustainability of the project.

The Ministry of Mines and Energy supports transactions which are broad based and which see real economic participation by empowerment partners such as board and shareholder meeting input, and value transfer over time. The ministry's approval and input is always valuable and crucial to ensure a successful transaction.

Shareholding structuring

Once suitable partners have been found, careful shareholding structuring and funding arrangements are key considerations. Very often vendor facilitation is a requirement which comes as either a cost to shareholders (vendor financing) or the company (leveraging). Because of the technicalities and various elements involved, empowerment transactions are usually time consuming and can take as long as three months or more to implement.

With early adoption of an empowerment transaction, the mining sector has the opportunity to influence the outcome of future empowerment transactions. The time is right for local companies to find the right partners, create the correct structures and ultimately influence Namibian mining in years to come.

Matthias Langheld is an Investment Banker at RMB Namibia. RMB Namibia's team has a deep understanding of the Mining Charter, the New Equitable Economic Empowerment Framework (NEEEF) and how the new economic empowerment rules impact mining companies. RMB Namibia's team offers innovative and optimised solutions to clients in the mining industry.