

What is needed to encourage exploration in SA?

It is vital for the sustainability of the industry.

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Junior exploration companies have been over-regulated, says Greg Webber of Nedbank CIB.

Picture: Melanie Burton/Reuters

According to figures released by the Boston Consulting Group (BCG) at the Mining Indaba, South Africa's spending on exploration is "the lowest among leading mining countries". Between 2009 and 2017 South Africa's share of the global exploration budget fell from 1.6% to 1.1%.

Senior exploration geologist at SRK Exploration Services, John Paul Hunt, says that it is clear that South Africa has lagged behind the rest of the world.

"Globally, around 10% of all capital expenditure in mining goes towards exploration," Hunt points out. "In South Africa, it's around 2%. We are not really replacing the minerals that we are mining."

Legal environment

To a large extent, this reflects the lack of investor confidence in recent years. Extreme policy uncertainty, political risk and rising cost inflation have made companies wary of committing money to the local industry.

The lack of exploration in the country is not however only because of the broader environment. Exploration companies have faced particular challenges of their own.

Primary among these is that the legal framework in South Africa has been largely tailored towards the big mining companies that dominate the local industry. Smaller companies and exploration operations have had to meet

the same level of compliance as their larger counterparts, which is, relatively, a much heavier burden.

“Junior exploration companies have been over-regulated,” says Greg Webber, co-head of mining and resources at Nedbank CIB. “They have had to comply with the same rules that operating companies comply with, which is a barrier to the freedom that they need to operate properly.”

Many specialist exploration firms simply lack the resources to deal with this situation.

“In a large company, compliance comes more easily,” argues Andrew van Zyl, partner and principal consultant at SRK Consulting. “You have a large legal team, so being able to understand sophisticated rules is something you can deal with in-house. But if you are a single investor or a small group of investors, dealing with the legal intricacies hampers you more than in a larger company.”

The Mining Charter

There has been some relief in this regard, in that exploration companies are not included in the most recent Mining Charter. For some this suggests that there is an understanding that the requirements being placed on them are too onerous.

“The fact that you’ve had this exclusion from compliance with the charter means that there is a shift in thinking,” says Morné van der Merwe, head of Baker McKenzie’s corporate and M&A practice. “Clearly there is an understanding that if you want to grow the sector there needs to be focus on that part of the value chain.”

However, there is some debate as to whether not mentioning exploration companies in the charter means that they fully exempt, since the document does not specifically say so.

“By not mentioning exploration in the Charter, it might free these companies from its constraints, but this should have been more explicitly stated to provide the certainty required” Hunt argues. “There was a missed opportunity with the Charter – to engage with junior miners and explorers and deal with exploration more specifically to create a transparent framework in which they can operate.”

Jonathan Veeran, a partner in the corporate practice at Webber Wentzel, agrees that there is a need to create a specific legal framework within which explorers can operate. This is particularly because this is an area where transformation of the industry can be encouraged.

“One has to recognise that the exploration space is a good capital raising ground for junior miners, particularly junior black miners,” he says. “If you can take a number of projects to the bankable stage and then sell them to

bigger players, that allows you to build up your own balance sheet to compete on a greater level. That needs to be encouraged, and so on a whole the regime needs to be bifurcated.”

Wider support

Creating a more supportive legal environment may be the most important step in encouraging the exploration activities that South Africa needs to sustain its mining industry, but it’s far from the only one.

“As a starting point, we need to look at what other countries are doing,” says Hunt. “For instance, creating tax incentives or allowing companies to write off exploration costs as a way to mitigate the risk of non-discovery.”

Security of tenure is also a vital issue.

“One of the concerns of government is if we approve long tenure over large tracts of land for single explorers,” explains Van Zyl. “But companies can be required to submit a plan and show progress against the plan. As long as they are investing continually, they can hold their tenements, but if they do nothing for a period of time, the government can take them back again.”

There is also a need for greater transparency in the mineral rights application process. Currently there is no online database that potential explorers can visit to see what land is available, who holds which licences, or when those licences expire. That makes it very difficult for companies to do strategic planning even before coming to South Africa.

Vitaly, establishing a more stable and investor-friendly climate will naturally encourage more interest.

“It’s not only about fixing the regulatory environment, or creating incentives; it’s also about what happens at the next stage,” Van der Merwe argues. “There is no exploration just for the sake of exploration. You are doing it with a purpose. So are you in an environment where you can produce competitively, where you can raise capital? Exploration companies will go to environments where the next stage is set in a way that is favourable.”

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