

## South Africa looking forward

Government delegation addresses issues plaguing reputation

By Jeff Borsato

South Africa's mining industry is open for business. That was the message that the mining delegation from South Africa wanted to make sure was heard loud and clear at this year's PDAC Convention held in Toronto in early March.

Led by South African Minister of Mineral Resources Susan Shabangu, a delegation of business and labour representatives of the Mining Industry Growth and Development Task Team was at the international gathering to allay investor's concerns about the recent Fraser Institute report that ranked South Africa 67th out of 79 in mining jurisdictions.

Shabangu said that to encourage development, it is vital that South Africa's policy-makers continually review their legal framework in order to align it with broader national strategies that guide future development. She stressed that any policy framework for future development must be tailored to South Africa's needs – just as Brazil and other emerging economies have done with great success.

Proposed amendments to the Mineral and Petroleum Resource Development Act were a hot topic at the seminar.

Attendees had many questions regarding Section 11 of the Act, which regulates the transferability of prospecting and mining rights. Shabangu outlined how Section 11 is being carefully reviewed to ensure that ambiguities in some of the provisions are removed. As well, she said that a streamlining of the licensing processes to a virtual "one-stop shop" for mining requirements would be instituted. She added that the ministry is reducing the wait time for mining and prospecting licenses from six months to three months. The minister is also focused on strengthening the provisions to improve working conditions in mines, as well as publishing a new mining charter that includes clearer requirements.

On her first diplomatic assignment, Mohau Pheko, South Africa's high commissioner to Canada, emphasized the importance of a collaborative relationship between the minerals industry, its workers and the citizens of South Africa as a whole. "Collaboration will help to create a fair playing field between the state and industry," she said. Pheko outlined the government's vision to ensure the domestic supply of key



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materials such as coal. She also highlighted core issues of local consumption versus export for coal, and how maintaining a steady domestic supply remains a key issue for her government.

Senzeni Zokwana, president of the National Union of Mine Workers and of the International Federation of Chemical, Energy, Mine and General Workers' Union, focused his remarks on the people who make up the industry. Employing approximately 460,000 people directly and 400,000 on the supply and service side, the minerals and exploration industry remains a vital component of South

Africa's economy. Zokwana pointed to ongoing efforts by the government and unions to promote not just academic credentials of workers, but also direct skills, including trades. "Engaging youth is critical to South Africa's continued development, and we must face the challenge to engage firms to develop skills needed for the future," he said. Both Zokwana and Shabangu referred to a recent policy framework released by the South African government known as "The New Growth Path," which prioritizes the mining industry value chain as one of the "growth nodes" of the economy. **CIM**

## Lawyers raise concerns about South African policy

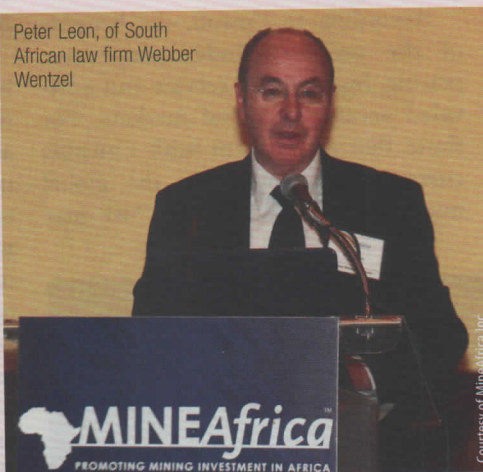
Increasing regulations creating uncertainty for mining investment

By Virginia Heffernan

The euphoric atmosphere of the 2011 PDAC Convention dissipated somewhat down the road at the Radisson Hotel in Toronto, where a sobering session on the state of the mining industry in South Africa took place in tandem with the annual gathering of global miners. The truth is that South Africa has missed out on the commodity boom other countries have enjoyed because of the uncertainty of its regulatory environment, explained Bruce Shapiro, president of MineAfrica Inc., the organizer of the event.

The "South Africa's Mining Industry: The Perceptions and Reality" seminar drew roughly 75 participants to hear lawyers from South Africa and Canada discuss the country's regulations and the possibility of mining assets being nationalized. While most presenters concluded that nationalization was unlikely, even though the option is being investigated by the ruling African National Congress, they could not ignore the fact that South Africa has fallen to 67th place out of 79 countries in the Fraser Institute's annual ranking of ability to attract investment in mineral exploration. "It's too soon to tell if we face a crisis," said Peter Leon, a partner at Webber Wentzel Attorneys in South Africa. But he added that even though the country has vast mineral reserves, mining GDP declined one per cent per year during a seven-year boom period for commodities.

When South Africa introduced its mining charter in 2002, the idea was to make changes to redress historical imbalances entrenched by apartheid. But regulatory uncertainty, vague licensing requirements and a few high-profile cases of alleged corruption have discouraged investment in



Peter Leon, of South African law firm Webber Wentzel

the sector. To address these inadequacies, the country has placed a moratorium on issuing prospecting licences and set up a task force to review the mining laws.

While the legal experts were encouraged by the promise of a new electronic system to track mineral rights, they remain dismayed by the vague demands of recent amendments to the mining charter concerning beneficiation, community development and black economic empowerment, including the requirement for a minimum target of 26 per cent ownership of

mining companies by historically disadvantaged South Africans by 2014. Presenters also voiced concerns about the recent launch of a state-owned mining company called the African Exploration Mining and Finance Corporation. The national company may be given exemptions under the Mining Act, would be competing with the private sector for mineral resources, would be self-regulating and would rely on taxpayer funding, all negatives in their eyes.

Most of the hope for a better regulatory environment rests with South African Mineral Resources Minister Susan Shabangu, who was in Toronto to attend the PDAC Convention and allay investor concerns. She is reviewing the lack of transparency in the system and came out publicly against nationalization at the Mining Indaba conference held in Cape Town in February.

"I don't think nationalization is a real threat, but it is unfortunate that it is being investigated by the government," said Manus Booysen, another partner in Webber Wentzel. "And it's disappointing that we have slipped once again on the Fraser Institute report." **CIM**