

Mining BEE tensions

Controversial transformation principle splits sides

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Deliberations about the "once-empowered, always-empowered" principle delayed the signing this week of the mining declaration document, which re-commits the mining industry to accelerating implementation of black economic empowerment (BEE).

The "once-empowered, always-empowered" principle provides that even if black investors sell their shares in a white-owned company, the company does not lose its BEE status. The principle is not included in the new mining declaration document.

South African Mining Development Association (Samda) chairperson Nchaka Moloï said: "The principle was a bone of contention prior to the meeting in which we signed the declaration."

Samda represents junior miners and black-owned mining firms, and was a signatory to the 13-point declaration.

Other signatories were the Department of Mineral Resources (DMR), the Chamber of Mines, the National Union of Mine Workers (NUM),

Solidarity and the United Association of SA (Uasa).

The chamber's spokesperson, Jabu Maphalala, said his organisation had not tried to push the "once-empowered, always-empowered" principle into the declaration document. He said the chamber – the mouthpiece for the R2 trillion mining industry – wanted clarity on some of the wording in the document, but declined to elaborate.

DMR spokesperson Jeremy Michaels refused to be drawn into the matter, saying: "What is important to us is that the agreement has been signed and we want to implement it now."

The declaration was signed after the DMR conducted an extensive review of transformation in the mining industry.

The review, which is yet to be published, shows that 9% of the sector's equity was black-owned last year, some distance from the 15% target set by the BEE charter.

The "once-empowered, always empowered" principle made headlines in 2007 when the Department of Trade and Industry was finalising its BEE

codes of good practice, the blueprint legislation for crafting empowerment deals.

The idea was shot down by black business bodies, who feared that the principle could lead to whites further entrenching their grip on the economy.

A watered-down version of the principle, dubbed the "continuing consequences" principle, was eventually adopted when the codes came into effect in 2008. This principle makes provision for companies to claim up to 40% of the 20 points available for ownership in the BEE scorecard even if empowerment partners have exited.

Uasa's chief operating officer Leon Grobler said government should not get in the way of black investors if they wished to sell their stakes in white-owned firms.

However, his trade union counterpart, National Union of Mineworkers president Senzeni Zokwana, said he supported Mineral Resources Minister Susan Shabangu's stance that mining firms must endeavour to retain their BEE status at all times.