THE RELATIONSHIP BETWEEN LOCAL PROCUREMENT STRATEGIES OF MINING COMPANIES & THEIR REGULATORY ENVIRONMENTS

A COMPARISON OF SOUTH AFRICA AND NAMIBIA

CIRDI
Canadian International Resources and Development Institute

engineers without borders
ingénieurs sans frontières
Canada

MINING SHARED VALUE
An Engineers Without Borders Canada Venture

With financial support of the Government of Canada through
Avec le support financier du government du Canada par l'entremise de

Global Affairs Canada
Affaires mondiales Canada

ACKNOWLEDGMENTS

This research started as an idea between the Canadian International Resources and Development Institute (CIRDI) and the Mining Shared Value (MSV) venture of Engineers Without Borders Canada. CIRDI is focused on improving and strengthening resource governance, specifically prioritizing programs in livelihoods and employment, and MSV is focused on promoting local procurement in the mining sector. Following support from CIRDI, MSV began to form a team of researchers to support the project. SEF Canada Ltd. and the Norman B. Keevil Institute of Mining Engineering at the University British Columbia joined the project and supported the project extensively with data collection and key stakeholder interviews in South Africa and Namibia. This research would not have been possible without the support of many key stakeholders in both South Africa and Namibia, which included representatives from government, the Chamber of Mines, mining companies, suppliers and other supporting actors. We would like to extend our thanks to all the individuals who responded to our request to be interviewed for this research and provided invaluable contributions to support the completion of this study.

Report authors: MSV (Emily Nickerson, Jeff Geipel and Harry James).

Research methods and data collection: MSV (Kanwal Dewan and Emily Nickerson), SEF (Suzette McFaul, Spencer Durant and Javier Nava) and UBC (Dirk van Zyl and Mario Ramirez).

Special thanks to Cecilia Gruber and her team at CIRDI for their ongoing support and guidance.

February 2017

PROJECT LEADS

MINING SHARED VALUE

An Engineers Without Borders Canada Venture

CIRDI

Canadian International Resources and Development Institute

CONTRIBUTORS

SEF SUSTAINABLE ECONOMIC FUTURES

NORMAN B. KEEVIL INSTITUTE OF MINING ENGINEERING

THE UNIVERSITY OF BRITISH COLUMBIA

With financial support of the Government of Canada through
Avec le support financier du government du Canada par l'entremise de

Global Affairs Canada

Affaires mondiales Canada

TABLE OF CONTENTS

EXECUTIVE SUMMARY

Sub-Saharan Africa has one of the largest endowments of mineral resources in the world. However, in most cases, decades of mining activity have not created corresponding advances in social and economic development across the continent. Recent data from the McKinsey Global Institute and others shows that the "resource curse" – the phenomenon whereby countries with significant levels of natural resource production counterintuitively tend to economically perform worse than those without – persists across developing countries with a dependence on extractive industry activity, especially in Africa. One of the central reasons for this "paradox of plenty" across the continent is a relative lack of backwards supply chain linkages between mining activity and local suppliers.

Local procurement of goods and services by mining companies has tremendous development potential for countries in Sub-Saharan Africa and elsewhere. In host countries, purchasing of local goods and services by mining companies creates local jobs, promotes skills and technology transfers, and integrates local companies into global value chains. In most cases, a mining operation will spend more on the procurement of goods and services than tax payments, salaries and wages, and community investment combined. Because of this, ensuring that resource-dependent countries in Africa overcome the resource curse will require that more of the economic benefits of mineral extraction are localized.

To support Sub-Saharan African governments and their stakeholders in their efforts to increase supply chain linkages to hosted mining activity, this research focuses on the relationship between local procurement regulations and mining company practices in the South African and Namibian mining sectors. South Africa was selected as the "primary" country where legislated local procurement regulations have existed for a minimum of two years at the national level. Namibia was selected as the "control" country where no legislated local procurement regulations exist at the national level. This research examines the extent to which comprehensive local procurement regulatory frameworks are effective in making mining companies purchase more locally. Also, this study explores the common factors that influence mining companies when creating local procurement strategies. To provide a reference and to support these research aspects, an overview of development theory is included regarding country efforts to access global value chains (GVCs) and to engage in industrial upgrading. As well, the specific approaches of South Africa and Namibia are summarized.

Empirical evidence on how mining companies engage with regulations requiring local procurement has been relatively absent even amidst dramatically increased attention on local content regulations – this research contributes to addressing this gap.

KEY FINDINGS

Through engagement with the mining industry in South Africa where there are stringent local procurement regulations, and in Namibia where there are not, a number of key insights emerged that policymakers in both countries and beyond can utilize in their efforts to increase economic benefits from mining.

Performance of local procurement regulation in the mining sector to increase local purchasing of goods and services:
The data presented in this study suggests that local procurement regulation is increasing attention to local procurement, particularly when comparing company reporting in South Africa and Namibia. While the sample sizes of companies in both countries were limited, the levels of reporting on local procurement in South Africa by the mining industry compared to Namibia, as well as self-reported figures of local spending, demonstrates there is more emphasis on local procurement as a practice in South Africa. This is not to say that regulations requiring local procurement are the only cause of increased attention to the issue, but the data from this research does show more activity on behalf of mining companies in South Africa than on Namibia.

There are a wide variety of incentives for mining local procurement that exist independent of regulation that merit more attention: Interviews and field research provided insights on the reasoning for mining company efforts to attempt to purchase goods and services locally. While this research suggests that South Africa's regulations are indeed pushing increased local procurement, there are many other influences on company behaviour – and many of them are more impactful than regulation. The desire to keep host communities supportive of their operations was cited in most cases as a major driver of company action to attempt to buy locally. In addition, lowering supply chain costs in the long run was also a driver of action to help local suppliers. Figure 17 below illustrates the various types of incentives found to be affecting mining companies in both countries, independent of regulation.

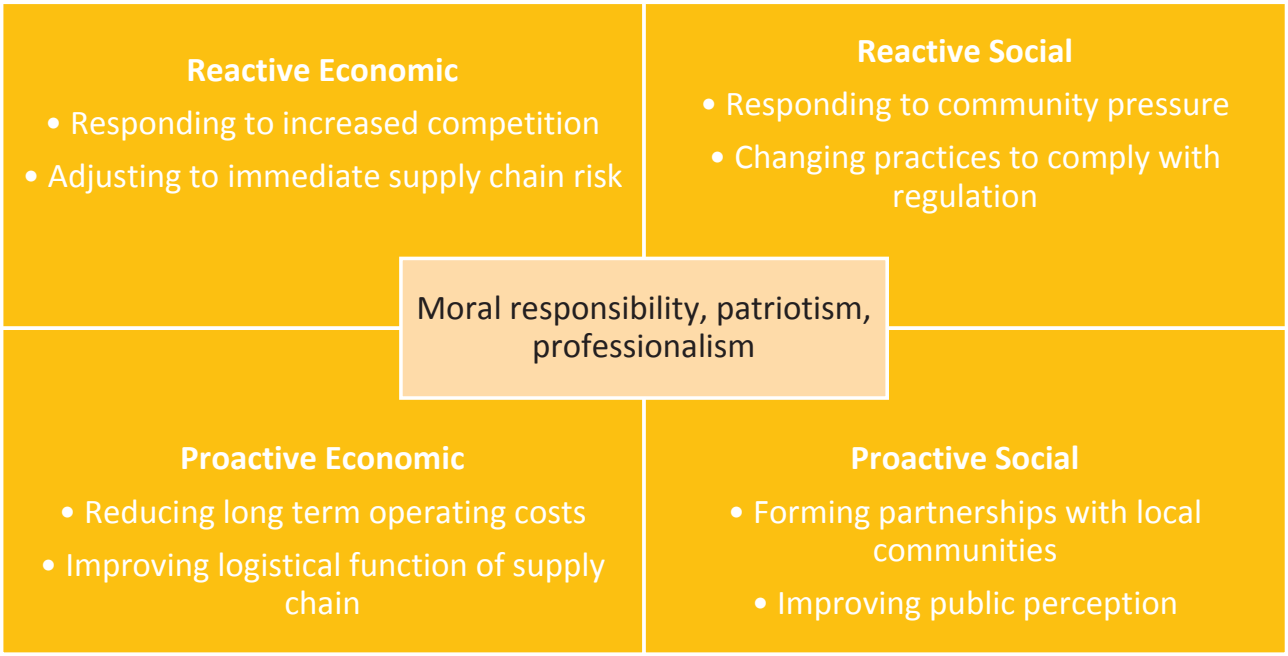


FIGURE 17: COMMON FACTORS THAT INFLUENCE MINING COMPANIES TO DEVELOP THEIR LOCAL PROCUREMENT STRATEGIES IN DIFFERENT WAYS

Regulations without comprehensive capacity-building support for existing and potential suppliers is leading to unrealized potential and tension: While virtually all mining company representatives interviewed expressed a desire to purchase as many goods and services locally as possible, concerns over the ability of local and national suppliers to meet their needs were widespread. While many companies engage in supplier development efforts, there is a general feeling of a lack of resources for these efforts, as well as tension over who should be responsible for building the capacity of domestic firms. There is a feeling that requirements to purchase locally need to be matched by comprehensive support systems and resources for the suppliers companies are required to purchase from.

Economic empowerment laws are not necessarily in line with industry growth goals in both countries: The focus on the nature of supplier ownership in regulations in South Africa, and in those under consideration in Namibia, is not always well aligned with the ultimate goals of industrial growth in each country. In focusing so strictly on the nature of ownership of businesses, many mining company buyers feel that this is having an unintentional effect of hurting potential for industrial upgrading. Interviewed companies reported the focus on ownership is leading to:

a. Cases where suppliers scale too quickly. There were many instances described where mining companies artificially propped up suppliers (with various forms of resources) to meet regulatory requirements.

b. An overemphasis on low-value products that match current skill sets. There is an emphasis on ownership without sufficient parallel investment capacity. In general, suppliers of high-value products are lacking and there is little strategy in place to build a higher value supply base (e.g. strategy to develop specific higher value manufactured goods).

There are concerns over corruption and front companies in South African local content regulations: While this study did not carry out a full political economy analysis of mining local content regulations in South Africa, interviews revealed a significant level of concern over the potential of regulations to be misused in South Africa to benefit politically connected elites.

CONCLUSIONS AND RECOMMENDATIONS

The research carried out shows that while there are significant challenges in both country's efforts to increase local procurement in mining, there are a number of opportunities for host country governments to support current and future approaches. In the case of South Africa, the recommendations offer opportunities to support existing regulations and ease some of the tensions surrounding them. In Namibia, these interventions should be considered as options for any future introduction of legislated requirements for mining local procurement.

Addressing the information gap: Regulatory frameworks can play a role to incentivize local procurement; however, to do this they need to be based on a deep understanding of the needs and opportunities that exist. For example, in both countries there is industry consensus that a key supporting role that external actors, whether a government or an industry association, can play is to inform companies on what local suppliers exist.

Addressing the gap in available goods locally: A sector-wide initiative is needed to buttress regulations requiring local procurement with significant support for suppliers. There is a sentiment that ownership requirements alone are not sufficient to accomplish meaningful capacity-building and mining-based industrialization in South Africa. Building up the capacities of suppliers and focusing on introducing new manufactured goods at competitive prices needs to be a priority. In addition to capacity building targeted at suppliers, there are significant opportunities to coordinate across mining companies to aggregate orders in a way that allows domestic suppliers to utilize on as the basis for expansion.

Defining roles of actors to increase local procurement: It is apparent that mining companies alone will have limited success in achieving broad economic benefits through local procurement and will require partnership from other actors including government, industry associations and civil society. Such multi-stakeholder approaches in both countries would benefit greatly from a clear strategy that assigns roles and responsibilities to each actor, to improve both accountability and ease tensions.

Harnessing non-regulatory interventions and incentives for mining local procurement: This study shows that there are many non-regulatory approaches and programs that can help mining companies purchase more local goods and services. Government creation of programs including supplier portals, capacity-building support for businesses, coordination of aggregate orders by industry and regional cooperation all offer opportunities that should not be ignored. In addition, the governments of both countries should engage with industry to better understand the non-regulatory incentives for local procurement that can be supported.

Examining and adjusting South Africa's regulatory framework: This study has shown that there are a number of issues impeding the approach of South Africa's government to increasing local procurement. It is recommended that the current regulations are thoroughly examined in partnership with industry to identify ways to improve the current rules to prevent unintended consequences. For example, examining and revisiting the stringent focus on the ownership of suppliers versus

other potential dimensions (value addition, opportunities for capacity-building, employment generation, etc.) could identify policy adjustments that could help both government and industry goals. The Namibian government should take a similar approach to examine the effectiveness of any future regulations very shortly after they are introduced.

POTENTIAL FUTURE STUDIES

This study provides policy insights for both South Africa and Namibia, as well as for policy makers across the continent. However, there remains a large gap in empirical research on the effects of regulations requiring local procurement and this study in many ways is only a start. Obtaining first-hand insights from companies as well as reliable data on procurement spending remains a barrier in both countries and analysis would greatly benefit from further research and larger sample sizes of data. In addition, there is greater attention needed on other aspects of regulations in both countries, as well as in other countries using regulation to drive for increased local procurement. Topics for future research include:

Analysis of behaviours over time in one country as policy tools shift: There is significant room to do in-depth longitudinal analyses with select companies to see how their behaviour changes with soft and hard policy measures introduced over a number of years. This would greatly improve the ability to determine causation of specific mining company actions in the context of the wide variety of incentives and challenges for local procurement.

Evaluate the effectiveness of suggested recommendations to increase local procurement: There is a need to investigate how interventions included in this study's suggested recommendations (such as bridging the information gap or the gap in goods available locally) are able to increase local procurement alone. Currently there is a limited understanding of the impacts of independent measures and their ability to increase local procurement, as most research and case studies to date examine multiple interventions at once (including this one).

Evaluation of the net social, environmental and economic impacts of local procurement rules: This study focuses on the impact of specific local procurement regulations on the amount of goods and services mining companies are buying locally, providing a very narrow lens of analysis. There is a need for a macro evaluation of local procurement regulations which considers aspects including how to leverage local procurement in the context of national development plans, opportunity costs, as well as unintended effects.

Political economy analysis: This study found widespread concerns over corruption risks associated with using local procurement regulation. It was beyond the scope of this study to do an in-depth analysis of the policy economy surrounding policy makers and industry in both countries, but in-depth research on the relevant players in any country would greatly help to deter corruption and would help reveal mitigation measures that could be introduced.

ABBREVIATIONS AND ACRONYMS

ASM	artisanal and small-scale mining
B-BBEE	Broad-Based Black Economic Empowerment
CSR	corporate social responsibility
DMR	Department of Mineral Resources
DTI	Department of Trade and Industry
EPC	Engineering, Procurement and Construction
EPCM	Engineering, Procurement, Construction and Management
FDI	foreign direct investment
GDP	gross domestic product
HDN	Historically Disadvantaged Namibians
HDSA	Historically Disadvantaged South Africans
HPP	Harambee Prosperity Plan
MIGDETT	Mining Industry Growth Development and Employment Task Team
MME	Ministry of Mines and Energy
MPRDA	Mineral and Petroleum Resources Development Act
NDP	National Development Plan
NEEEF	New Equitable Economic Empowerment Framework
PPI	Policy Perception Index
R&D	research and development
SLP	Social and Labour Plan
SME	small and medium enterprises
SOE	state-owned enterprise
TRIMS	trade-related investment measures
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization

PART 1: INTRODUCTION

Sub-Saharan Africa has one of the largest endowments of mineral resources in the world. However, in most cases, decades of mining activity have not created corresponding advances in social and economic development across the continent. The United Nations Development Programme's 2015 Human Development Index reveals that the majority of Sub-Saharan African countries are still characterized by low human development. Recent data from the McKinsey Global Institute and others shows that "resource curse" outcomes persist across developing countries with a dependence on extractive industry activity, especially in Africa[1]. One of the central characteristics of this "paradox of plenty" across the continent is a relative lack of backwards supply chain linkages between mining activity and local suppliers.

Local procurement of goods and services by mining companies has tremendous development potential for countries in Sub-Saharan Africa and elsewhere. In host countries, purchasing of local goods and services by mining companies creates local jobs, promotes skills and technology transfers, and integrates local companies into global value chains. In most cases, a mining operation will spend more on the procurement of goods and services than tax payments, salaries and wages, and community investment combined[2]. Because of this, ensuring that resource-dependent countries in Africa overcome the resource curse will require that more of the economic benefits of mineral extraction are localized.

Through a collaborative research partnership between the Canadian International Resources and Development Institute (CIRDI) and the Mining Shared Value venture of Engineers Without Borders Canada, with contributions from SEF Canada Ltd. and the Norman B. Keevil Institute of Mining Engineering at the University of British Columbia, this study aims to help inform Sub-Saharan African governments and their stakeholders in their efforts to increase supply chain linkages to hosted mining activity. Specifically, this research focused on the relationship between local procurement regulations and mining company practices in the South African and Namibian mining sectors.

The three core objectives of the project included:

- Examining the extent to which local procurement regulations are effective in making mining companies purchase more of their goods and services locally
- Determining the common factors that influence mining companies to develop their local procurement strategies in different ways
- Creating policy relevant research that can be utilized primarily by Sub-Saharan African mining regulators that will support the integration of local suppliers into the mining value chain across this region

This initial research study examining the relationship between local procurement regulations and mining company practices in Sub-Saharan Africa was created to support governments in developing more effective local procurement regulations. As a significant number of countries across the continent work towards creating new regulations, it is hoped this research helps policy-makers understand the multitude of influences on mining company behaviour and draws attention to the other variables beyond regulation that affect the ability of companies to procure locally. In addition to policy-makers, the mining industry will also benefit from learning about different incentives for local procurement and how to harness their purchasing power for local benefit.

STUDY METHODS

The study analysed two local procurement regulatory environments in Sub-Saharan Africa – one with local procurement regulations and one without – in order to improve evidence-based decision-making regarding local procurement policy and regulation. The research examined the extent to which comprehensive local procurement regulatory frameworks are effective in making mining companies purchase more locally. It also explored the common factors that influence mining companies when creating local procurement strategies.

South Africa was selected as the "primary" country where legislated local procurement regulations have existed for a minimum of two years at the national level. Namibia was selected as the "control" country where no meaningful legislated local procurement regulations exist at the national level[3]. Following country selection and desk-based research, field research was conducted from May to June 2016. In South Africa, it is important to note the revisions of the Mining Charter dominated conversations with industry representatives, since a large portion of conversations took place leading up to a period of industry response to Charter revisions drafted in April, which has still not been finalized. Follow-up interviews took place throughout October and November 2016.

It is also worth noting that in addition to legislation and direct regulation, another form of government intervention used to steer companies towards local procurement involves the inclusion of clauses in contracts. However, this form of government action is for the most part not included in this study as none of the involved companies were subject to any such contract-based incentives for local procurement. Future case studies on countries should ensure they assess and evaluate the impacts of any contract-based regulation by governments.

The following stakeholders were engaged throughout the field research in Namibia and South Africa: federal government representatives, industry associations including the Chamber of Mines, civil society groups, academia, mining companies, suppliers, the Canadian High Commission and Trade Office in Johannesburg[4], multilateral government organisations and other relevant groups. These stakeholders were largely engaged through one-on-one interviews as well as a workshop co-hosted between the project researchers and the Canadian High Commission in Johannesburg, South Africa. The gender balance of the entire interview sample was approximately 66% male and 34% female.

"Local content" versus "local procurement"

Part of the challenge of increasing economic benefits for host economies is a multitude of confusing and sometimes contradicting definitions. Many people and institutions use the term "local content" to mean many different things. A review of current reports, regulations and media articles shows that in most cases local content is used when talking about goods and services. However, many organisations include essentially any form of domestic partnership in industry activity as local content, including but not limited to hiring of nationals, ownership of companies and/or assets by nationals or national entities, technology transfer to domestic firms, and shared infrastructure.

This study focuses specifically on regulation and company activities related to *local procurement of goods and services*. While there is often grey area between what services are supplied by truly external service providers and subcontractors who effectively act as short-term regular employees of a mining operation, the focus of this research is on the former. As such, this study focuses specifically on regulation and company activities related to *local procurement of goods and services* and will use the term **"local procurement"** to avoid any confusion or problematic interpretation.

TABLE 1: STAKEHOLDERS INTERVIEWED

Country	Namibia	South Africa	Total
Total	12	21	33
Academics	1	0	1
Chamber of Mines	1	1	2
Consulting	0	1	1
Government	2	1	3
Mining	6	7	13
Supplier	0	3	3
Supporting	1	8	9

Source:

[1]McKinsey Global Institute, "Reverse the curse: Maximizing the potential of resource-driven economies", (2013): 30, http://www.mckinsey.com/industries/metals-and-mining/our-insights/reverse-the-curse-maximizing-the-potential-of-resource-driven-economies.

[2]See World Gold Council's report on value distribution of economic benefits for an illustrative example of how payments to suppliers compare to other forms of expenditure. World Gold Council, Responsible gold mining and value distribution, 2013 data: a global assessment of the economic value created and distributed by members by the World Gold Council (UK: World Gold Council, 2014), 3.

[3]See section "Local procurement regulation in Namibia" on page 30 for clarification as the Namibian Minerals Act does technically mention purchasing domestic goods ands services, but there is no meaningful way in which this encouragement is operationalized.

[4]In particular, the Canadian High Commission Trade Office in Johannesburg which supports efforts of Canadian companies that target the following markets for their products, services and technologies: South Africa, Lesotho, Madagascar, Mauritius, Namibia or Swaziland.

PART 2: ROLE OF LOCAL PROCUREMENT IN DEVELOPMENT

To set the stage for examination of the case studies of South Africa and Namibia, the role of local procurement or *backward linkages* to support sustainable social and economic development is explored. In particular, the relationship between global value chains, upgrading and linkages is discussed, and backward linkages is highlighted as an important lever for development. To do so gainfully involves an understanding of the risks, challenges and opportunities that exist when creating or working to deepen backward linkages between mining companies and local economies.

The concept of backward and forward linkages, originally coined by Albert Hirschmann refers to the commercial interactions between enterprises that supply the operations of a company. *Backward* linkages refer to how firms purchase their products or supplies from a company in a different sector (its inputs). *Forward* linkages describe how the outputs of those firms are purchased and used by a company in a different sector; this may include outputs being processed or used in manufacturing. Backward linkages are often referred to as "upstream" linkages, and forward as "downstream".

GLOBAL VALUE CHAINS, UPGRADING AND LINKAGES

To begin to understand what works and what does not with respect to moving up global value chains, pathways to engage with global value chains must first be explored. These include bottom-up and top-down strategies.

Bottom-up involves "strategies used by countries, regions and other economic stakeholders to maintain and improve their positions in the global economy"[5]; it is also commonly referred to as "upgrading". Types of upgrading include process upgrading (emphasis on increased efficiency), product upgrading (more sophisticated products), functional upgrading (acquiring new functions) or chain and inter-sectoral upgrading (shifting into new industries)[6]. Top-down strategies by contrast describe governance of the global value chain and largely focuses on lead firms[7] such as mining companies and international industry organisations that set and enforce the parameters for a given value chain[8]. However, these organisations and institutions do not work in isolation, and country regulation is a domestic tool that can be used to control and enforce specific aspects or parameters that industry must adhere to. In the context of the mining industry, governments are increasingly developing local procurement policies which seek to outline who supplies a mine and how they do it, representing an attempt to shift some of the power and control from the mining sector firms to host country governments.

Considerations for moving up global value chains

Top-down and bottom-up strategies are subject to specific variables that must be taken into consideration. As Humphrey (2004) highlights, any governments or regions seeking to upgrade their position in a global value chain must ensure that they have the capabilities to upgrade domestically and access to markets and market channels[9]. In other words, when targeting goods and services for upgrading, governments should prioritize goods with an existing link or access to markets and where upgrade capabilities are already present domestically.

Regarding governance, it is important to recognize that there are numerous actors within and outside industry that are setting and enforcing standards. There is an added layer of complexity in global value chains as the "rules" are not entirely defined domestically with operating companies often registered on foreign stock exchanges and utilizing international standards[10]. Global companies often have sophisticated corporate social responsibility (CSR) frameworks that standardize behaviour across mine sites in different countries to a more sophisticated level than would be expected from domestic firms in many developing countries. In many cases, this creates a gap in expectations especially when, for example, domestic standards are lower than company standards in certain respects[11]. As well, there can be conflicting

and potentially counterproductive policies and regulations that exist domestically and internationally resulting from instruments such as tax incentives and trade agreements. As an example of a counterproductive domestic policy Harvey notes that visa restrictions reducing the import of skilled labour negatively impact growth[12] and limit the opportunity for skills transfer[13]. This type of policy can restrict companies at all levels of a value chain within a country, including both larger companies that require skilled labour to carry out specialized tasks and their suppliers that need skilled labour to win and carry out contracts. Importantly, the ability for a country to effectively leverage local procurement as a means to increase economic development and to achieve broader outcomes for poverty reduction must account for existing local, national and international policies and conditions.

Ways to leverage upgrading as a key pathway to move up global value chains

Despite the different and at times competing governance systems along global value chains, strengthened and increased linkages offer means for achieving varying upgrade opportunities. These opportunities include both upstream and downstream linkages as described above, and capabilities and access to markets govern the merits and opportunity costs of both approaches. However, when evaluating the opportunity costs between incentivizing each approach, a large body of research suggests upstream linkages are more likely to succeed than downstream. Ross Harvey argues "those with a narrow focus on downstream beneficiation should note that the costs 'are likely to be measured less in the poor investments it compels than in the opportunities it obscures'. These opportunities are largely upstream"[14]. A study by the Centre for International Development at Harvard University reiterates this point looking at data samples over 25 years, highlighting that "the generalization that countries should beneficiate as a development strategy is rejected by data"[15]. As well, the needs and inputs required for upstream and downstream activities can be very different. For example, "the key input for producing Aluminum … is cheap energy, not local Bauxite deposits, and that is why South Africa could develop Aluminum exports, even though it had no Bauxite and why Jamaica produces Bauxite but does not process it"[16]. As highlighted, upstream linkages often require a smaller capital investment then downstream linkages and also offer more opportunities for transferability of human and physical capital (upgrading) within the mining sector and other sectors, as the needs of the mining industry "generate a host of skills and capabilities in the design and production of high performance equipment"[17].

However, while this study only examines regulations regarding backwards linkages, it is not intended to suggest policymakers and practitioners should ignore opportunities to target forward linkages as well. Many of the international government institutions and development practitioners consulted in the creation of this study cautioned that despite the structural challenges that often accompany attempts to achieve competitive forward linkage industries, attempts should be made to overcome these challenges, rather an simply dismissing these opportunities out of hand. Forward linkages are also a central part of the African Mining Vision that currently guides much of the policy debate across African mining regulation.

EXTERNAL CONDITIONS THAT INFLUENCE UPGRADING

Before examining upstream linkages further, it is important to re-iterate that foreign direct investments are situated within local and national institutional, economic and social dynamics in host countries where mines are located and thus depend on and are affected significantly by these conditions[18]. Gereffi and Fernandez-Stark describe these conditions:

> *Economic conditions include the availability of key inputs: labor costs, available infrastructure and access to other resources such as finance; social context governs the availability of labor and its skill level, such as female participation in the labor force and access to education; and finally, institutions includes tax and labor regulation, subsidies, and education and innovation policy that can promote or hinder industry growth and development.*[19]

In the mining sector, numerous factors can impact industry's ability to (1) establish, (2) maintain and (3) increase backwards linkages. These factors can include conditions such as electrical shortages, access to a stable water supply, skill level of the workforce, and risks of patronage and rent-seeking. These types of conditions when problematic tend to work against initiatives to increase upstream linkages[20]. By contrast, favourable conditions such as stable access to electricity and water, a well-educated workforce, strong institutions and an existing and related industrial base are foundational characteristics that enable a country to develop an industry and leverage policies to increase backwards linkage[21]. For example, it is noted that one of the main reasons for Norway's success in developing a competitive petroleum sector, including upstream suppliers, was based on its favourable pre-oil conditions[22].

Key conditions for backwards linkages

While foreign investments represent a significant opportunity for governments to leverage for economic development, it is important to recognize what is needed to maximize these opportunities for domestic suppliers and backwards linkages. In particular, this includes the "more stringent technological, managerial and scale demands on suppliers (and on their support institutions and infrastructure)"[23]. Regarding supporting institutions in particular, UNCTAD notes that linkage promotion must be coupled with policies to support the capacity of suppliers domestically as well as increasing investment flow highlighting that "the more linkage promotion policies go hand-in-hand with SME development and targeted FDI promotion policies, the more they will likely be successful"[24].

With the recognition of the key conditions that are needed to enable and encourage backwards linkages, the next section explores some of the impacts that are commonly targeted through local procurement strategies and the associated challenges.

COMMON ECONOMIC DEVELOPMENT IMPACTS TARGETED THROUGH LOCAL PROCUREMENT AND SOME ASSOCIATED CHALLENGES

The mining sector represents a significant opportunity for economic development, capacity building, increased employment, better conditions of employment and poverty reduction. In a 2014 study, the World Gold Council released a study finding that procurement spending generally makes the single largest in-country expenditure of any mining operation in their company membership and it is usually greater then government taxes, employee wages and salaries, and community investments combined[26]. As Humphrey describes:

> *The direct effect of linkages on domestic suppliers is generally a rise in their output and employment. Linkages can also transmit knowledge and skills between the linked firms. A dense network of linkages can promote production efficiency, productivity growth, technological and managerial capabilities and market diversification for the firms involved. Finally, for a host economy as a whole, linkages can stimulate economic activity and, where local inputs substitute for imported ones, benefit the balance of payments. The strengthening of suppliers can in turn lead to spillovers to the rest of the host economy and contribute to a vibrant enterprise sector.*[27]

However, as noted with the resource curse that has largely impacted developing countries, to do so gainfully requires supporting conditions and shifting emphasis solely from whether to participate to how to participate[28].

The **resource curse** refers to the phenomenon whereby countries with significant levels of natural resource production counterintuitively tend to perform worse than those without. This concept was first introduced by Auty (1993) and Sachs and Warner (1995), and though it has been qualified a great deal since, there regrettably is little doubt the central argument remains quite in tact. As mentioned above, the McKinsey Global Institute recently provided figures that showed that "almost 80 percent of resource-driven countries have below-average levels of per capita income" (2014, p. 6).

One of the key components, among others, of resource curse outcomes in many countries is that often mines are enclaves disconnected from the rest of the economy, limiting the ability for resource-rich countries to fully benefit from their natural resource wealth through backwards linkages. Not only does this lack of linkages result in less revenue and jobs being created, the enclave nature of natural resource operations has been linked to poor governance. If the government is able to draw enough tax revenue to support itself from the enclave, it is reasoned that it has less incentive to strengthen the rest of the economy, leading to poor economic policy at best, corruption at worst.

In particular, it is important to highlight the risks, challenges and opportunities to maximize the benefits of local procurement.

- *Increased revenue through increased output:* The mining sector represents a significant client in terms of potential contract size to many suppliers in their respective host countries[29]. As suppliers seek to work with these large firms, it is important to understand the role of governance, i.e. who is governed and who governs, in a value chain and its impact on distribution of gains. Generally, the types of firms that directly supply a mining company can be characterized as those that (1) have intangible competences including R&D and design, carrying out activities that involve high barriers to entry and high return and (2) firms carrying out activities that are characterized by low barriers to entry and low returns tend to carry out tangible activities including production, where they produce to the specifications set by those who govern[30]. This power dynamic and distribution of gains is important to understanding the relationship between a mining company and its suppliers and the relations among suppliers from Engineering, Procurement, Construction and Management (EPCM) firms to small equipment providers. Importantly, there are specific parameters buyers increasingly not only set for a product but also for the process including labour and environmental standards that increase the barrier to entry for new suppliers as well[31]. In addition, even if specific parameters are met, a key risk to firms carrying out low barrier-to-entry activities is overcrowding, as it is much easier for new actors to enter the space.

- *Increased jobs:* As mining companies increasingly buy goods and services locally, there are increased job opportunities with local suppliers as a result. However, in many cases, a lack of local capacity to meet job requirements and fill available positions with local suppliers, as well as the limited ability of local suppliers to meet standards related to aspects including health, safety and wages, as highlighted above, can be key limitations.

- *Transfer of skills and technology:* Mining companies tend to place a significant demand on their suppliers to reduce cost, increase quality and increase speed of delivery. Through this process they can also transfer best practices and provide advice, especially in cases where requirements do not (yet) apply in domestic markets. Humphrey and Schmitz describe this as a "combination of high challenge, high support"[32]. In cases where the gap in capabilities needs to be closed quickly, a mining company (or a supporting institution working with a company) will need to invest in selected suppliers and upgrade them[33] (see Figure 2 below for some examples of how companies can create and deepen linkages). These relationships between mining companies and suppliers can become more fixed features in the value chain as a mining company invests more money in the supplier and the costs rise to switch suppliers. This means that as a market is developing, there can be significant barriers to entry for new suppliers, highlighting an important risk of monopolies or

of thin markets forming in these instances[34]. For suppliers, there is significant evidence that this upgrading effect leads new local producers to quickly access the global market, but these same structures that facilitate this may limit these companies' abilities to diversify into other aspects of the value chain[35]. The willingness of a buyer to support suppliers to develop and improve their capabilities is largely defined by their propensity for risk. The probability and consequences of poor performance by a company lead them to manage their risk through product and process parameters; the more flexibility that exists, the higher the likelihood there will be that companies can support and upgrade new suppliers[36]. In addition, it is also noted that as the gaps (in management and technology for instance) between suppliers and mining companies decrease, and as the level of economic development in a host country increases, there can be an opportunity for more information and knowledge exchange between the two actors[37].

Recognizing the challenges and supporting conditions necessary to support maximizing the benefits of local procurement, there are some risks that should be noted equally in working to increase local procurement through policy tools and regulatory frameworks.

- *Relative economic returns:* Local content / procurement policies are inherently protectionist and should be evaluated to see how, when introduced, they will impact investments within a country[38]. As well, if local procurement policies decrease the amount of revenue for a mining company as a result of spending being "forced" to pay more for certain products domestically, then it could potentially impact the revenue governments receive from taxes[39]. Michael Warner reiterates that if increasing local content simply increases costs for mining companies, it could impact future national revenues or inward investment[40]. In general, the potential returns from local procurement policies should not be analysed in isolation of other policy tools to increase economic development. Kolstad and Kinyondo argue that "local content policy should be analysed as a public expenditure question, since it reduces potential expenditures in other areas, rather than as an isolated sector management question"[41]. This is not to say that local procurement regulations that lower government revenue should not be considered. However, this potential decrease in revenue needs to be accounted for and also shows the need to ensure the regulations are effective in the long run to justify this cost.

- *Flawed institutions:* Kolstad and Kinyondo highlight that dysfunctional institutions will likely create or support the implementation of dysfunctional policies including risks such as the ruling elite exchanging favourable treatment or public funds for political support[42]. An important risk to understand is that in some cases "local content can be a means not just for elite to keep power, but to further entrench their power"[43].

- *Achieving desired outcomes:* Regarding economic returns, Kolstad and Kinyondo highlight that local content policies should be evaluated based on their ability to achieve intermediate employment or industrialization goals or development goals such as poverty reduction[44]. Then, they should be compared to other forms of government expenditure to understand if investing in local procurement is the optimal way to achieve desired outcomes for industrialization and development. It is important to highlight that "the most important host country factor is the availability, costs and quality of domestic suppliers", so when there is a high potential in the mining sector and the gap is not too wide, policies could be designed to address the information or capacity gap between suppliers and companies as well as reducing the risks and costs of establishing or deepening linkages[45]. UNCTAD notes that "governments are refocusing their policy interventions towards addressing market failures and reducing the costs involved for linkage partners to create and deepen linkages"[46].

Recognizing the opportunities, challenges and risks, Figures 1 and 2 reprinted from UNCTAD's guidance on promoting linkages provides measures that governments and companies, respectively, can take to create and deepen backwards linkages. Importantly, these examples illuminate some of the different roles that each actor can take to increase local procurement with measures varying in amount of resources such as time and money required. For government, many measures beyond regulation are highlighted as well.

Table VI.1. Specific government measures to create and deepen linkages

Information and Matchmaking	Technology upgrading	Training	Finance
Provision of information: • Handouts and brochures. • Constantly updated electronic databases. • Linkage information seminars, exhibitions and missions. *Matchmaking:* • Acting as honest broker in negotiations. • Supporting supplier audits. • Providing advice on subcontracting deals • Sponsoring fairs, exhibitions, missions and conferences. • Organizing meetings, visits to plants.	• Technology transfer as a performance requirement. • Partnership with foreign affiliates. • Incentives for R&D cooperation. • Home-country incentives.	• Promoting supplier associations. • Collaboration with the private sector for one-stop service, including training. • Support for private sector training programmes. • Collaboration with international agencies.	• Legal protection against unfair contractual arrangements and other unfair business practices. • Encouraging a shortening of payment delays through tax measures. • Limiting payment delays through legislation. • Guaranteeing the recovery of delayed payments. • Indirect financing to suppliers channeled through their buyers. • Tax credits or tax reductions and other fiscal benefits to firms providing long-term funds to suppliers. • Co-financing development programmes with the private sector. • Direct role in providing finance to local firms. • Mandatory transfer of funds from foreign affiliates to local suppliers. Home country measures • Two-step loans. • Using ODA.

Source: UNCTAD.

FIGURE 1: SPECIFIC GOVERNMENT MEASURES TO CREATE AND DEEPEN LINKAGES

REPRINTED FROM WORLD INVESTMENT REPORT 2001: PROMOTING LINKAGES (210), BY UNCTAD, 2001

Table VI.2. Measures by foreign affiliates to create and deepen linkages

Finding new local suppliers	Transferring technology	Providing training	Sharing information	Giving financial support
• Making public announcements about the need for suppliers and the requirements that firms must meet on cost and quality. • Supplier visits and quality audits.	Product technology: • Provision of proprietary product know-how. • Transfer of product designs and technical specifications. • Technical consultations with suppliers to help them master new technologies. • Feedback on product performance to help suppliers improve performance. • Collaboration in R&D. Process technology: • Provision of machinery and equipment to suppliers. • Technical support on production planning, quality management, inspection and testing. • Visits to supplier facilities to advise on lay-out, operations and quality. • Formation of "cooperation clubs" to interact with suppliers on technical issues. • Assistance to employees to set up their own firms. Organization and managerial know-how assistance: • Assistance with inventory management (and the use of just-in-time and other systems). • Assistance in implementing quality assurance systems. • Introduction to new practices such as network management or financial, purchase and marketing techniques.	• Training courses in affiliates for suppliers' personnel. • Offering access to internal training programmes in affiliates or abroad. • Sending teams of experts to suppliers to provide in-plant training. • Promotion of cooperative learning among suppliers.	• Informal exchanges of information on business plans and future requirements. • Provision of annual purchase orders. • Provision of market information. • Encouraging suppliers to join business associations.	• Providing special or favourable pricing for suppliers' products. • Helping suppliers' cash flow through advance purchases and payments, prompt settlements and provision of foreign exchange. • Long-term financial assistance through the provision of capital; guarantees for bank loans; the establishment of funds for working capital or other suppliers needs; infrastructure financing; sharing of the costs of specific projects with suppliers; and leasing.

Source: UNCTAD.

FIGURE 2: MEASURES BY FOREIGN AFFILIATES TO CREATE AND DEEPEN LINKAGES

REPRINTED FROM WORLD INVESTMENT REPORT 2001: PROMOTING LINKAGES (214) BY UNCTAD, 2001

With a deeper understanding of the opportunities, risks and challenges that exist in leveraging backwards linkages for development, the following sections explore the cases of South Africa and Namibia. South Africa introduced regulation targeting local procurement in the mining industry in 2004 while Namibia has not yet introduced any regulation related to local procurement. These cases will attempt to bridge theory and implementation examining the extent to which local procurement regulations are effective in making mining companies purchase more of their goods and services locally and determining the common factors that influence mining companies to develop their local procurement strategies in different ways.

Source:

[5]Gary Gereffi and Karina Fernandez-Stark, Global Value Chain Analysis: A Primer, (Durham: Center on Globalization, Governance and Competitiveness, Duke University, 2011), 12.,

[6]Gary Gereffi and Karina Fernandez-Stark, Global Value Chain Analysis: A Primer, (Durham: Center on Globalization, Governance and Competitiveness, Duke University, 2011), 13.,

[7]'Lead firms' coordinate and take on the functional integration of internationally dispersed activities. Gary Gereffi, "International Trade and Industrial Upgrading in the Apparel Commodity Chain", Journal of International Economics 48, (1999): 41.,

[8]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 7.,

[9]John Humphrey, Upgrading in global value chains (Geneva: Policy Integration Department World Commission on Social Dimension of Globalization, International Labour Office, 2004), 2.,

[10]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 8.,

[11]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 8.,

[12] "Labour mobility barriers, the estimated gains are often in the range of 50-150 percent of world GDP", Michael Clemens, "Economics and emigration: Trillion-dollar bills on the sidewalk?", Journal of Economic Perspectives 25, no. 3 (2011): 84.,

[13]Ross Harvey, "Mineral Rights, Rents and Resources in South Africa's Development Narrative", South African Institute of International Affairs Occasional Paper 224, (2015): 7.,

[14]Ross Harvey, "Mineral Rights, Rents and Resources in South Africa's Development Narrative", South African Institute of International Affairs Occasional Paper 224, (2015): 25.,

[15]Ricardo Hausmann, Bailet Klinger and Robert Lawrence, Policy Brief – Examining Beneficiation, (Cambridge: Centre for International Development, Harvard University, 2008), 2.

[16]Ricardo Hausmann, Bailet Klinger and Robert Lawrence, Policy Brief – Examining Beneficiation, (Cambridge: Centre for International Development, Harvard University, 2008), 2.

[17]Ross Harvey, "Mineral Rights, Rents and Resources in South Africa's Development Narrative", South African Institute of International Affairs Occasional Paper 224, (2015): 24.

[18]Gary Gereffi and Karina Fernandez-Stark, Global Value Chain Analysis: A Primer, (Durham: Center on Globalization, Governance and Competitiveness, Duke University, 2011), 11.,

[19]Gary Gereffi and Karina Fernandez-Stark, Global Value Chain Analysis: A Primer, (Durham: Center on Globalization, Governance and Competitiveness, Duke University, 2011), 11.,

[20]Ross Harvey, "Mineral Rights, Rents and Resources in South Africa's Development Narrative", South African Institute of International Affairs Occasional Paper 224, (2015): 7.,

[21]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 1.,

[22]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 1.,

[23]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), 128.,

[24]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), xxviii.,

[25]John Humphrey, Upgrading in global value chains (Geneva: Policy Integration Department World Commission on Social Dimension of Globalization, International Labour Office, 2004), 2.,

[26]World Gold Council, Responsible gold mining and value distribution, 2013 data: a global assessment of the economic value created and distributed by members by the World Gold Council (UK: World Gold Council, 2014), 13.,

[27]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), xxi.,

[28]Gary Gereffi and Karina Fernandez-Stark, Global Value Chain Analysis: A Primer, (Durham: Center on Globalization, Governance and Competitiveness, Duke University, 2011), 2.,

[29]John Humphrey, Upgrading in global value chains (Geneva: Policy Integration Department World Commission on Social Dimension of Globalization, International Labour Office, 2004), 12.,

[30]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 3.,

[31]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 6.,

[32]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 3.,

[33]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 8.,

[34]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 7.,

[35]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 3.,

[36]John Humphrey and Hubert Schmitz, "Governance in Global Value Chains", IDS Bulletin 32, no.3 (2001): 8.,
[37]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), xxii.,
[38]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 3.,
[39]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 1.,
[40]Jessica Hannah, "Significant drive towards increasing local content", Mining Weekly, November 25, 2011, www.miningweekly.com/article/significant-drive-towards-increasing-local-content-2011-11-25/rep_id:3650,
[41]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 1.,
[42]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 7.,
[43]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 10.,
[44]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 4.,
[45]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), xxii.,
[46]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), 209.,
[47]John Humphrey, Upgrading in global value chains (Geneva: Policy Integration Department World Commission on Social Dimension of Globalization, International Labour Office, 2004), 2.,
[48]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), 209.

PART 3: CASE STUDY OF SOUTH AFRICA AND NAMIBIA

Decades of underdevelopment associated with mining activity in developing regions – the so-called "resource curse" – has created immense pressure for governments to better manage mining activities in their countries. This pressure has led to a significant increase in attention on local procurement in recent years as governments attempt to increase the socio-economic benefits of mining within their borders. Companies in turn are responding and developing strategies to increase local procurement despite barriers that, at times, include limited access to their required quantity and quality of services and goods.

Much of the current activity by mining host countries in Sub-Saharan Africa stems from the African Mining Vision (AMV), adopted in 2009 by all heads of all African heads of state. Now, the African Mineral Development Centre and African Union Commission are working to develop country level mining visions to implement the AMV. With such an explicit focus on backward linkages in the Vision upcoming reviews of mining legislation across Africa will almost certainly propose regulations regarding local procurement. Figure 3 highlights the section of the AMV that relates to backward linkages.

This shared vision will comprise:

- A knowledge-driven African mining sector that catalyses & contributes to the broad-based growth & development of, and is fully integrated into, a single African market through:
    - Down-stream linkages into mineral beneficiation and manufacturing;
    - Up-stream linkages into mining capital goods, consumables & services industries;
    - Side-stream linkages into infrastructure (power, logistics; communications, water) and skills & technology development (HRD and R&D);
    - Mutually beneficial partnerships between the state, the private sector, civil society, local communities and other stakeholders; and
    - A comprehensive knowledge of its mineral endowment.

FIGURE 3: SECTION OF THE AFRICA MINING VISION RELATED TO BACKWARDS LINKAGES

REPRINTED FROM AFRICA MINING VISION (V), BY AFRICA MINING VISION, 2009.

Numerous countries are currently reviewing their mining regulation related to local procurement:

- Zimbabwe is working on amendments to its Procurement Act and is creating new regulation to facilitate local procurement in the mining sector[49];
- Nigeria has amended its local procurement law to favour local goods across all sectors[50];
- South Africa is raising targets for local procurement in a new proposal for the Mining Charter[51];
- The "Kenyan Mining Act 2016" was enacted into law on May 27th, 2016. It introduces a range of provisions, including preference for local product including materials and products made in Kenya, services offered in Kenya, and companies or businesses owned by Kenyan citizens[52] ; and
- Djibouti's new mining code continues to be revised and includes an emphasis on local procurement to encourage growth of SMEs in related sectors[53].

Although not exhaustive, this list demonstrates the increasing attention that governments in Sub-Saharan Africa are placing on maximizing benefits from resource extraction through local procurement. Recognizing the limits to members of trade-related investment measures (TRIMs) including the 1995 World Trade Organization (WTO) TRIMs Agreement and any bilateral agreements countries may have entered into – which often limit policy space for local procurement related regulations – governments continue to work to increase backwards linkages through local procurement legislation in the mining sector.

In the following case study of South Africa and Namibia, the extent to which comprehensive local procurement regulatory frameworks, where present, are effective in making mining companies purchase more locally was examined. As well, the common factors that influence mining companies when creating local procurement strategies were explored. South Africa has had mining local procurement regulation in place since 2004, emphasizing the participation of Historically-Disadvantaged South Africans, while Namibia up until now has not had any regulation in place (currently, a drafted bill is being reviewed).

It is important to note that beyond the regulatory environments related to local procurement, these countries have different characteristics, histories and supporting conditions that impact the ability to leverage backwards linkages. These include but are not limited to the difference in the size of the mining sector relative to GDP in each country (Table 2) and the different types of metals and minerals being mined (Figure 4).

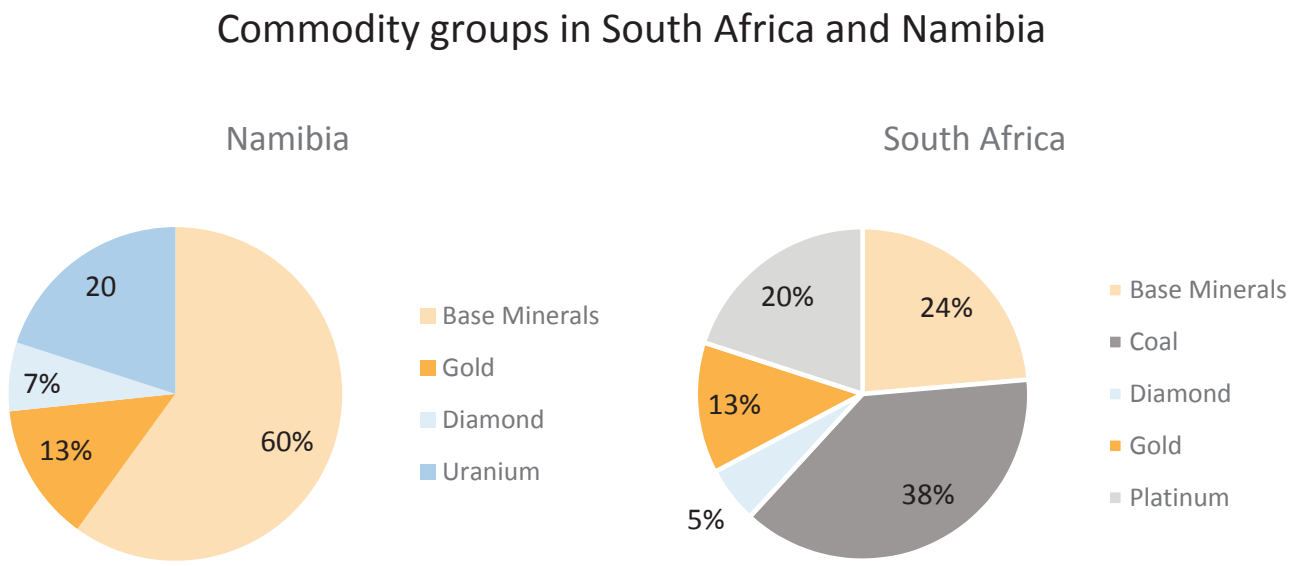


FIGURE 4: BREAKDOWN OF MINING COMPANIES BY COMMODITY GROUP IN SOUTH AFRICA AND NAMIBIA

Characteristics	South Africa	Namibia	Summary of differences
Population			
Population (2015)	54,957,000[54]	2,459,000[55]	Namibia has a significantly lower population in comparison to South Africa (22 times smaller).
Size of economy and mining sector contribution			
GDP in 2015 (million USD)	312,798[56]	11,546[57]	Namibia has a significantly lower GDP in comparison to South Africa (27 times smaller).
GDP per capita in 2015 (USD)	5,692[58]	4,695[59]	Namibia has a lower GDP per capita (approximately 20% lower).
GDP contribution of mining in 2015 (direct)	7.7%[60]	11.9%[61]	The mining sector contributes more to the GDP in Namibia then in South Africa.
Income distribution of a country's residents			
Gini coefficient[62]	0.625 (2013)	0.597 (2010)	Namibia has a slightly lower gap between the rich and the poor than South Africa, representing greater equality between its residents.
Investment attractiveness and policy perception			
Investment attractiveness rank in 2015[63]	66/109	33/109	The investment attractiveness of Namibia ranked notably higher then that of South Africa.
Policy Perception Index (PPI) rank in 2015[64] *Composite index measuring the overall attractiveness of 109 jurisdictions	78/109	29/109	The Policy Perception Index ranked the overall attractiveness of Namibia as significantly higher than South Africa amongst 109 jurisdictions.

TABLE 2: SOME KEY CHARACTERISTIC DIFFERENCES BETWEEN SOUTH AFRICA AND NAMIBIA

The factors highlighted in Table 2 influence the approaches that each country takes related to creating and deepening backward linkages and the ability to leverage these opportunities for sustainable economic development. As neighbouring countries, it is important to note that these economies are quite linked and influenced by one another. GDP per capita shows that there is more wealth per person in South Africa then Namibia; however, contribution from mining is higher in Namibia then South Africa. This suggests that while the pool of resources and mining contribution in terms of GDP value is higher in South Africa there is potentially more pressure to benefit from mining in Namibia as it represents a bigger contribution to GDP. Also as a proxy to understand the investment climate and government-industry relations, the investment attractiveness and policy perception index ranks Namibia significantly higher then South Africa. This means that based on these measures Namibia has a more favourable investment and policy environment for mining investments. The differences between these regulatory environments will be explored in detail in subsequent sections.

As well, the difference in commodities in each country should be noted. In Namibia, the majority of the mining companies extract uranium, base metals, gold and diamonds. However, in South Africa most companies mine coal followed by base minerals and platinum. Data to show the breakdown of mining by commodity was either collected from the respective Chamber of Mines websites directly or individual company websites where this was not provided. As the figure shows commodity group breakdowns by the number of companies in operation, it does not necessarily provide the breakdown by production value.

In the following sections, as the regulatory environments related to local procurement and mining company strategies related to local procurement will be explored in more detail, it is important to note the broader conditions including the economic environment and the types of opportunities for mining that are discussed in this section. These factors have implications for creating and deepening backwards linkages in both countries that are important to consider.

BACKGROUND: LOCAL PROCUREMENT REGULATORY ENVIRONMENTS IN SOUTH AFRICA AND NAMIBIA

Before exploring the regulatory environments related to local procurement, it is important to note that there are a number of ways to define "local" when describing "local" procurement or "local" suppliers. This varies based on context and it is important that a definition is created that addresses the needs and concerns of all concerned stakeholders including communities, industry and governments. However, building on the International Finance Corporation guidance to define "local", Kaiser Economic Development Partners along with the World Bank identified three distinct criteria to consider in developing a definition of "local" in support of sustainable economic development. These include:

- Level of participation by local citizens in the company, including ownership, management and employment;
- Level of value addition, distinguishing between a product of manufactured locally or service delivered locally; and
- Geographic location of a company, differentiating whether a supplier is located within the vicinity of the mine, nationally or beyond.[65]

With this understanding of key criteria to define "local", the regulatory environments in Namibia and South Africa are discussed in more detail in this section.

LOCAL PROCUREMENT REGULATION IN SOUTH AFRICA

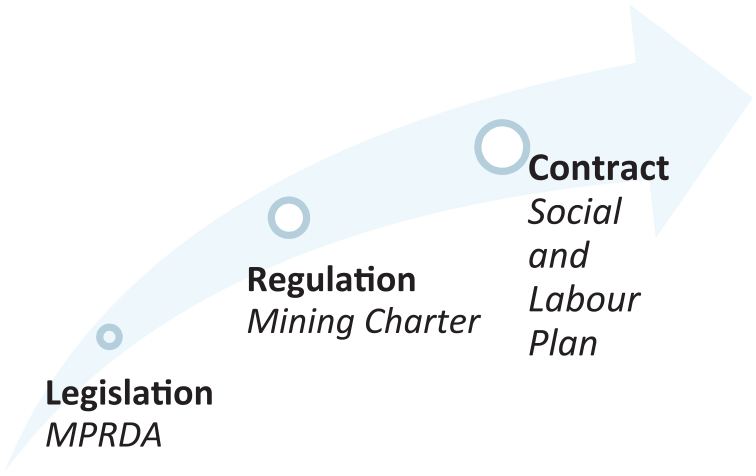
Mining has had a central role throughout South African history forged largely by the discovery of gold in the late 1800s[66]. Even today South Africa has one of the largest mining industries in the world as measured by GDP value and as a result, the South African government has increasingly sought, with efforts that include emphasis on backward linkages and local procurement, ways to maximize the economic benefits of mining[67].

South Africa's first mining-specific legislation after apartheid was the Mine Health and Safety Act in 1996. Suppliers were required to ensure that their goods or services did not endanger anyone working at the mine [68].

While there were no requirements to procure locally, the act recognized the need for accountability throughout the supply chain and the responsibility of the mining company to train employees in health and safety practices.

This was followed by the White Paper on Minerals and Mining Policy in 1998 which had a new focus on ownership by and participation of historically disadvantaged groups. This document declared the intentions of the government to address historic inequalities resulting in an emphasis on racial targets related to local procurement rather then aspects such as regional targets[69].

In response to the objectives of the White Paper, the Mineral and Petroleum Resources Development Act (MPRDA) of 2002 was created to promote equitable access to South Africa's natural resources. The MPRDA is the legislation that outlines all procurement requirements in the mining industry. Based on the legislation, the Minister of Natural Resources has the power to approve projects based on the Social and Labour Plan submitted, and the ability to revoke a mining licence in cases of noncompliance[70]. The Social and Labour plans details how a mining company intends to share the benefits of the mining project and can include a variety of initiatives from skills development to investment in infrastructure[71].



In addition to the formal mining sector, illegal mining is a common occurrence in South Africa[72]; though, it is very small relative to large-scale mining and has nowhere close to the level of importance that informal mining has in countries such as Ghana and Tanzania. The MPRDA prohibits artisanal mining activity, so artisanal and small-scale mining (ASM) falls under the latter category. As many of the larger mines close, they become infiltrated by illegal miners. These miners, called "zama zamas" operate in unsafe conditions without regulatory oversight. This has understandably led to challenges in enforcing environmental and labour standards across the industry.

In addressing the legacy of historic legislation that discriminated against black people (such as the Mines and Works Act), the government began to promote a policy of black economic empowerment. The Broad Based Black Economic Empowerment Act (B-BBEE) of 2003 contains the requirement that historically disadvantaged South Africans (HDSAs) have increased ownership of a company in any sector[73]. The amount of black ownership is then reflected in the number of points awarded towards the Mining Charter Scorecard. The B-BBEE scorecard is the first of three compliance documents with a requirement to procure from HDSAs.

The Mining Charter prescribed by the MPRDA was created in 2004. It gave the mining industry goals that were enforceable by the Department of Mineral Resources (DMR) through the authority of the MPRDA[74]. The Mining Charter was drafted through consultations between government, industry and union representatives. The Mining Charter Scorecard is the second procurement compliance document that exists. This scorecard has similar requirements to the B-BBEE Scorecard, so the two are in the process of being streamlined. The key difference is that the Charter Scorecard is mining specific, while the B-BBEE Scorecard applies to all businesses in South Africa. A low score on either scorecard may not have any direct legal consequences, although in practice it will be difficult to conduct business in South Africa since procuring from a supplier with a low BEE score affects the score of the buyer. Thus, when a mining company procures from a business with a low BEE score, mining companies are lowering their own public BEE scores; as a result, they generally prefer suppliers with high BEE scores.

Element	Sub-Element	Mining Charter	Draft Mining Charter
Ownership		26% HDSA (up to 11% offset for local beneficiation)	26% Black (up to 11% offset for local beneficiation)
Procurement and Enterprise development	Capital goods	40% from BEE entities	60% locally manufactured from BEE companies
	Consumable goods	50% from BEE entities	70% locally manufactured from BEE companies
	Services	70% from BEE entities	80% services from BEE compliant and locally based companies
	Analysis of mineral samples	N/A	100% from South African based facilities

FIGURE 5: PROPOSED CHANGES TO THE SOUTH AFRICAN MINING CHARTER
REPRINTED FROM REVISED MINING CHARTER PUBLISHED FOR COMMENTS, BY DENTONS, JUNE 28, 2016, ACCESSED ON AUGUST 11, 2016, HTTP://WWW.DENTONS.COM/EN/INSIGHTS/NEWSLETTERS/2016/JUNE/28/SOUTH-AFRICA-NEWSLETTER/SOUTH-AFRICA-NEWSLETTER-JUNE-EDITION/REVISED-MINING-CHARTER-PUBLISHED-FOR-COMMENT.

The Social and Labour Plan (SLP) referenced in the MPRDA is the third and final compliance document. The SLP is a mandatory public document drafted by the mining company that outlines its commitments to local hiring, local procurement and social investment[75]. The drafting process involves two years of consultation with multiple stakeholders and uses the Mining Charter as a best practice standard. The SLP must meet the minimum requirements of the charter but is ultimately driven by community input.

The DMR reviews the SLP against the Charter and if the SLP is approved by the Minister of Mineral Resources, a mining licence is granted. The status of the SLP is then reported monthly for compliance purposes. Failure to meet the commitments of the SLP may result in the loss of a mining licence[76].

The relationship between each document and stakeholder is displayed in Figure 6.

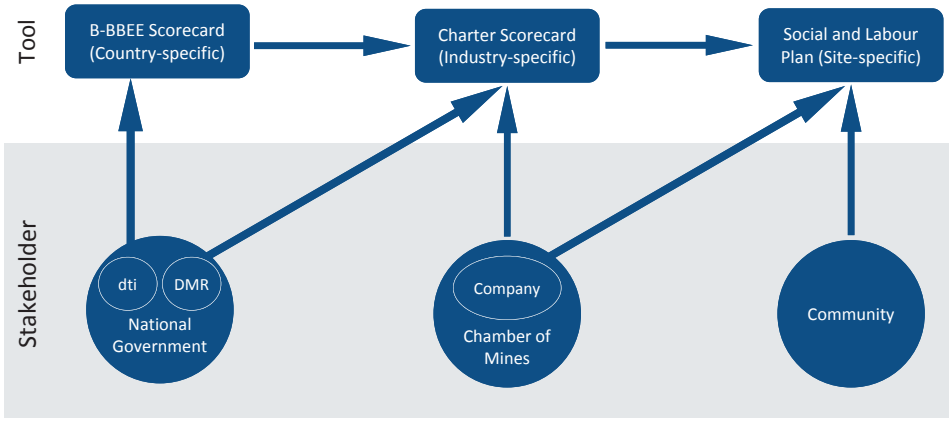


FIGURE 6: RELATIONSHIP BETWEEN TOOLS FOR IMPLEMENTATION AND ENFORCEMENT OF LOCAL PROCUREMENT REGULATIONS IN SOUTH AFRICA AND INDUSTRY STAKEHOLDERS

KEY ACTORS AND INSTITUTIONS

Government

The Department of Mineral Resources (DMR) is the primary government branch that deals with mining. The Minister of Mineral Resources is the head of the DMR and has the power to approve or revoke mining licences[77]. The Department of Trade and Industry (dti) is responsible for South African manufacturing and exports. The dti regulations affect every business in the country and do not solely target the mining industry. However, both departments have a mandate to change the ownership structure of the mining industry.

mineral resources
Department:
Mineral Resources
REPUBLIC OF SOUTH AFRICA

the dti
Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Industry

The South African Chamber of Mines has 69 members from the mining industry that includes mining companies, mining contractors, investment companies and associations, and the chamber advocates on their behalf to the South African government. These companies make up 90% of mineral production in South Africa.[78]

Enforcement

The three tools for implementation and enforcement of mining regulations include the Broad-Based Black Economic Empowerment Scorecard, Mining Charter Scorecard and the Social and Labour Plan (summarized in Table 3).

TABLE 3: TOOLS FOR IMPLEMENTATION AND ENFORCEMENT OF LOCAL PROCUREMENT MINING REGULATION IN SOUTH AFRICA

DOCUMENT	SCOPE	GOVERNANCE	SUMMARY
Broad-Based Black Economic Empowerment Scorecard	All sectors	Government	The Broad-Based Black Economic Empowerment Scorecard sets targets for all businesses within South Africa. It is the regulatory mechanism of black economic empowerment policy and is not specific to mining.
Mining Charter Scorecard	Mining sector	Government / Industry	The Mining Charter Scorecard was developed by government and industry. It affects only the mining industry and its suppliers.
Social and Labour Plan	Mine site level	Company / Community	The Social and Labour Plan is an agreement between the mining company and the local community. It is based on the principles of the Mining Charter and must meet the minimum requirements of the Charter.

RECENT DEVELOPMENTS

In response to the global financial crisis of 2008 which led to poor demand for most mineral commodities and thus reduced production across South African mines, a special task team was assigned to stabilize the mining sector. The Mining Industry Growth Development and Employment Task Team (MIGDETT) is a working group that consists of the DMR, Chamber of Mines, and Unions (National Union of Mineworkers and Association of Mineworkers and Construction Union). The mandate of MIGDETT is to find ways for South Africa to minimize job losses and improve the economic sustainability of mining within the country.[79]

In 2013, the Government of South Africa outlined its National Development Plan which aims to eliminate poverty and reduce income inequality in South Africa by the year 2030 with a particular focus on creating gender equality and more opportunities for youth. Specifically, the targets are to:

- "Eliminate income poverty – Reduce the proportion of households with a monthly income below R419 per person (in 2009 prices) from 39 percent to zero.
- Reduce inequality – The Gini coefficient should fall from 0.69 to 0.6."[80]

Regarding the mining industry, the plan highlights a need to develop supporting infrastructure, clarify regulation, review existing mining company commitments to social investments and to change the ownership structure of mining companies[81]. As well, it emphasizes the need for average economic growth to exceed 5% per year to create "sustainable expansion for job creation" by increasing exports in areas including mining and manufacturing[82]. In particular, the plan notes that South Africa needs to build on existing expertise in niche products and to prioritize becoming a leader in

manufacturing goods and services for the mining industry where existing expertise is present[83]. To bring the National Development Plan to life, Operation Phakisa is one mechanism, involving intensive work sessions with relevant public and private stakeholders, that the government is using to attempt to shift quickly from targets to implementation of the National Development Plan. Related to mining, in 2015[84] this involved a 30-day event hosted by the government which brought key stakeholders together including groups from industry, labour, and civil society with an aim to "implement priority programmes better, faster and more effectively"[85]. However, it is worth noting that many representatives of industry and civil society in South Africa interviewed during this research stated they have had little interaction with the Operation Phasika process.

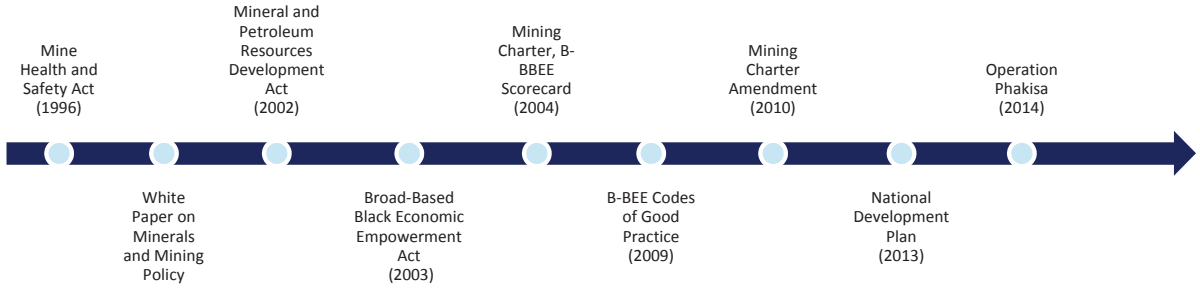


FIGURE 7: TIMELINE OF KEY POLICIES AND EVENTS THAT HAVE SHAPED THE SOUTH AFRICAN REGULATORY LANDSCAPE RELATED TO LOCAL PROCUREMENT

Recent efforts have been made to bring the Mining Charter Scorecard in line with the B-BBEE Scorecard[86]. Similar to the existing requirements of the B-BBEE Scorecard, the new Charter has ring-fenced elements so that companies need a minimum score in employment equity and enterprise development rather than a total aggregate score. The Charter Scorecard has also shifted its emphasis away from enterprise development among mining companies to supplier development since enterprise development initiatives tend to have no direct linkages to mining and they often do not develop businesses that can supply a mine. By contrast, supplier development initiatives are intended to focus on businesses that can supply mines and to leverage the potential provided through creating and deepening backwards linkages with the existing market channel.

Supplier development initiatives involve increasing the capacity of existing businesses and developing new businesses that can meet a present need and offer goods and services to specific existing markets, for example developing a business to supply a mining company that needs tyres. By contrast, what are often termed **enterprise development** initiatives will seek to increase the capacity of businesses that currently exist or to create new businesses that do not necessarily have a link to the organisation providing the capacity-building support. These terms are sometimes used interchangeably but for the purposes of this report this distinction is made to denote when mining companies are providing support to their specific suppliers (where procurement management has a stake), versus when they are providing support to unlinked businesses as part of what are usually considered community investment or philanthropic programming.

Additionally, the revised mining charter is currently being challenged in court under the premise that it was written without consultation and is therefore unconstitutional[87]. As well, there is a dispute over whether "once empowered" means "always empowered" as a previous regulation that set a minimum for ownership by HDSAs failed to address the scenario in which HDSAs decided to sell their shares.

Challenge with "once empowered, always empowered": in accordance with the mining charter, mining companies gave or sold 26% (25% equity plus one share) of their shares to Historically Disadvantaged South Africans (HDSA). Then, in many cases, these individuals sold their shares. It is currently being debated whether companies must continue to maintain 26% HDSA shareholders even after shares are sold off or if this ownership structure is just in initial instances. This is based on the assumption that the HDSAs who choose to sell their shares continue to be "empowered", leading to the statement "once empowered, always empowered". A key challenge highlighted by many companies is that to reach 26% ownership by HDSAs they had to give away shares or set up schemes to lend money to shareholders since very few HDSAs could afford to buy shares. So, in cases where mining companies support these individuals with their own capital, and where these shareholders decide to sell their shares, mining companies are concerned about the amount of potential financial investment that is required if they need to maintain a 26% share among HDSAs, and whether this requires shifting from a one-time investment to an ongoing and unknown amount over time.

LOCAL PROCUREMENT REGULATION IN NAMIBIA

For the control country in this study, Namibia was chosen because, unlike South Africa, it has no meaningful regulation related to local procurement. The Minerals Act of 1992 is the primary legislation involving mining and contains no provisions related to local procurement[88]. While it includes a brief mention that holders of a mineral licence shall "with due regard to the need to ensure technical and economic efficiency, make use of products or equipment manufactured or produced, and services available, within Namibia", there is no government operationalization of this clause[89].

Local procurement is instead influenced by the Mining Charter. The Mining Charter was created by the Chamber of Mines and sets the local procurement targets for the mining industry in Namibia (Figure 8). The Charter outlines specific targets with respect to local procurement, training and ownership. Companies are required to submit an annual report to the Chamber on how they met or why they did not meet the targets[90]. The Mining Charter is therefore not legally binding though Chamber members have agreed to submit reports thereto.

Specifically, to promote new and Namibian-owned businesses, the Charter highlights[91]:

- *Accessibility of procurement opportunities to local suppliers:* Procurement requirements must be easily accessible and procurement policies must not place unnecessary obstacles on Namibian or historically disadvantaged Namibian suppliers.
- *Requirements for local procurement spend:* Provided they are cost and quality competitive, mining companies must direct 25% (2014-2015) and 40% (2016-2020) of discretionary expenditure to Namibian-owned enterprises (see Charter for definition of discretionary expenditure). Note that during construction or significant expansion, the requirement is reduced by 50%. In most cases, state-owned enterprises are not considered as Namibian suppliers. Some exceptions include: Air Namibia, Telecom Namibia, Roads Contractor Company and TransNamib.

Records and verification of "local" suppliers: Procurement records of mining companies must be kept in line with the Chamber of Mines guidelines for expenditures on Namibian-owned businesses to be considered. As well, Namibian-owned businesses must demonstrate that they create some form of "value-add" in Namibia (this is further defined in the Chamber of Mines guidelines).

Description	% Measure	Score
Spend on Namibian suppliers as a percentage of total discretionary spend	2014 – 2015 25% 2016 – 2020 40%	12
	Further points in proportion to further spending on Namibian-owned business suppliers, to a maximum of 60%	8 max
	Maximum total number of points	20

FIGURE 8: REQUIREMENTS FOR LOCAL PROCUREMENT SPEND IN NAMIBIAN MINING CHARTER
REPRINTED FROM CHARTER FOR SUSTAINABLE AND BROAD-BASED ECONOMIC AND SOCIAL TRANSFORMATION IN THE NAMIBIAN MINING SECTOR (8), BY THE CHAMBER OF MINES NAMIBIA, 2014.

KEY ACTORS AND INSTITUTIONS

Government

The Ministry of Mines and Energy (MME) is the Namibian government's department in charge of mining. It oversees the geological records and mineral titles of land in Namibia, regulates mining activity and attracts international investment[92].

Industry

The Chamber of Mines of Namibia acts as the voice of the mining industry in Namibia. Mining companies are represented by the Chamber in negotiations with the government. The Chamber is also active in collecting industry data and creating best practice guidelines for mining companies. Using industry-wide data collected through reporting completed by mining companies on performance related to the mining charter, the Chamber of Mines provides the Ministry of Mines and Energy a year-end briefing and a collective outcome report[93]. As a result, the Ministry relies on the Chamber of Mines for information related to local procurement which is often not reported by each individual site, or reported consistently across different sites of the same company.

Enforcement

As the Mining Charter is voluntary in Namibia and no binding local procurement regulation exists that applies to the mining industry, there is no enforcement by government. Mining companies report information on local procurement to the Chamber of Mines on an annual basis, and the Chamber reports the collective outcome of the industry to the Ministry of Mines and Energy. This means that the Chamber of Mines is effectively the regulator of the mining industry when it comes to local procurement. The Charter is optional, and the Chamber encourages its members to achieve the targets in the various pillars.

Recent developments

In recent years, the government has taken steps to follow South African regulation. The New Equitable Economic Empowerment Framework (NEEEF) is a bill that seeks to emulate the B-BBEE of South Africa. The draft bill specifies that 25% of each mining company must be owned by historically disadvantaged Namibians, affecting both mining companies and suppliers alike[94] (Figure 9). It is proposed that noncompliance will prevent companies from obtaining a mining licence or government contract. NEEEF will come into effect once all issues arising from the Bill in its current format have been resolved.[95]

Ownership restrictions

23. (1) Any private sector enterprise that is established after the commencement of this Act may commence business only when such enterprise has secured 25 per cent ownership by a racially disadvantaged person or persons or such higher percentage as may be determined by Minister by notice in the *Gazette*.

FIGURE 9: PART OF THE OWNERSHIP CLAUSE OF THE PROPOSED NEEEF BILL
REPRINTED FROM THE NEW EQUITABLE ECONOMIC EMPOWERMENT FRAMEWORK (31), BY THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA, 2015.

The government is also implementing an initiative called the Harambee Prosperity Plan (HPP) which complements Namibia's National Development Plan. The National Development Plans are four-year programs, with the current fourth version ending in March 2017. To support these plans the HPP seeks to provide prosperity for all Namibians in a peaceful, stable, and inclusive manner and is described as "industry friendly" as it recognizes the mining industry as a potential partner for socio-economic development rather than an adversary[96]. Specifically, Harambee highlights the mining industry as an area of focus for ten industry growth programmes with a focus on local value addition and increasing backwards linkages[97] (Figure 10).

Industry Growth Programmes: Ten Industry Growth Programmes geared towards local value addition and strengthening of forward and backward linkages within the Namibian economy will be developed by 2016 and implemented by 2020. In the beginning focus will be on adding value to local resources by promoting growth and diversification of processing and manufacturing industries related to: mineral resources, large and small livestock, as well as local plant, crop and forestry resources.

In 2016, in particular, the following projects will be carried out: the Small-Scale Miners Hub that will become operational in the third quarter of the year; the opening of an upgraded Northern Tannery also by the third quarter of 2016; and completion of construction of a pharmaceutical plant before the end of the year. Other industries to be supported in subsequent years of Harambee, due their forward linkages into construction, agriculture; mining and other sectors of our economy include metal fabrication, building materials and automotive parts manufacturing.

FIGURE 10: SECTION OF THE HARAMBEE PROSPERITY PLAN FOCUSING ON ECONOMIC TRANSFORMATION AND SPECIFICALLY HIGHLIGHTING BACKWARDS LINKAGES IN THE MINING SECTOR REPRINTED FROM HARAMBEE PROSPERITY PLAN (29), 2016.

SUMMARY

The table below summarize the regulatory environments in South Africa and Namibia including tools for implementation and enforcement of regulatory and governance frameworks (Table 4).

GOVERNMENT ENTITIES, TOOLS AND PLANS	SOUTH AFRICA	NAMIBIA
Government Department	Department of Mineral Resources	Ministry of Mines and Energy
Mining Legislation	Mineral and Petroleum Resources Development Act	Minerals Act
Development Policy	National Development Plan	National Development Plan Harambee Prosperity Plan
Economic Empowerment Legislation	Broad-Based Black Economic Empowerment Act Enforcement: B-BBEE scorecard	New Equitable Economic Empowerment Framework (proposed) Enforcement: N/A
Mining Charter	Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry Enforcement: Mining Charter scorecard and Social and Labour Plan	Charter for Sustainable and Broad-Based Economic and Social Transformation in the Namibian Mining Sector Enforcement: N/A by government; industry association requires annual reporting

TABLE 4: SUMMARY OF GOVERNMENT ENTITIES, TOOLS AND NATIONAL DEVELOPMENT PLANS IN SOUTH AFRICA AND NAMIBIA

BACKGROUND: LOCAL PROCUREMENT STRATEGIES OF MINING COMPANIES

As a result of external and internal pressures, many mining companies have adopted local procurement strategies and policies. To better understand the local procurement activities of mining companies in South Africa and Namibia, several online sources, including company sustainability reports, annual reports and websites, of all mining companies in the respective Chamber of Mines were reviewed. It is possible that companies are doing more activities related to local procurement and simply not reporting the extent of their initiatives, but reviewing reporting by companies provided a reasonable proxy measure to work from. Below, Figure 11 shows the local procurement activities of companies with mines in operation in South Africa and Namibia. The level of local procurement reporting was divided into four categories and each subsequent category includes the reporting elements of all previous categories. Supplier development programmes were also included since they were almost exclusively mentioned by companies that publicly reported their local procurement spending, making them an appropriate metric for local procurement efforts as well. The four categories of local procurement reporting include:

- *No info:* companies with no mention of local procurement in public material
- *Mention of local procurement:* companies that either mention local procurement or have a policy of local preference (e.g. *"We help develop local communities through the procurement of goods and services from local businesses"*)
- *Measure of local procurement:* companies that provide statistics on their local procurement, which could include the percentage of procurement spending on local suppliers or the value of that spending (e.g. *"Last year we spent 47% of our total procurement with local suppliers"*)
- *Supplier Development:* companies that have supplier development programmes (e.g. "*Our supplier development programmes increase local production capacity and help SMEs gain access to larger markets*")

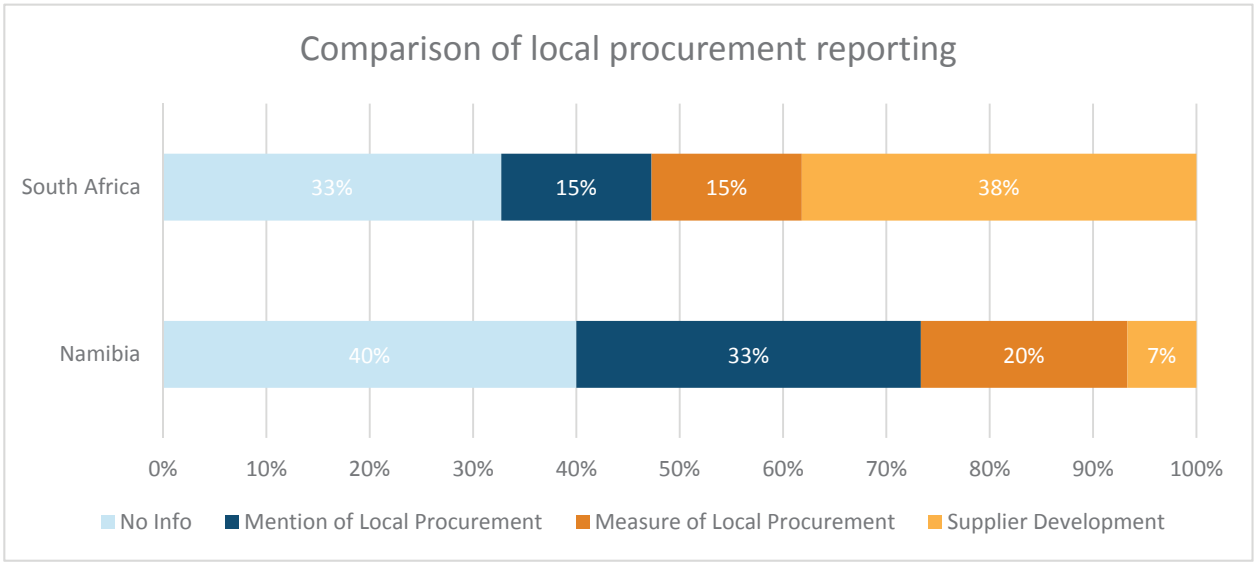


FIGURE 11: LOCAL PROCUREMENT REPORTING BY MINING COMPANIES IN SOUTH AFRICA AND NAMIBIA

Figure 11 highlights that there is a notable difference between the companies in South Africa and Namibia which have no information about local procurement on either their website or in their sustainability reports. In South Africa, which has local procurement regulations, approximately 33% of companies have no information; whereas in Namibia, which does not have local procurement regulations, it is approximately 40%. There are a variety of factors that could contribute to

this difference and one important variable to note is the presence and absence of local procurement regulation. In South Africa, the local procurement regulation could be contributing to the raised standards for local procurement in the country.

In examining the differences between international and domestic producers in Namibia and South Africa, Figure 14 shows a small difference between domestic and international companies in South Africa, and a large difference in Namibia. The difference in company sample size between these two countries should be noted. In South Africa, there were a total of 55 companies in operation registered as members of the Chamber of Mines; whereas, in Namibia there were a total of 15 companies in operation registered at the Chamber of Mines that were examined. With the smaller sample size in Namibia, individual company actions have a greater impact on the overall statistical representation of the sector at a national level.

BEE PROCUREMENT IN 2015 (%)

	Capital goods Target: 40%	Consumable goods Target: 50%	Services Target: 70%	Multinational companies
Beatrix	59	74	74	No imports
Cooke 4	52	64	82	No imports
Cooke 1, 2 and 3	33	60	70	No imports
Driefontein	52	74	78	No imports
Kloof	66	80	78	No imports
Group	**56**	**72**	**76**	**No imports**

FIGURE 12: SIBANYE BEE PROCUREMENT BY MINE AND SUPPLIER CATEGORY

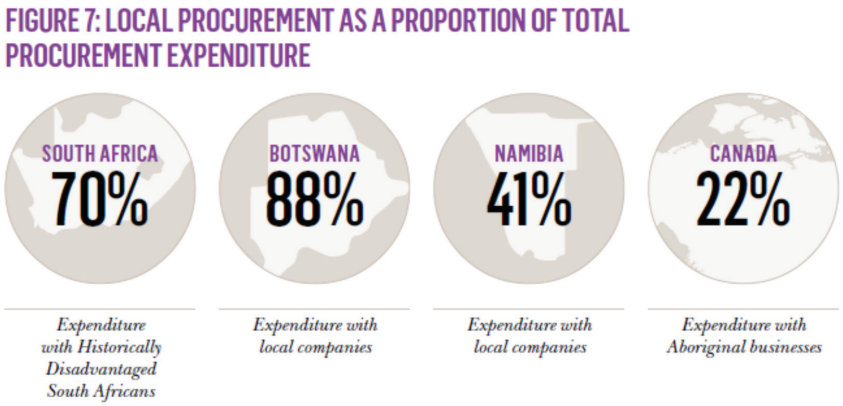


FIGURE 13: DE BEERS LOCAL PROCUREMENT EXPENDITURE BY COUNTRY

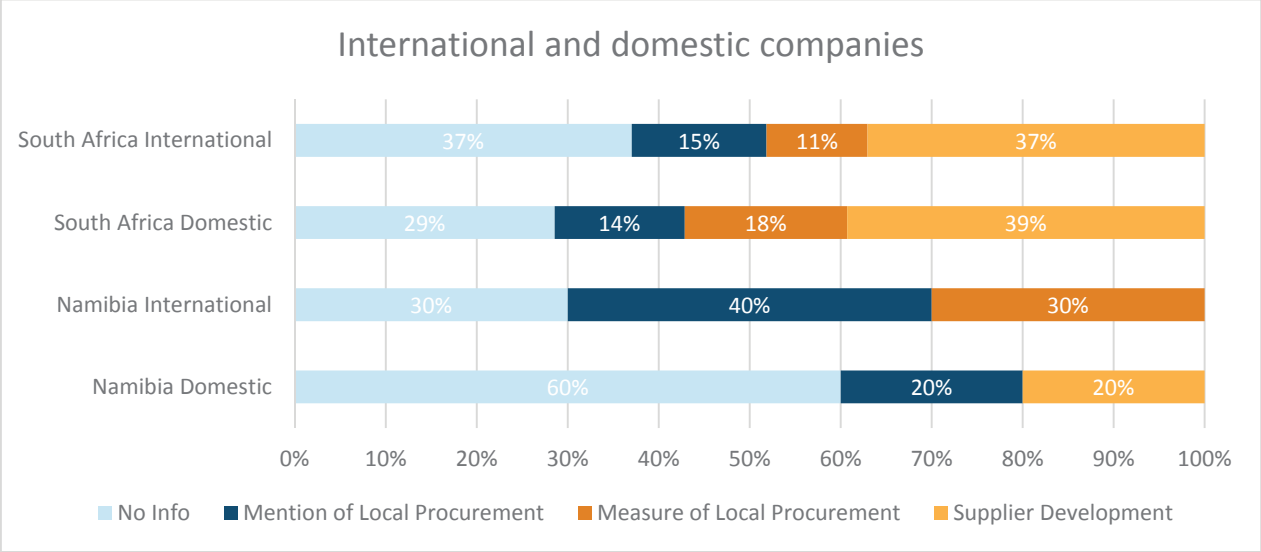
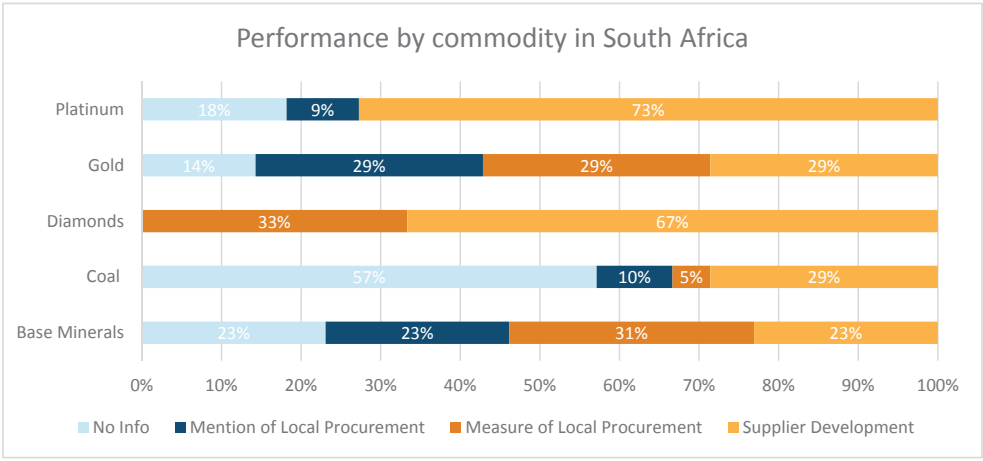


FIGURE 14: LOCAL PROCUREMENT ACTIVITIES OF INTERNATIONAL AND DOMESTIC MINING COMPANIES IN SOUTH AFRICA AND NAMIBIA

As shown in Figure 14, it is possible that the presence of local procurement regulation in South Africa is limiting the variance of local procurement activities between domestic and international companies. In Namibia where there is no local procurement regulation, it is noted that there is a significant difference between the percentage of international and domestic companies with no mention of local procurement initiatives (30% versus 60%, respectively). As mentioned previously, international corporations often have sophisticated CSR systems and company standards that can encourage local procurement by their sites, regardless of the local regulatory environment each operates in. However, due to the small sample size it is challenging to draw significant conclusions since individual company actions have such an impact on overall results.

Recognizing the significant number of companies in South Africa in comparison to Namibia, local procurement initiatives were further examined across commodities in Figure 15.

FIGURE 15: LOCAL PROCUREMENT INITIATIVES IN SOUTH AFRICA BY COMMODITY



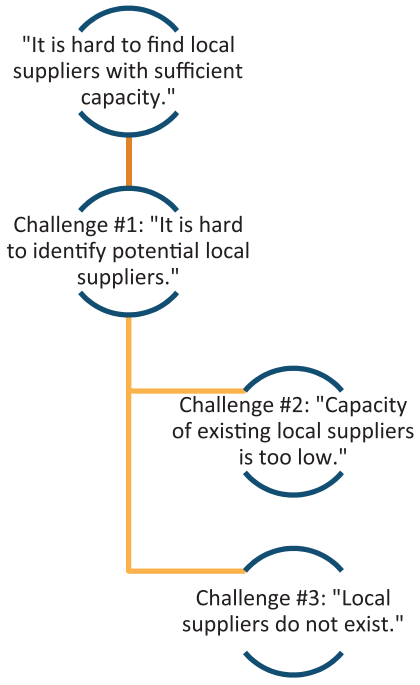
It is noted in Figure 15 that gold and base minerals in South Africa performed moderately in comparison to other commodities; platinum and diamonds performed above average, and coal performed below average. There could be a variety of reasons for this variability between commodities, which may include the value of the mineral, the number of mines in proximity to one another, the length of time a mine is in operation, or the different upstream supply chain structures for each type of mining. While researching the different types of mining and their supply chains was beyond the scope of this study, it is a topic that merits further research.

A difference between local procurement strategies of companies operating in South Africa and Namibia was noted in reviewing their online public reporting included on their websites and within sustainability reports. In particular, it appears that in South Africa companies have more of an emphasis on local procurement than in Namibia as well as more investment with more companies carrying out supplier development initiatives. Within each country, it was noted that the local procurement activities in South Africa varied minimally between domestic and international companies; however, in Namibia this variation was much larger with many international companies mentioning local procurement initiatives. Also, due to the larger sample size, the variation between different commodities was examined in South Africa noting that platinum and diamond companies had much more advanced local procurement initiatives in comparison to other commodities. Finally, it should be noted that reporting is not the same as performance but it does suggest an internal prioritization of the issue. Reporting tends to be linked to better internal management, stronger trust with key stakeholders and can contribute to strengthening dialogue and coordination with key stakeholders[98]. The following section will explore the performance and experiences of mining companies further and discuss the challenges, opportunities and key incentives for mining companies to do local procurement with regulation highlighted as one of many incentives.

LOCAL PROCUREMENT IN SOUTH AFRICA AND NAMIBIA: KEY FINDINGS FROM INTERVIEWS

In line with findings in the previous section on local procurement reporting, the mining industry both in Namibia and South Africa largely wants to buy more locally manufactured goods that match cost, quality and delivery time expectations and, broadly, want to invest in sustainable economic growth. In addition, many companies are being proactive in investing significant time and money to address current barriers to local procurement in host countries. For example, supplier development programmes, as well as specific initiatives such as guaranteeing volumes to businesses, are prevalent.

However, most companies operating in both countries noted that the key barrier to creating and deepening linkages is the capacity of suppliers, and there seems to be a lack of consensus on whose role (government or industry or both) it is to develop the capacity of local suppliers and to what extent. As was highlighted by Humphrey (discussed in Part 2 of this report) that any government or region seeking to upgrade their position in a global value chain, such as mining, must ensure that they have the necessary capabilities to upgrade domestically[99]. Also linked to capacity building of “local” suppliers, there is a lack of consensus regarding the definition of “local”, which is leading to varying expectations of stakeholders that include government and suppliers within regions and countries in terms of who benefits from initiatives to develop “local” economies. These initiatives include, for example, skills development programmes for local businesses and preference in contract creation.



When companies describe that "it is hard to find suppliers with sufficient capacity" to meet their procurement needs, there are a few different possibilities that were largely cited to explain why: challenges identifying suppliers, challenges with the level of capacity of existing suppliers and challenges resulting from a lack of suppliers present locally. Capacity in most cases refers to the ability to meet expectations of tenders including cost, quality, delivery time and codes of conduct.

Challenge 1: Identifying potential suppliers is difficult

Largely in both countries, companies had internal databases to register new suppliers with varying levels of sophistication. Some companies have open tender processes and announce new contracts on local radio stations, press and local information centres while others have largely closed tender processes and rely on referrals from existing suppliers. In some cases, more closed processes can make it challenging for suppliers to understand the needs of a company, where to invest and how to form a relationship. Some companies noted that they need to work to increase the transparency of their tender process.

Beyond internal processes, companies in each country noted that external actors supported them to identify local suppliers. In the case of South Africa, some companies noted that when they could not find suppliers, the government supported them to identify new suppliers. While in Namibia, it was noted that the Chamber of Mines supports companies to identify suppliers and was working to create a database of local suppliers to support mining companies to identify local businesses before the new bill (NEEEF) was proposed. However, the Chamber noted that this process was challenging and in many cases the company data was inconsistent as company reporting systems differed, which made the procurement database difficult to establish and ultimately has stalled the initiative. In both countries, there is industry consensus that a key supporting role that external actors, whether government or industry associations, can play is to bridge any existing gaps between mining companies' knowledge of what local suppliers exist and the local suppliers that are present.

> *"If there was a database of reputable and capable suppliers, most people would take the easy solution and procure from the list."* – mining company representative

Challenge 2: Capacity of existing suppliers is too low

Many companies identified that the capacity of existing suppliers was too low to competitively supply their needs, which highlighted a number of issues. In both countries, in many cases it was noted that local suppliers are preferred if expectations for cost, quality, delivery time and codes of conduct are met. However, despite these often rigid expectations, in many cases companies noted that price was a slightly more flexible variable and indicated a willingness to choose a local supplier even if the price was less competitive.

> *"Capabilities of local firms are the single most important determinant of success"* – UNCTAD, 2001, xxv

As highlighted in Part 2, in cases with mining companies registered on foreign stock exchanges, these companies often endorse international standards that may be higher then domestic standards, which creates a gap in expectations and capabilities between mining companies and local suppliers. For example, in both countries, companies noted that they adhere to International Organisations for Standardization (ISO) standards, International Finance Corporation (IFC) standards and in some cases, use other international company policies and best practices as a model for their own policies and procedures. One company noted that their specifications for tenders and best practices were in line with the policies and procedures of Anglo American due to their good reputation on issues related to local procurement. As well, larger international suppliers such as Engineering, Procurement, Construction and Management (EPCM) and Engineering, Procurement and Construction (EPC) firms can also have specific

requirements and endorse international standards, requiring local suppliers to meet specific parameters that may be higher then domestic standards.

In South Africa, it was noted that many suppliers apply for contracts that they are ill-equipped to successfully carry out and some companies noted that some suppliers submitted incomplete bids. For example, it was noted that many bids were submitted without specific technical specifications such as dimensions for materials. Also, there were cases highlighted where the bid prices that were provided were not realistic. Another company reiterated that expectations of suppliers for access to certain contracts often exceeds their actual capacity.

> *"Some companies will say they can do anything, but when you look at their certifications and education, they clearly aren't up to the job." – mining company representative*

As highlighted above, to become a supplier many companies noted that there are significant requirements including codes of conduct. A company indicated that it has occasionally had to enforce its code of conduct of fair wages and had to force its suppliers to pay their employees. These challenges align with concerns noted in literature related to limited ability of local suppliers, at times, to meet standards related to aspects that include health, safety and wages. In addition, it was noted that sometimes suppliers lack sufficient cash flow to carry out contracts. As noted previously, this added barrier to suppliers can reinforce power dynamics and distribution of gains that currently exists in a market as new or existing suppliers without the ability to access sufficient capital are not able to secure contracts. However, strategies and partnerships can be formed to overcome these challenges, as described in Part 2 and subsequent sections.

In Namibia, limited capacity was generally described in relation to administrative issues, general business skills, information gaps between suppliers and the company, transfer of knowledge from international suppliers to local suppliers, quality and delivery times. A major challenge is that as a company decides whether the capacity of a supplier is sufficient for a tender, they must assess the risk and potential liability. This review and assessment adds extra staff time internally, can delay the approval of a tender and can increase risk so these additional costs are considered as well by many companies. Beyond these concerns, it was noted that a manufacturing industry is needed to provide required goods and that the reliability of suppliers, especially for strategic items such as oil, needs to be addressed. In particular, a company noted that small consumables are locally procured but they do not procure big spend items because the quality and quantity is not guaranteed by Namibian suppliers. In addition, it was noted that suppliers largely lack the skills for specialized items and services. As described previously by Kolstad and Kinyondo, a skilled workforce and access to key consumables in an existing and related industrial base, which allow for the leveraging of policies to increase backwards linkages, are some foundational characteristics necessary to develop a thriving mining industry[100].

Challenge 3: Local suppliers do not exist

In both countries, it was highlighted that procuring specialized equipment was significantly more difficult in-country. In general, as the value of goods and services increased, companies found them more challenging to find locally. For goods, companies in both countries noted that finding goods manufactured locally was a challenge, noting that the manufacturing industry was weak. For services in particular, it was noted that finding skilled labour locally was a challenge. The specific gaps vary by country and, as noted in Part 2, in order for governments to prioritize where to invest in upgrading, the following should be considered: existing capabilities as well as access to market channels domestically, within Southern African Development Community and internationally.

In summary, the key conditions for upgrading and leveraging backwards linkages for sustainable development that must be met include capabilities to upgrade domestically and access to market channels. As UNCTAD noted, the "more stringent technological, managerial and scale demands on suppliers (and on their support institutions and infrastructure)" must not be underestimated[101]. Companies in both countries clearly outlined the challenges faced to develop a thriving mining industry when there are significant gaps in capacity or linkages to existing suppliers.

External pressures

Beyond challenges that companies faced in their efforts to increase local procurement, a number of external pressures contributed to their ability to increase local procurement either directly or in partnership with other actors. From industry interviews, it appeared that external pressures, including those from governments and communities in South Africa, were much more adversarial then in Namibia, with interviewees noting issues such as threats of violence and intimidation based on which supplier was offered a contract. As well, there was a significant fear among some companies that they could lose their mining license in South Africa, as government has a lot of discretion within the existing legal frameworks to suspend a company's mining license, and there are limited channels between industry and government for dialogue. This type of regulatory uncertainty, in extreme cases, can lead to companies considering removing their investments. This risk is especially high given the current state of the mining sector as companies across the board are settling into the "new norm" of lower commodity prices and are under pressure to be more lean, restructure and review all portfolios.

In addition, issues of corruption were noted in both countries. Examples included suppliers leveraging political connections for contracts, politicians leveraging their seat for contracts, falsification of documents and bribes. As highlighted in Part 2, from Kolstad and Kinyondo, dysfunctional institutions will likely create or support the implementation of dysfunctional policies and careful measures need to be introduced to increase transparency related to tender processes and contracts, since local procurement, in the worst case, can be leveraged to not only maintain power but to further entrench it.

Models companies are using to address the gaps and barriers to local procurement

Despite these challenges, there are numerous examples of innovative models that mining companies are using and suggesting in both countries to overcome these barriers.

- *Bridging the information gap and managing the tender process*
    - *Leveraging local platforms to announce tenders:* Companies noted using a variety of platforms, including local radio stations, press and community centres, to announce tenders. As well many companies noted that they have a local supplier database in which suppliers can submit their details and service offering at any time and be added to the database so that they will be notified if there is a relevant tender.
    - *Compliance hotline:* A company noted that they have a compliance hotline for the tender process to support new and existing suppliers to better understand the criteria and requirements outlined in each tender. Key criteria noted by the same company included cost, technical capability, health, safety and the environment as well as NEEEF. The company stated that, for example, the compliance hotline can be used to "lodge a complaint about the tender process".
    - *Breaking up bids to increase access to local suppliers:* Companies noted that they divided tenders to decrease the contract size in order to create opportunities for local suppliers.
    - *Including requirements for "local" in tender:* Some companies noted that they included, for example, proximity requirements in tender criteria. As well, a company noted that under the tender policy, suppliers are rated based on where they source their materials, how many Historically-Disadvantaged Namibians are employed and what they spend on CSR as well as there is provision made for NEEEF[102].

- *Cost compromises for local goods and services:* Numerous companies noted compromising between 1-10% on the cost of the bid if the supplier was local; however, many reiterated that quality is never compromised.
- *Embedding supplier development in tender process:* A company noted that it supports supplier development by including key performance indicators in its contracts, which include skills transfer, innovation and artisan support.
- *Tracking spend of suppliers locally:* As part of the tender process, some companies track how much local suppliers are spending locally on goods and services.

- *Supporting local suppliers where the capacity is too low*
  - *Guaranteed volume:* A company agreed to commit to a supplier a specific annual volume of purchases. Based on this, the supplier used the guarantee to get a loan to expand operations to meet the quantity requirements of the mining company; "once we commit the volumes, suppliers are able to get financing"[103].
  - *Short-term fixed costs:* Another company noted that it sets a fixed price for a certain quantity of product with local suppliers for several months so that suppliers can plan ahead to both have the product in time as well as understand their cash flow.
  - *Building capacity:* Whether through small loans, mentorship and training from company staff, scholarships or donation of physical assets, many companies are actively working to directly build the capacity of the suppliers they work with as well as investing in future skilled labour for the sector. For example, a company noted that it sent students to master's degree programmes in engineering and trades abroad. Another company suggested that to bridge skills and graduates, a database could potentially be used to place graduates in relevant jobs. Also, a company highlighted that it provided a facility to a car washing company to provide early stage investment and that the company has since expanded.

- *Working to increase local suppliers*
  - *Pooling purchasing to help drive local manufacturing:* It was suggested by interviewees that a sector-wide initiative is needed to aggregate orders between mining companies and to support the development of a number of manufacturing companies. Further, as one company highlighted, to find a big enough market for certain products, not just today but in the future, coordination may be needed across multiple industries. Naturally, the presence of pre-existing supply contracts already in place makes cooperation difficult. An option suggested that the Chamber of Mines could create and facilitate the development of this framework and approach between mining houses; or, if the a situation relates to a product that involves multiple industries, government may be the ideal actor to take the lead in coordinating. In South Africa, it was additionally noted that the need for recognition was a key constraint since companies are concerned about how pooled procurement would be recognized by the government on their scorecards; "everybody wants to score their own points, so if companies were to work together they would fight over who gets the credit"[104].
  - *Leveraging buying power and influence of mining companies to increase local businesses:* It was noted that in certain cases companies can use their buying power and influence to shift how some of their

international suppliers operate. For example, a company highlighted that it had purchased a product internationally but had required this supplier to offer ongoing repair and support services locally.

These initiatives are being undertaken regardless of whether companies operate in South Africa or Namibia. Since local procurement regulations are not present in Namibia, this suggests that regulation is not the only incentive pushing companies to do local procurement and this will be explored further in subsequent sections.

Comparison of local procurement spend in Namibia and South Africa

With an understanding of the challenges and measures that companies are using to overcome these challenges in South Africa and Namibia and recognizing that the different contexts between these countries, Figure 16 gives a sense of the spread of company local procurement spend in relation to their total spend using the most recent data available for companies in the presence and absence of regulation. As a result of the small sample size, this figure provides an anecdote to understand how the local procurement spend varies in South Africa where local procurement regulation exists and in Namibia where local procurement regulation is not currently in place. In general, there were major challenges to find publicly reported comparable local procurement spend amounts. In many cases, the percent of local procurement spend as a function of total procurement spend was not provided or only an aggregate across multiple sites was provided. In other cases, only the local procurement spend was given but the total spend for that same period was very challenging to find, so the proportion could not be determined.

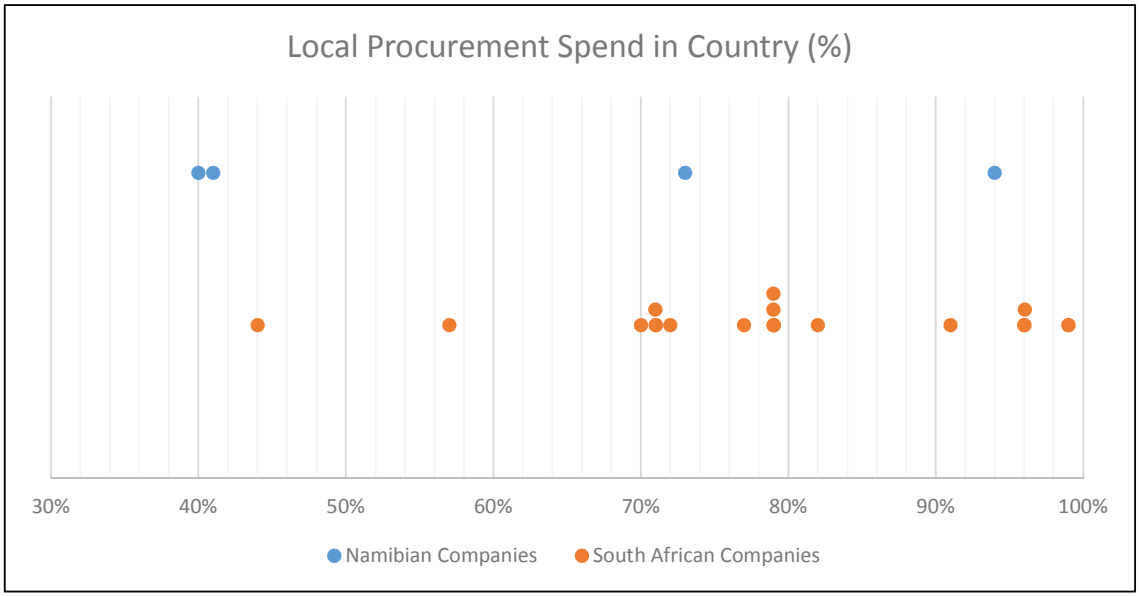


FIGURE 16: IN-COUNTRY LOCAL PROCUREMENT SPEND (%)

There were four mining companies in Namibia and sixteen in South Africa with comparable procurement data. Due to the small sample size, particularly in the case of Namibia, it is not possible to draw significant conclusions other then that due to the lack data that is comparable, it makes it challenging for all stakeholders, including mining companies, suppliers and governments, to understand the current state of local procurement and where the opportunities exist. Also, it should be noted that there may be minor discrepancies in the data points as companies may have defined "local" differently.

Based on the available data, a significant variation in local procurement spend among companies was noted within the same country, even in South Africa where local procurement regulation is present. The average spending on local suppliers was lower in Namibia; however, the sample size was very small. In the case of South Africa, while the Mining Charter

requires a minimum of local spending in specific categories (goods, consumables and services), the amount spent in each category varies between mine sites. Some mines will require a larger budget for mine services, while others may have an increased demand for consumables which affects the overall proportion that local purchasing makes up of the total spend.

As highlighted in the previous section, local procurement initiatives are being undertaken in South Africa and Namibia, despite the lack of local procurement regulation in Namibia. As well, it appears that local procurement spend does not always increase when local procurement regulation is in place, which suggests there are challenges with the implementation, enforcement or effectiveness – or all three combined – of increasing local procurement in their applied context. Regardless, quantitative data of local procurement spend and qualitative data of company initiatives suggest that numerous companies are working to increase the amount of goods and services purchased locally, whether regulation is present or not. The following section investigates some of the different incentives influencing companies to buy locally.

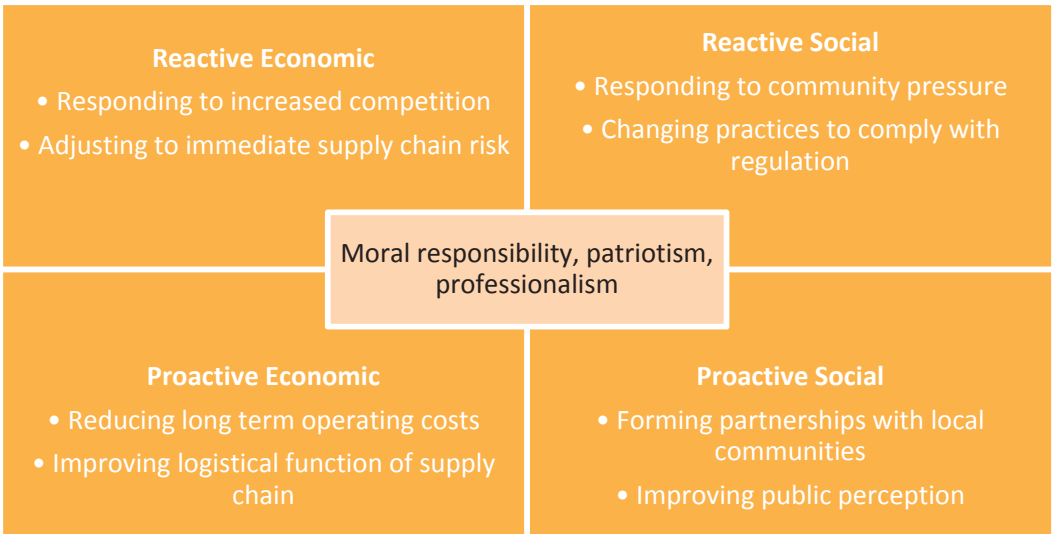
Common factors influencing companies to buy locally

To better understand what is driving companies to buy more goods and services locally, the reasons why mining companies developed their local procurement strategies in certain ways is explored. These factors can largely be categorized by the following broad themes:

- proactive economic
- proactive social
- reactive economic
- reactive social

As well, moral responsibility, professionalism and patriotism influence how companies and their staff develop local procurement strategies in different ways. Figure 17 shows a way to represent these broad themes and identifies some of the key characteristics identified during interviews with mining companies in South Africa and Namibia. As shown, there are a variety of factors beyond regulation that influence mining companies to develop their local procurement strategies, impacting how many and how much company resources will be invested to increase local purchasing (Figure 17).

FIGURE 17: COMMON FACTORS THAT INFLUENCE MINING COMPANIES TO DEVELOP THEIR LOCAL PROCUREMENT STRATEGIES IN DIFFERENT WAYS



First off, there are incentives that influence individuals within companies but do not necessarily have any financial return, short or long-term. These include moral responsibility, professionalism and patriotism. Many managers and other employees described that local procurement is "doing what is right". As one mining company stated, "nobody likes driving through a squatter camp on their way to an air-conditioned office. At a certain point it's about ethics: who you are as a person"[105]. Also, where socially responsible procurement practices are seen as an indicator of professional performance, the management culture may influence individual decisions. As a result, some interviewees described local procurement as part of their responsibility and therefore part of their performance measures. Finally, patriotism or nationalism may also motivate a manager or employee to promote local procurement. Another company representative highlighted that, "since the [mining] industry is self-governed, it depends on a feeling of nationalism to move the developing economy forward"[106]. Those with strong loyalty to a certain country are likely to prioritize domestic economic development and job creation. This factor is noted to be more relevant to domestically-owned or managed companies than companies that are owned or managed by international companies or representatives.

When looking at the types of incentives that influence individuals within companies, we can identify four different types: reactive social incentives, proactive social incentives, reactive economic incentives and proactive economic incentives.

Reactive social incentives are related to immediate external pressure from communities and governments. Community pressure and unrest can cause severe problems for a mine. A protest might block site access or result in violence. By increasing local procurement, a mining company can gain favour with the community and reduce this pressure. Procurement regulations are also a reactive social incentive. If a company fails to comply, the operation may be forced to shut down. This is the most straightforward incentive in that the target is well-defined in writing with clear consequences of noncompliance.

Proactive social incentives involve the company taking a long-term view to stakeholder engagement. An example of proactive social management would be forming a partnership with a community or government in order to build, rather than repair trust. This will lead to fewer social problems in the future. Where the local people see the benefits of mining, they may become proponents of the industry or even favour a particular company over its rivals. Beyond the communities directly affected by development, a mining company also has to manage public perception. Societal pressure may become a problem for mining companies with a poor track record of local economic development. This is no different from environmental mismanagement, human rights violations or corruption. Even if it could be gotten away with today, it will be remembered tomorrow. Companies that wish to stay in production must deal with these issues responsibly.

"We want to be seen as the company that gives the best deal to our host communities." – mining company representative

Reactive economic incentives are based on economic threats to the operation of a mining company. Some examples include:

- *Competitive advantage over other mining companies* – several companies noted that competition from Chinese State Owned Enterprises (SOEs) was a motivation for local procurement. Since the SOEs have a competitive advantage due to low cost procurement from China, these mining companies are looking for alternative ways to stay competitive. One of these strategies is to promote local procurement. The idea is that while they cannot match the low-cost production of the SOEs, they can market themselves as "more Namibian". By championing local suppliers, they are attempting to (1) gain favour with Namibians, and (2) change the regulatory landscape to support their strategy. If they are able to increase local procurement in their own operations, then lobby for local procurement requirements across the board, they may be able to eliminate the competitive advantage of the SOEs.

- *Threats to supply chain* – For some products, companies feel that it is safer to have multiple suppliers for the same product in case there is a problem with one supplier. If the sole supplier was to go out of business or face a delay, the mine could no longer operate as usual. With multiple suppliers, risk can be dissipated. This leads to multiple, smaller contracts for some contracts such as transport and trucking.

Proactive economic incentives include initiatives to lower long-term operating costs or improve supply-chain efficiency. Helping to develop local suppliers is a cost-saving measure if the mine life is long enough to justify the initial expense. The cost of labour in Namibia and South Africa is lower than many industrialized countries, so paying domestic wages is often cheaper, driving down the overall cost for certain goods and services. The cost of transport is also much lower for locally procured goods and services. Additionally, local suppliers are able to provide support services much more effectively than international suppliers. Their proximity to the mine improves their response time and availability. Doing business with local suppliers also eliminates import costs and the risk associated with the fluctuation in exchange rates. The viability of these types of investments increases as the mine life increases, especially in terms of reducing ongoing costs such as higher transport and import taxes from international suppliers.

This section discussed some of the other factors that are influencing mining companies to buy more goods and services locally, breaking the incentives described by mining companies into four broad themes: proactive economic, proactive social, reactive economic and reactive social. The following section explores the relationship between local procurement regulation and increasing the amount of locally purchased goods and services further.

Key considerations on regulation to increase goods and services purchased locally by mining companies

Generally, it was noted that ongoing dialogue is a key component of governments working with companies to develop and implement tools, such as regulation, to increase local procurement. There are varying perspectives between companies on the types of tools that government should use to support them to increase their local purchasing. Largely, more informal tools were highlighted with an emphasis on incentives over rules including tax breaks, infant industry protections and coordinating the pooling of purchasing to develop local manufacturing.

However, in both South Africa and Namibia local procurement regulation is in place or being reviewed, particularly focusing on historically-disadvantaged peoples in each country. Importantly, it was noted that dialogue is needed not only in the design of regulation to set realistic objectives and targets for local procurement but also throughout implementation and enforcement so that companies and government can work together to address and overcome any gaps or challenges to achieve the desired outcomes.

SOUTH AFRICA

Regarding local procurement regulation generally, some companies in South Africa felt that less specific regulation is needed since current targets are creating numerous challenges and limiting potential innovations that have occurred in other jurisdictions with less specific targets. Specifically, numerous companies indicated challenges in meeting the local procurement targets, highlighting that in some cases companies paid inflated prices to local suppliers. This is a challenge when it becomes the norm and not the exception as the artificial markets will insulate local suppliers from international market pricing and remove the incentives to become competitive on the global stage, affecting the long-term viability of suppliers. Further, as highlighted in Part 2, it is important to understand any negative impacts of local procurement in cases where increasing local procurement decreases the overall revenues of companies and thus the amount of revenue governments receive when companies invest significant resources to build supplier capacity or pay more for products domestically.

> *"In some cases, regulations create a false economy and a false sense of competence that is not sustainable."* – mining company representative

Of the goods and services being procured, companies generally indicated that local suppliers were characterized by products with low barriers to entry. In addition, as the local supply was generally low value many noted the susceptibility and presence of overcrowding; this was noted as a key risk to suppliers carrying low-value products in Part 2. As well, many companies noted that the emphasis for local purchasing was largely on services and not goods through local manufacturing.

Specific measures of enforcement and public reporting were noted by some companies as a significant risk. A few companies noted that the local procurement regulation had increased their risks associated with local procurement. For example, one company noted that because the Social and Labour Plan is public, local vendors were attempting to extort the mining company.

Interestingly, it was found that regulations were not always setting the benchmark for industry performance. In areas with a high degree of community engagement, the demands of the local communities set the minimum requirement for local procurement. In South Africa, the legal definition of local procurement includes anything procured in-country. However, the companies interviewed almost universally understood "local" as areas within a 50-km radius of the mine. This restriction is driven by local communities, and while companies have no legal obligation to comply (unless it is included in the Social and Labour Plan) they may instead face community conflict. As one company representative highlighted, "on a bigger scale, mining-wise, I think the pressure will keep on going; coming from local communities"[107]. This is important because it demonstrates that influences outside of the regulatory framework have the power to create and enforce procurement standards.

For South Africa, some of the key considerations on how current regulation is influencing mining companies include the specificity of targets, associated risks of tools to enforce and report on local procurement, and influences beyond regulation that are creating benchmarks for industry performance.

NAMIBIA

Currently, some companies in Namibia described the Namibian Government's approach as using incentives rather then strict regulation; whereas, the South African Government was described as using enforcement through regulations to maximize backwards linkages.

> *"By incentivizing local procurement instead of using punitive measures, government can work with the mining industry rather than against it"* – mining company representative, Namibia, June 2016

As Namibia explores the implementation of similar empowerment laws to South Africa, companies noted numerous concerns. In particular, some indicated that companies do not like to be dictated to when it comes to procurement. There is also a concern over how long the bill will be in place to increase the participation of previously disadvantaged Namibians, highlighting a need for a sunset clause.

> *"How many years from now will the playing field be considered local? When will it be appropriate to procure based on market forces?"* – mining company representative, Namibia, June 2016

It was suggested that instead incentives could be used to improve industry practice related to local procurement. For example, a company suggested that if the government was to use targets for local spending for specific categories of spend then they should make a provision allowing for offsets to recognize the varying capacity of local suppliers as well as the varying needs and priorities of the mine. Also, another company suggested that tax breaks for start-up companies could be used to support the development of new businesses such as infant industry protection.

As shown, some challenges that were highlighted in literature related to risks when working to maximize the benefits of local procurement were noted as practiced in the case of South Africa. In particular, related to local procurement and the targets in place, challenges of market distortion and overcrowding were discussed. Regarding market distortion, there are not only risks in the long-term as suppliers can be artificially propped up but also in the short-term as paying prices that are too elevated for products can decrease company revenues and thus government revenue payments. Related to maximizing opportunities for increased revenue through local procurement, it was noted that local suppliers typically provided low value goods and services, noting a lack of high-value products. This was especially true for goods with consensus in both countries that local manufacturing was lacking, showing that in both policy environment, with or without regulation, manufacturing is not being spurred despite demand by mining companies. To address this, and more broadly to increase local procurement by mining companies, interviewees suggested that less specific targets or incentives should be used and a sunset clause should be put in place. Bringing together these suggestions, along with those of previous suggestions and literature, a number of conclusions and recommendations are drawn from this study of South Africa and Namibia.

Source:

[49]Rumbidzayi Zinyuke, "Zim steps up local procurement initiatives", The Southern Times, April 14, 2016, http://southernafrican.news/2016/04/14/zim-steps-up-local-procurement-initiatives/.,

[50]Andrew Lane, Mdluli Sihle, and Zakkas Stelio, "The Draft Reviewed Mining Charter: Strategic Impacts and the Need for Certainty,"Deloitte (2016): 2,

[51]Kevin Crowley, "South African Miners Target Government Over Mining Charter", BloombergMarkets, November 23, 2016, https://www.bloomberg.com/news/articles/2016-11-23/south-african-miners-take-aim-at-government-over-mining-charter.,

[52]Geoffrey Muchiri and Juliet C. Mazera, "Kenya's brand new Mining Act", Lexology, June 15, 2016, http://www.lexology.com/library/detail.aspx?g=09816a57-2dc2-4be0-b620-c95a8a9de931,

[53]"Djibouti improves mining code to target investment", Mining Review Africa, August 1, 2016, https://www.miningreview.com/news/djibouti-improves-mining-code-to-target-investment/

[54]The World Bank, United Nations Population Division, "South Africa Population", World Population Prospects, 2015, accessed on October 18, 2016, http://data.worldbank.org/indicator/SP.POP.TOTL?locations=ZA.,

[55] The World Bank, United Nations Population Division, "Namibia Population", World Population Prospects, 2015, accessed October 18, 2016, http://data.worldbank.org/indicator/SP.POP.TOTL?locations=NA.,

[56]The World Bank, "South Africa GDP (current US$)", National Accounts Data, 2015, accessed on October 18, 2016, http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZA.,

[57]The World Bank, "Namibia GDP (current US$)", National Accounts Data, 2015, accessed on October 18, 2016, http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=NA.

[58]The World Bank, "South Africa GDP per capita (current US$)", National Accounts Data, 2015, accessed on October 18, 2016, http://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=ZA.,

[59]The World Bank, "Namibia GDP per capita (current US$)", National Accounts Data, 2015, accessed on October 18, 2016, http://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=NA,

[60]Chamber of Mines of South Africa, "Integrated Annual Review", (2015): 23, file:///C:/Users/Harry/Downloads/cmsa-annual-review-2015%20(1).pdf,

[61]Namibia Chamber of Mines, "Annual Review", (2015): 7, http://www.chamberofmines.org.na/files/6114/7040/2446/2015_Chamber_Annual_Review_Web.pdf,

[62]Central Intelligence Agency, "Gini Index", The World Factbook, accessed on October 18, 2016, https://www.cia.gov/library/publications/the-world-factbook/rankorder/2172rank.html,

[63]Fraser Institute, "Annual Survey of Mining Companies: 2015", Fraser Institute, published June 8, 2016, accessed on October 18, 2016, https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2015,

[64]Fraser Institute, "Annual Survey of Mining Companies: 2015", Fraser Institute, published June 8, 2016, accessed on October 18, 2016, https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2015,

[65]Kaiser Economic Development Partners, An approach to defining, measuring and monitoring local procurement by the mining industry, (Guide, Vienna, 2013), 1. Retrieved from http://www.kaiseredp.com/wp-content/uploads/2013/09/Defining-local- procurement_Kaiser_Vienna_FINAL.pdf,

[66]Emilia Potenza, "All That Glitters- The glitter of gold by Emilia Potenza", South Africa History Online, 2015, accessed December 15, 2016, http://www.sahistory.org.za/archive/all-glitters-glitter-gold-emilia-potenza,[67] Lorraine Kearney, "Mining and minerals in South Africa", SouthAfrica.Info, reviewed August 8, 2012. accessed November 30, 2016, http://www.southafrica.info/business/economy/sectors/mining.htm#.WDW5n_krJPZ,

[68]President's Office, Government of South Africa, "Mine Health and Safety Act", (1996): Section 2.21, http://www.saflii.org/za/legis/consol_act/mhasa1996192/,
[69]Department of Minerals and Energy, "White Paper: A Minerals and Mining Policy for South Africa", (1998): 4, http://www.gov.za/sites/www.gov.za/files/white_paper_mining_minerals_policy_2.pdf,
[70]Republic of South Africa, "Mineral and Petroleum Resources Development Act", (2002): http://www.saflii.org/za/legis/consol_act/maprda2002452.pdf,
[71]Centre of Applied Legal Studies, "Social and Labour Plans", University of the Witwatersrand, Johannesburg, 2016, accessed on December 15, 2016, https://www.wits.ac.za/cals/our-programmes/environmental-justice/social-and-labour-plans/,
[72]Peter Granitz, "As South Africa's Gold Mining Companies Decline In Production, Illegal Miners Thrive", National Public Radio, October 8, 2016, http://www.npr.org/2016/10/08/497164680/as-south-africa-s-gold-mining-companies-decline-in-production-illegal-miners-thr,
[73]Republic of South Africa, "Broad-Based Black Economic Empowerment Act", (2003): 4, https://www.environment.gov.za/sites/default/files/legislations/bbbee_act.pdf,
[74]Department of Mineral Resources, "Broad-Based Socio-economic Empowerment Charter for the South African Mining and Minerals Industry", (2004): 82, http://www.saflii.org/za/legis/consol_act/maprda2002452.pdf,
[75] Department of Mineral Resources, "Revised Social and Labour Plan Guidelines", (2010): 5, http://www.dmr.gov.za/guidelines-revised-social-and-labour-plans/summary/119-how-to/221-guidelines-revised-social-and-labour-plans-.html,
[76]Republic of South Africa, "Mineral and Petroleum Resources Development Act", (2002): 74, http://www.saflii.org/za/legis/consol_act/maprda2002452.pdf,
[77]Republic of South Africa, "Mineral and Petroleum Resources Development Act", (2002): 50 http://www.saflii.org/za/legis/consol_act/maprda2002452.pdf,
[78]"Members," Chamber of Mines of South Africa, accessed December 15, 2016, http://www.chamberofmines.org.za/about/members,
[79]Department of Mineral Resources, "The Mining Industry Growth, Development and Employment Task Team (MIGDETT): Origins, Achievements and Challenges", (2010): 3, http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/100512MIDGETT.pdf,
[80]National Planning Commission, National Development Plan, "Our future – make it work: Executive Summary", (n.d.): 24, http://www.gov.za/sites/www.gov.za/files/Executive%20Summary-NDP%202030%20-%20Our%20future%20-%20make%20it%20work.pdf.m,
[81]National Planning Commission, National Development Plan, "Our future – make it work: Executive Summary", (n.d.): 32-58, http://www.gov.za/sites/www.gov.za/files/Executive%20Summary-NDP%202030%20-%20Our%20future%20-%20make%20it%20work.pdf,
[82]National Planning Commission, National Development Plan, "Our future – make it work: Executive Summary", (n.d.): 28, http://www.gov.za/sites/www.gov.za/files/Executive%20Summary-NDP%202030%20-%20Our%20future%20-%20make%20it%20work.pdf,
[83]National Planning Commission, National Development Plan, "Our future – make it work: Executive Summary", (n.d.): 32, http://www.gov.za/sites/www.gov.za/files/Executive%20Summary-NDP%202030%20-%20Our%20future%20-%20make%20it%20work.pdf,
[84]Interview with mining company representative, South Africa, June 2016,
[85]"Operation Phakisa", Department of Planning, Monitoring and Evaluation, Republic of South Africa, accessed on December 16, 2016, http://www.operationphakisa.gov.za/Pages/Home.aspx,
[86]Andrew Lane, Mdluli Sihle, and Zakkas Stelio, "The Draft Reviewed Mining Charter: Strategic Impacts and the Need for Certainty", Deloitte (2016): 2, https://www2.deloitte.com/content/dam/Deloitte/za/Documents/energy-resources/ZA_Draft_reviewed_mining_charter.pdf,
[87]Miningmx, "Mining Charter Facing Unconstitutional Claim", February 15, 2016, http://www.miningmx.com/news/off-the-wires/14902-mining-charter-facing-unconstitutional-claim/,
[88]Republic of Namibia, "Minerals (Prospecting and Mining) Act", (1992): http://www.saflii.org/na/other/NAGovGaz/1992/226.pdf,
[89]Republic of Namibia, "Minerals (Prospecting and Mining) Act", (1992): http://www.saflii.org/na/other/NAGovGaz/1992/226.pdf,
[90]The Chamber of Mines of Namibia, "Charter for Sustainable and Broad-Based Economic and Social Transformation in the Namibian Mining Sector", (2014): 2, http://www.chamberofmines.org.na/files/5014/6979/6192/MiningCharterFINAL19September2014.pdf,
[91]The Chamber of Mines of Namibia, "Charter for Sustainable and Broad-Based Economic and Social Transformation in the Namibian Mining Sector", (2014): 8, http://www.chamberofmines.org.na/files/5014/6979/6192/MiningCharterFINAL19September2014.pdf,
[92]Ministry of Mines and Energy, "About Us", accessed October 12, 2016, http://www.mme.gov.na/about-us/,
[93]The Chamber of Mines of Namibia, "Charter for Sustainable and Broad-Based Economic and Social Transformation in the Namibian Mining Sector", (2014): 9, http://www.chamberofmines.org.na/files/5014/6979/6192/MiningCharterFINAL19September2014.pdf,
[94]Government of the Republic of Namibia, "The New Equitable Economic Empowerment Framework", (2015): 31, http://www.opm.gov.na/documents/108506/113906/NEEEF+Bill+V1+110216+for+Stakeholder+Review.pdf/ee000968-b3ad-41af-932d-3e7daa3afdfb,
[95]Namibia Economist, "NEEEF Bill Goes Ahead – LRDC", July 29, 2016, https://economist.com.na/18530/headlines/neeef-bill-goes-ahead-lrdc/,
[96]Namibia Economist, "NEEEF Bill Goes Ahead – LRDC", July 29, 2016, https://economist.com.na/18530/headlines/neeef-bill-goes-ahead-lrdc/,
[97]Government of the Republic of Namibia, "Harambee Prosperity Plan", (2016): 29, http://www.op.gov.na/hpp,
[98]Julie Lloyd, "The True Benefits of Reporting", University of Maryland: Centre for Social Value Creation, published on July 1, 2010, revised 2014, accessed on September 21, 2016, https://blogs.rhsmith.umd.edu/creatingvalue/uncategorized/the-true-benefits-of-reporting/,
[99]John Humphrey, Upgrading in global value chains (Geneva: Policy Integration Department World Commission on Social Dimension of Globalization, International Labour Office, 2004), 2.,
[100]Ivar Kolstad and Abel Kinyondo, "Alternatives to local content", WIDER Working Paper 2015/106 (2015): 1.,
[101]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), 128.,
[102]Interview with mining company representative, Namibia, June 2016.,
[103]Interview with mining company representative, Namibia, June 2016.,
[104]Interview with mining company representative, South Africa, June 2016.,
[105]Interview with mining company representative, South Africa, May 2016.,
[106]Follow-up interview with mining company representative, Namibia, November 2016.,
[107]Interview with mining company representative, South Africa, June 2016.,

PART 4: CONCLUSIONS AND RECOMMENDATIONS

Based on a case study on the relationship between the presence and absence of local procurement regulation and the amount of goods and services mining companies are purchasing in South Africa and Namibia, the following conclusions and recommendations can be drawn.

PERFORMANCE OF LOCAL PROCUREMENT REGULATION IN THE MINING SECTOR TO INCREASE LOCAL PURCHASING OF GOODS AND SERVICES

The data presented in this study suggests that local procurement regulation is increasing attention on local procurement, particularly when comparing company reporting between South Africa and Namibia, as well as reported local procurement spending by companies. However, further investigation of local procurement spending by mining companies as well as anecdotal information from interviews on how companies are addressing challenges related to local procurement suggests that there are other incentives beyond regulation heavily influencing companies to buy more locally. Fully deciphering correlation and causation between local procurement regulation and purchasing behavior of companies at a local level requires further investigation. This research found:

1. Companies in South Africa mentioned local procurement more in their external reporting than companies in Namibia. In addition, the level of reporting was more consistent amongst domestic and international mining companies in South Africa. As the presence of local procurement regulation is a key differentiator between these two countries, the analyzed data suggests that current regulation in South Africa is driving increased attention to local procurement across the entire mining sector.

2. In South Africa, companies that reported on local procurement were more likely to also measure their spend and to have supplier development programmes. While, in Namibia, of the companies that mentioned local procurement, there was an emphasis on measurement of spend locally but few had supplier development programmes. Again, this can be linked to the presence of regulation in South Africa and an explicit focus on supplier development within the Social and Labour Plan. Beyond regulation, the lack of supplier development programmes in Namibia could also be linked to other factors such as the size of the manufacturing industry, the size of the economy or the remoteness of mine sites.

3. Echoing local procurement reporting data, on average, local procurement spending as reported by companies was higher in South Africa. Although the average spend was lower on average in Namibia, there was not a significant difference in the variation of local procurement spend between the two countries. Despite the presence of local procurement regulation in South Africa, local procurement spend in both countries ranged from approximately 40% to greater than 90%. Clearly, other factors beyond regulation are influencing mining companies to buy locally.

4. A variety of incentives, many of them not due to regulation, were noted to drive companies to develop their local procurement strategies in different ways. These incentives evolved over time in response to internal pressures from shareholders and company priorities and to external pressures from community and government priorities, commodity price fluctuations and broader market trends including the devaluation of currencies. The desire to keep host communities supportive of their operations was cited in most cases as a major driver of company action to attempt to buy locally. In addition, lowering supply chain costs in the long run was also a driver of action to help local suppliers. As these diverse incentives shift company approaches to local purchasing, any attempt to develop local procurement regulation should take stock of the existing incentives that are influencing company behaviour.

IMPORTANT ASPECTS FOR GOVERNMENT TO CONSIDER TO LEVERAGE LOCAL PROCUREMENT FOR SUSTAINED ECONOMIC GROWTH

Local procurement through backward linkages represents a significant opportunity to create sustainable economic development. As governments consider how best to leverage local procurement for sustainable economic growth, some important aspects should be considered. In particular, careful consideration in the design of targets and alignment with other priorities is crucial so that desired outcomes can be reached. Important aspects to consider include:

5. In South Africa, amongst industry interviews and literature there was consensus that priorities for economic empowerment laws and targets for local procurement in the Mining Charter are not well-aligned. As such, priorities for increased local purchasing in areas of goods, services and consumables by mining companies are superimposed with targets for ownership of suppliers by Historically-Disadvantaged South Africans. This has led to a variety of challenges including:

    a. Cases where suppliers scale too quickly. There were many instances described where mining companies artificially propped up suppliers (with various forms of resources) to meet regulatory requirements.

    b. An overemphasis on low-value products that match current skill sets. There is an emphasis on ownership without sufficient parallel investment capacity. In general, suppliers of high-value products are lacking and there is little strategy in place to build a higher value supply base (e.g. strategy to develop specific higher value manufactured goods).

    Although these economic empowerment laws are not yet in place in Namibia, a similar economic empowerment bill is being reviewed and these challenges are already being flagged as risks or are eroding as industry attempts to meet the requirements of the bill in advance of it being passed. In both countries, economic empowerment laws with a large focus on the nature of business ownership show the potential to not necessarily align with industry growth goals.

6. As highlighted in the literature reviewed, goods and services that meet the needs of the mining industry and other related industries should be targeted for upgrading as these suppliers will have an existing and ongoing link to market channels. These targets should align with existing expertise and capabilities domestically, including businesses that have the knowledge and skills to upgrade and training institutes that can feed these businesses with skilled labour in the future. As highlighted by UNCTAD, the more these policies comprehensively address linkage promotion along with development of local business capacity and FDI promotion, the more likely they are to be successful[108]. So, for countries trying to leverage economic empowerment laws to support more inclusive growth, these strategies need to align and be balanced with priorities for industrialization. This could potentially involve targeting different sectors for broad-based growth and industrialization or carving out specific priorities within a sector based on the specific needs and opportunities that exist for supply, demand and capacity development where gaps exist. It is especially important to balance short-term gains related to one issue or priority area with the long-term gains for all actors and broader outcomes to support sustainable economic growth. Priorities for targeted industrial growth should be met with conditions to foster sustainable economic growth; in addition, regulations and policies should ensure that the appropriate incentives are in place to support long-term, inclusive growth.

7. There are three key criteria to consider in defining “local” (geography, value addition and local participation). In South Africa, the criteria of a 50km radius dominated industry examples in defining local despite the fact that this is not outlined in the Mining Charter. This geographic definition of local was coupled with a definition of ownership, as outlined by the B-BBEE. However, as highlighted above, value addition including increasing locally manufactured goods and services is largely a neglected aspect of the definition of “local” in South Africa. It is possible that the push for extremely localized

procurement is preventing the development of more advanced economic activity such as manufacturing;[109] "maybe the creation of SMEs which is a niche market thing, does not fit within the bulk mining scale of economy"[110]. While companies have seen success in the development of low-value-added goods, these are unlikely to achieve the intended outcomes of local procurement, which include transfer of skills and knowledge, sustained economic growth and diversification. In most cases, it is not realistic to open a factory within a small community which will likely be isolated from future demand and key inputs. By narrowing the focus to geography and ownership, the potential for regional or national industrial development is overlooked. To achieve economies of scale through local procurement, value addition must be among the key criteria.

8. Moving beyond designing the appropriate strategies to support long-term industrial growth to implementation, there are many different strategies that companies are actively using or suggesting to address the capacity gaps between their needs and the existing supplier base. Strategies supported a range of varying supplier development targets from individual businesses to several businesses. Strategies also targeted suppliers based on their size and type, as well as their opportunities for scale based on the upfront investment (financial or otherwise) needed to make them competitive against other business, either domestically or internationally. A company's willingness to develop or improve a supplier's capabilities was largely defined by their propensity for risk (probability and consequences for poor performance) and their ability to manage this risk through product and process parameters. Understanding this risk profile will support industry partners, such as government, to better understand how to support supplier development in partnership with mining companies and other actors.

9. While this study did not carry out a full political economy analysis of local content regulations for mining in South Africa, interviews revealed a significant level of concern over the potential for regulations to be misused in South Africa to benefit politically connected elites.

RECOMMENDATIONS ON HOW TO INCREASE LOCAL PROCUREMENT BY MINING COMPANIES

A number of recommendations for how to increase local purchasing by mining companies were identified throughout this study. These recommendations vary in scope, targeting individual companies as well as broader industries. Recommendations include:

10. *Addressing the information gap:* Regulatory frameworks can play a role to incentivize local procurement; however, to do this they need to be based on a deep understanding of the needs and opportunities that exist. For example, in both countries there is industry consensus that a key supporting role that external actors, whether a government or an industry association, can play is to inform companies on what local suppliers exist. This could include stakeholders agreeing on procurement measurement indicators and the government tracking and publishing data that is collected. In comparison to efforts to build capacity of local suppliers or to address gaps in local goods and services, addressing the information gap requires relatively limited resources and the lightest sector-wide intervention to increase local procurement.

11. *Addressing the gap in available goods locally:* It was suggested by interviewees in both countries that a sector-wide initiative is needed to aggregate orders between mining companies to support the development of a number of manufacturing companies. There is a sentiment that ownership requirements alone are not sufficient to accomplish meaningful capacity-building and mining-based industrialization in South Africa. Building up the capacities of suppliers and focusing on introducing new manufactured goods at competitive prices needs to be a priority. In addition to capacity building targeted at suppliers, there are significant opportunities to coordinate across mining companies to aggregate orders in a way that allows domestic suppliers to count on them on as the basis for expansion. Further, as one company highlighted, to find a big enough market for certain goods, coordination may be needed across multiple industries. The same interviewee continued, "government should take a long-term view of industrialization and use this to justify manufacturing". Additionally, while outside the scope of this study, regional cooperation initiatives could be considered to stimulate local procurement,

particularly in cases such as South Africa and Namibia where trade structures are quite interdependent.

12. *Defining roles of actors to increase local procurement:* Defining the roles of industry actors, particularly of governments and companies, remains a key challenge to increasing local procurement. As highlighted in a study by McKinsey, government and industry actions on regulation, supply chains, labour productivity and industry collaborations can reduce capital and operating costs by more than 50%[111], creating a win-win for companies through increased savings and for governments through increased revenue transfers (resulting from increased company revenues based on savings incurred). Importantly, mining companies alone will have limited success in achieving broad economic benefits through local procurement and will require partnership from other actors that include government, industry associations and civil society. As such, multi-stakeholder approaches in both countries would benefit greatly from a clear strategy that assigns and builds out the roles and responsibilities of each actor, to improve both accountability and ease tensions.

    For example, related to supplier development, different actors may be needed to support industrial development as mining companies are poorly suited to developing large-scale industrial development on their own. There is generally a much weaker set of incentives for companies to do supplier development in comparison to local procurement. The benefits of supplier development may not be realized for many years, and the time it takes to train workers and to develop suppliers does not always fit within the mine life cycle for a particular mine. This means that a single mining company attempting to develop local suppliers might never see a return on investment and, therefore, it may not make sense economically to invest in supplier development. A more successful strategy might include industry associations or government with a long-term interest in the domestic mining industry stewarding these types of industry-wide initiatives. As noted by UNCTAD, the most successful approach requires that more governments couple linkage promotion with SME development and targeted FDI promotion policies. Further, governments can support foundational "infrastructure" that allows companies to undertake supplier development with initiatives such as an SME incubator, targeted funding mechanisms or specialized employment offices.

13. *Harnessing non-regulatory interventions and incentives for mining local procurement:* This study has shown that there are many non-regulatory approaches and programs that can help mining companies purchase more local goods and services. Government creation of programs including supplier portals, capacity-building support for businesses, coordination of aggregate orders by industry and regional cooperation all offer opportunities that should not be ignored. In addition, the governments of both countries should engage with industry to better understand the non-regulatory incentives for local procurement that can be supported. Some suggestions included tax breaks for suppliers and infant industry protections. The tactics will vary based on the priorities of all stakeholders and should be rooted in an informed understanding of their needs and opportunities, as well as ongoing dialogue, to ensure that desired outcomes are reached.

POTENTIAL FUTURE STUDIES

Based on this initial study of the relationship between local procurement regulation and the amount of goods and services that mining companies purchase locally, a number of opportunities for future research were identified to better understand the dynamics of mining company behaviours as a result of local procurement regulation. These include but are not limited to:

1. *Analyse behaviours over time in one country as policy tools shift:* There is significant room to do in-depth longitudinal analyses with select companies to see how their behaviour changes with soft and hard policy measures introduced over a number of years. It is suggested that this is likely most productive within a specific country since there are a host of factors that vary between countries, making it impossible to draw an entirely direct correlation between the presence and absence of regulation and company behaviours in this case study of South Africa and Namibia. The types of factors that make the comparison between countries challenging include but are not limited to: different historical contexts, different tribes and

peoples, different public perceptions of mining, different relationships between the mining industry and government (both historical legacies which impact biases and perceptions, as well as present dynamics), different overall policy environments and different specific challenges to overcome related to economic, social and institutional conditions.

2. *Evaluate the effectiveness of suggested recommendations to increase local procurement:* Investigate how much suggested recommendations (such as bridging the information gap or the gap in goods available locally) are able to increase local procurement alone. Currently there is a limited understanding as to the impact of each independent measure and their ability to increase local procurement. Future research could potentially first investigate how addressing the information gap influences the amount of goods and services mining companies purchase; then, subsequent research in the same policy environment could investigate measures that require more investment such as addressing the gap in goods available locally.

3. Evaluate of the net social, environmental and economic impacts of local procurement rules: This study focuses on the impact of specific local procurement regulations on the amount of goods and services mining companies are buying locally, providing a very narrow lens of analysis. There is a need for a macro evaluation of local procurement regulations which considers aspects including how to leverage local procurement in the context of national development plans, opportunity costs and unintended effects. Further study is needed to extend the micro focus of many current studies, which looks simply at which policies are effective in increasing local procurement without considering the net macro effect.

4. Political economy analysis: This study found widespread concerns over corruption risks associated with using local procurement regulation. It was beyond the scope of this study to do an in-depth analysis of the policy economy surrounding policy makers and industry in both countries, but in-depth research on the key players in any country's would greatly help to deter corruption and help reveal mitigation measures that could be introduced.

Source:

[108]United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), xxviii..,

[109] Interview with mining company representative, South Africa, May 2016,

[110]Interview with mining company representative, Namibia, June 2016,

[111] McKinsey Global Institute, "Reverse the curse: Maximizing the potential of resource-driven economies", (2013): 65, http://www.mckinsey.com/industries/metals-and-mining/our-insights/reverse-the-curse-maximizing-the-potential-of-resource-driven-economies.

WORKS CITED

Central Intelligence Agency. "Gini Index". The World Factbook, accessed on October 18, 2016: https://www.cia.gov/library/publications/the-world-factbook/rankorder/2172rank.html

Centre of Applied Legal Studies. "Social and Labour Plans". University of the Witwatersrand, Johannesburg, 2016, accessed on December 15, 2016: https://www.wits.ac.za/cals/our-programmes/environmental-justice/social-and-labour-plans/.

Chamber of Mines of South Africa. "Integrated Annual Review", (2015): 23: file:///C:/Users/Harry/Downloads/cmsa-annual-review-2015%20(1).pdf.

Chamber of Mines of South Africa. "Members", accessed December 15, 2016, http://www.chamberofmines.org.za/about/members.

Clemens, Michael. "Economics and emigration: Trillion-dollar bills on the sidewalk?". Journal of Economic Perspectives 25, no. 3 (2011): 84.

Crowley, Kevin. "South African Miners Target Government Over Mining Charter". BloombergMarkets, November 23, 2016: https://www.bloomberg.com/news/articles/2016-11-23/south-african-miners-take-aim-at-government-over-mining-charter.

Department of Mineral Resources. "Broad-Based Socio-economic Empowerment Charter for the South African Mining and Minerals Industry", (2004): 82: http://www.saflii.org/za/legis/consol_act/maprda2002452.pdf.

Department of Mineral Resources. "Revised Social and Labour Plan Guidelines", (2010): 5: http://www.dmr.gov.za/guidelines-revised-social-and-labour-plans/summary/119-how-to/221-guidelines-revised-social-and-labour-plans-.html.

Department of Mineral Resources. "The Mining Industry Growth, Development and Employment Task Team (MIGDETT): Origins, Achievements and Challenges", (2010): 3: http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/100512MIDGETT.pdf.

Department of Minerals and Energy. "White Paper: A Minerals and Mining Policy for South Africa", (1998): 4: http://www.gov.za/sites/www.gov.za/files/white_paper_mining_minerals_policy_2.pdf.

Department of Planning, Monitoring and Evaluation, Republic of South Africa. "Operation Phakisa", accessed on December 16, 2016: http://www.operationphakisa.gov.za/Pages/Home.aspx.
Follow-up interview with mining company representative, Namibia, November 2016.

Fraser Institute. "Annual Survey of Mining Companies: 2015". Fraser Institute website, published June 8, 2016, accessed on October 18, 2016: https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2015.

Gereffi, Gary and Karina Fernandez-Stark. Global Value Chain Analysis: A Primer. Durham: Center on Globalization, Governance and Competitiveness, Duke University, 2011), 2-12.

Gereffi, Gary. “International Trade and Industrial Upgrading in the Apparel Commodity Chain”. Journal of International Economics 48, (1999): 41.

Government of the Republic of Namibia. “Harambee Prosperity Plan”, (2016): 29: http://www.op.gov.na/hpp.

Government of the Republic of Namibia. “The New Equitable Economic Empowerment Framework”, (2015): 31: http://www.opm.gov.na/documents/108506/113906/NEEEF+Bill+V1+110216+for+ Stakeholder+Review.pdf/ee000968-b3ad-41af-932d-3e7daa3afdfb.

Granitz, Peter. “As South Africa’s Gold Mining Companies Decline In Production, Illegal Miners Thrive”. National Public Radio, October 8, 2016: http://www.npr.org/2016/10/08/497164680/as-south-africa-s-gold-mining-companies-decline-in-production-illegal-miners-thr.

Hannah, Jessica. “Significant drive towards increasing local content”. Mining Weekly. November 25, 2011: http://www.miningweekly.com/article/significant-drive-towards-increasing-local-content-2011-11-25/rep_id:3650.

Harvey, Ross. “Mineral Rights, Rents and Resources in South Africa’s Development Narrative”. South African Institute of International Affairs Occasional Paper 224, (2015): 7, 24-25.

Hausmann, Ricardo, Bailet Klinger and Robert Lawrence. Policy Brief – Examining Beneficiation. Cambridge: Centre for International Development, Harvard University, 2008, 2.

Humphrey, John and Hubert Schmitz. “Governance in Global Value Chains”. IDS Bulletin 32, no.3 (2001): 3-8.

Humphrey, John. Upgrading in global value chains. Geneva: Policy Integration Department World Commission on Social Dimension of Globalization, International Labour Office, 2004, 2, 12.

Interviews with mining company and industry representatives, Namibia and South Africa, May to June 2016.

Kaiser Economic Development Partners. An approach to defining, measuring and monitoring local procurement by the mining industry. Guide, Vienna, 2013, 1: Retrieved from http://www.kaiseredp.com/wp-content/uploads/2013/09/Defining-local- procurement_Kaiser_Vienna_FINAL.pdf.

Kearney, Lorraine. “Mining and minerals in South Africa”. SouthAfrica.Info, reviewed August 8, 2012: Accessed November 30, 2016, http://www.southafrica.info/business/economy/sectors/mining.htm#.WDW5n_krJPZ.

Kolstad, Ivar and Abel Kinyondo. “Alternatives to local content”. WIDER Working Paper 2015/106 (2015): 1-10.

Lane, Andrew, Mdluli Sihle, and Zakkas Stelio. “The Draft Reviewed Mining Charter: Strategic Impacts and the Need for Certainty”. Deloitte (2016): 2: https://www2.deloitte.com/content/dam/Deloitte/za/Documents/energy-resources/ZA_Draft_reviewed_mining_charter.pdf.

Lloyd, Julie. "The True Benefits of Reporting". University of Maryland: Centre for Social Value Creation, published on July 1, 2010, revised 2014, accessed on September 21, 2016: https://blogs.rhsmith.umd.edu/creatingvalue/uncategorized/the-true-benefits-of-reporting/.

McKinsey Global Institute. "Reverse the curse: Maximizing the potential of resource-driven economies", (2013): 30, 65: http://www.mckinsey.com/industries/metals-and-mining/our-insights/reverse-the-curse-maximizing-the-potential-of-resource-driven-economies.

Mining Review Africa. "Djibouti improves mining code to target investment". August 1. 2016: https://www.miningreview.com/news/djibouti-improves-mining-code-to-target-investment/.

Miningmx. "Mining Charter Facing Unconstitutional Claim". February 15, 2016: http://www.miningmx.com/news/off-the-wires/14902-mining-charter-facing-unconstitutional-claim/.

Ministry of Mines and Energy. "About Us", accessed October 12, 2016: http://www.mme.gov.na/about-us/.

Muchiri, Geoffrey and Juliet C. Mazera. "Kenya's brand new Mining Act". Lexology, June 15, 2016: http://www.lexology.com/library/detail.aspx?g=09816a57-2dc2-4be0-b620-c95a8a9de931.

Namibia Chamber of Mines. "Annual Review", (2015): 7: http://www.chamberofmines.org.na/files/6114/7040/2446/2015_Chamber_Annual_Review_Web.pdf.

Namibia Economist. "NEEEF Bill Goes Ahead – LRDC", July 29, 2016, https://economist.com.na/18530/headlines/neeef-bill-goes-ahead-lrdc/.

National Planning Commission, National Development Plan. "Our future – make it work: Executive Summary", (n.d.): 24, 28, 32-58: http://www.gov.za/sites/www.gov.za/files/Executive%20Summary-NDP%202030%20-%20Our%20future%20-%20make%20it%20work.pdf.m.

Omeihe, Emeka. "Saraki's made in Nigeria". The Nation, November 7, 2016: http://thenationonlineng.net/sarakis-made-nigeria/.

Potenza, Emilia. "All That Glitters- The glitter of gold by Emilia Potenza". South Africa History Online, 2015, accessed December 15, 2016: http://www.sahistory.org.za/archive/all-glitters-glitter-gold-emilia-potenza.

President's Office, Government of South Africa. "Mine Health and Safety Act", (1996): Section 2.21, http://www.saflii.org/za/legis/consol_act/mhasa1996192/.

Republic of Namibia, "Minerals (Prospecting and Mining) Act", (1992): http://www.saflii.org/na/other/NAGovGaz/1992/226.pdf.

Republic of South Africa. "Broad-Based Black Economic Empowerment Act", (2003): 4: https://www.environment.gov.za/sites/default/files/legislations/bbbee_act.pdf.

The Chamber of Mines of Namibia. “Charter for Sustainable and Broad-Based Economic and Social Transformation in the Namibian Mining Sector”, (2014): 2, 9: http://www.chamberofmines.org.na/files/5014/6979/6192/MiningCharterFINAL19September2014.pdf.

The World Bank, United Nations Population Division. “Namibia Population”. World Population Prospects, 2015, accessed October 18, 2016: http://data.worldbank.org/indicator/SP.POP.TOTL?locations=NA.

The World Bank, United Nations Population Division. “South Africa Population”. World Population Prospects, 2015, accessed on October 18, 2016: http://data.worldbank.org/indicator/SP.POP.TOTL?locations=ZA.

The World Bank. “Namibia GDP (current US$)”. National Accounts Data, 2015, accessed on October 18, 2016: http://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=NA.

The World Bank. “Namibia GDP per capita (current US$)”. National Accounts Data, 2015, accessed on October 18, 2016: http://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=NA.

United Nations Conference of Trade and Development, World Investment Report 2001: Promoting Linkages (Geneva: United Nations, 2001), xxi-xxii, xxviii, 128, 209.

World Gold Council. Responsible gold mining and value distribution, 2013 data: a global assessment of the economic value created and distributed by members by the World Gold Council. UK: World Gold Council, 2014, 3, 13.

Zinyuke, Rumbidzayi. “Zim steps up local procurement initiatives”. The Southern Times, April 14, 2016, http://southernafrican.news/2016/04/14/zim-steps-up-local-procurement-initiatives/.

CONTACT US

Emily Nickerson
Program Manager
Mining Shared Value
Engineers Without Borders Canada
T: +1.519.803.3502
E: emilynickerson@ewb.ca
TW: @ewb_msv

Cecilia Gruber
Program Manager
Canadian International Resources and Development Institute
T: +1.604.827.2628
E: cecilia.gruber@cirdi.ca
TW: @CIIEID_ICIIED

MINING SHARED VALUE
An Engineers Without Borders Canada Venture

CIRDI
Canadian International Resources and Development Institute

FEBRUARY 2017