"An Analysis of the Mining Regulatory Framework and its Impact on the Drive for Beneficiation in Zimbabwe between 2009 and 2016"

By

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# Declaration

I, the undersigned, hereby declare that this essay submitted for the award of degree of Magister Legum (LLM) in Extractive Industry Law in Africa is my original work and has not previously submitted for the award of a degree at this or any other university.

Signed: ___________
Sheperd Huni

# Dedication

This essay is dedicated to my wife Mvuselelo Huni, my children Rhulani, Taboka, and Lakidzani, and also to Lee Zhanje.

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And finally thank you to my classmates for the exposure and life changing interactions.

# List of instruments

Zimbabwe, Ministry of Justice, Legal and Parliamentary Affairs, Law Development Commission. *Constitution of Zimbabwe.* Government of Zimbabwe, 2013.

Base Minerals Export Control Act, Chapter 21:01

Chamber of Mines of Zimbabwe Incorporated (Private) Act, Chapter 21:02

Gold Trade Act, Chapter 21:03

Minerals Marketing Corporation of Zimbabwe Act, Chapter 21:04

Mines and Minerals Act, Chapter 28:05

Mines and Minerals Amendment Bill

Precious Stones and Trade Act, Chapter 21:06

Roasting Plant Corporation Act, Chapter 21:07

Zimbabwe Mining Development Corporation Act, Chapter 28:01

Indigenization Economic Empowerment Act, Chapter 14:33

# List of Acronyms

| | |
|---|---|
| AMV | African Mining Vision |
| FDI | Foreign Direct Investment |
| GDP | Gross Domestic Product |
| GNU | Government of National Unity |
| HRD | Human Resources Development |
| ICT | Information and Communication Technology |
| IDP | Industrial Development Policy |
| IEEA | Indigenization and Economic Empowerment Act |
| MDC N | Movement for Democratic Change led by Welshman Ncube |
| MDC T | Movement for Democratic Change led by Morgan Tsvangirai |
| MMA | Mines and Minerals Act |
| MMCZ | Minerals Marketing Corporation of Zimbabwe |
| NTP | National Trade Policy |
| R&D | Research and Development |
| RBZ | Reserve Bank of Zimbabwe |
| SME | Small and Medium Enterprises |
| STERP | Short Term Economic Recovery Plan |
| UNCTAD | United Nations Conference on Trade and Development |
| ZANU PF | Zimbabwe African National Union Patriotic Front |
| ZIA | Zimbabwe Investment Authority |
| Zim-ASSET | Zimbabwe Agenda for Sustainable Socio-Economic Transformation |
| ZMDC | Zimbabwe Mining Development Corporation |

# Abstract

Zimbabwe is endowed with many valuable mineral resources which when properly managed have the potential of contributing towards national development. Beneficiation and value addition are key when looking for national value beyond mineral extraction. The initial step of managing mineral wealth is the legal and policy framework which guides operations and sets standards. Zimbabwe has for a while been ambitiously singing the gospel of beneficiation and value addition, but for all their efforts, beneficiation and value addition has not grown as much as envisioned.

The study sought to ascertain the role of regulatory framework in contributing to the growth of the industry focusing on beneficiation. Using the critical analysis methodology, the research studied primary legislation and policy documents. This was aided by the literature review of relevant mining journals and other literature. Beneficiation was defined in general, and particularly within the Zimbabwean context. The two dominant theories on how to encourage beneficiation are discussed, namely, the stick approach and the carrot approach. A review of Zimbabwe's framework revealed that they had both positive and negative incentives to encourage beneficiation, but the fiscal pressure on the government has resulted in the state trying to run a "Command economy" through the use of the stick approach.

The analysis reveals that in legal terms i.e. on paper, Zimbabwe was on course towards beneficiation and value addition. The missing link is the socio-economic and political enabling environment. Mining between 2009-2016 contributed to the growth of the economy. The minerals found in Zimbabwe make value addition and beneficiation with the multiplier effect possible. Having identified the minerals sector management model, the next step would be to address the shortcomings and push on with the business of development. The exigent factors affecting the beneficiation drive such as were governance challenges, policy volatility, power shortages, human capital and technical capacity, lack of adequate infrastructure, perception of investors and international trade challenges were identified and explained.

The study recommends stakeholder engagement to draw up a new mining sector policy which takes into account the shortcomings of the beneficiation enabling environment of Zimbabwe and puts in place the guarantees required by the investor. The regulatory framework must facilitate trade and business and be guided by sound economic principles and not politics.

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# CHAPTER 1: INTRODUCTION

## 1.1. INTRODUCTION

On the 15th of September 2008, the Government of National Unity was formed. The darkness that had for close to a decade hung over Zimbabwe seemed to be lifting. The political players had come to an understanding and were forming a Government of National Unity.[1] The ZANU PF led government had taken Zimbabwe to unprecedented lows with an inflation rate of 230 million percent.[2] Zimbabwe had become a pariah state in the global community, under sanctions[3] for human rights violations, plagued with economic turmoil and internal unrest. The new political dispensation came with hope. It was the proverbial light at the end of the tunnel. Zimbabwe had pressed the reset button and could begin to rebuild itself based on the marriage of convenience between ZANU PF, MDC-T and MDC-N.[4]

The starting point would be to pick a sector to rally around and make it the driver of Zimbabwe's economic revival[5]. The traditional pillars of the economy manufacturing and agriculture were floundering and shrinking under the political and socio-economic pressure which reached its peak in 2008[6]. Mining on the other hand seemed ready for growth. A diamond rush in Chiadzwa, a

[1] Mukuhlani, Treda. "Zimbabwe's Government of National Unity: Successes and Challenges in Restoring Peace and Order." *Journal of Power, Politics & Governance* 2.2 (2014): 169-180.
[2] *Ibid.*
[3] Chingono, Heather. "Zimbabwe sanctions: An analysis of the Lingo guiding the perceptions of the sanctioners and the sanctionees." *African Journal of Political Science and International Relations* 4.2 (2010): 066-074.
[4] ZANU PF is the Zimbabwe African National Union – Patriotic Front the party has ruled Zimbabwe since its Independence in 1980. MDC-T is the Movement for Democratic Change Zimbabwe led by Morgan Tsvangirai the biggest opposition party, MDC-N is the Movement for Democratic Change Zimbabwe led by Welshman Ncube an opposition party which was formed by a split from the Movement for Democratic Change in 2008.
[5] Mukhuhlani, 2014
[6] ibid.

Ward in the Mutare district of the Manicaland Province of Zimbabwe, in 2006 had put mineral resources and their returns on the Government's radar. Zimbabwe has over forty (40) minerals that are mined. It has between 20 and 25% of the world's known mineral resources. It has between 20 and 25% of the world's known diamond deposits, and the second largest platinum deposit in the world. See below the table of estimated resource reserves in Zimbabwe by I H Advisory Services.

*Estimated Resource Reserves in Zimbabwe[7]. Source: IH Advisory Report (2017).*

| Mineral | Description | Estimated Resource |
|---|---|---|
| Gold | There are over 40,000 recorded gold deposits, nearly all of them are located on ancient rocks. More than 90% of gold deposits are associated with the greenstones. Other gold deposits occur in the Limpopo Mobile Belt in the south of the country and in the Proterzoic Piriwiri rocks in the northwest of the country. | 13 million tonnes |
| Coal | Zimbabwe hosts the largest coal reserves in the Lower Karoo rocks of the mid Zambezi Basin and the Save-Limpopo basin. | >12 billion tonnes on over 29 coal locations |
| PGM | Zimbabwe hosts the second largest PGM resource in the world after South Africa, on the Great Dyke, which stretches up to 550km. PGM comprises of platinum, palladium and rhodium. | 2.8 billion tonnes |
| Chrome | Zimbabwe hosts about 80% of the world's resources of the metallurgical chromite. The chrome ore occurs in two distinct geological environments, namely the Great Dyke and the greenstone belts. | 10 billion tonnes |
| Nickel | Zimbabwe's nickel sulphide endowment includes a variety of komatite and mafic intusion-hosted deposits. | 761,000 tonnes |
| Copper | Over 70 known deposits in the Zimbabwe have produced copper as the primary or secondary products. The main producing area has been the Magondi basin (located in the north-western part of the country covering Chinhoyi and Mhangura) in an area which stretches over 150km. Similar copper deposits are founded in the south-eastern part of the country in the Umkondo Basin. Several copper prospects also occur in greenbelts. | 5.2 million tonnes |
| Iron ore | Iron ore deposits are associated wtih banded ironstone formations in greenstone belts. The most important deposits with high-grade ore are the Buchwa and Ripple Creek. Other significant ironstone deposits include the huge | 30 billion tonnes |

[7] IH Advisory Report 2017.

| | | |
|---|---|---|
| | Mwanesi deposits west of Chivhu and Nyuni near Masvingo. Manyoka, Mongula and several similar deposits in the Limpopo Mobile Belt are also important deposits. | |
| Pegmatite | Usually found on the edges of greenstone and in metamorphic belts. These have a variety of mineral including tantalite, tin and wolframite, beryl, mica, feldspar and gemstones, such as emerald, aquamarine, chrysoberyl, alexandramite and euclase. | Resources not ascertained |
| Dimension stones | The most well-known dimension stone in Zimbabwe in black granite, plentiful in the north-eastern part of the country. Example of dimension stones are granite, gneisses, migmatites, gabbro-norites, dolerite, marbles and quartzites | Resources not ascertained |
| Diamonds | Economic kimberlites are commonly found in the ancient cratons such as the Kaapval, the Siberia, the Slave and the Congo. With similar geology to these areas, the well-exposed Zimbabwe craton presents vast opportunities for the kimberlite diamond discoveries. The recent discovery of significant placer diamond deposits at Chiadzwa points to significant potential in ancient basins on the edges of the craton. If the deposits are mined extensively, Zimbabwe has the potential to produce approximately 25% of the world's diamonds. | 16.5 million tonnes |
| Coal bed methane | Vast resources of CBM were discovered in the Matabeleland North, which is to the western side of the country. Exploration can be through partnerships with Government institutions, like Zimbabwe Mining Development Corporation (ZMDC) which was granted special grants to explore and produce CBM. Hwange Colliery Company Limited also holds special grants for the exploration of CBM. It has been proven that this resource can be mined commercially and it being an energy resource for the Government of Zimbabwe can issue special grants to prospective investors. There is increasing concern to mine this resource with the decline in power production at the Kariba and Hwange given that CBM can be used in the production of fertiliser, an important input in Zimbabwe's strategic sector, agriculture. | Resource not ascertained |

Bearing in mind the role mining has played in developing national economies elsewhere, from infrastructure development, to luring foreign direct investment, employment and its contribution to a government's revenue,[8] mining seemed to be the right choice. Add to that, the African Mining Vision's determination to maximize the outcomes of mineral

[8] Dorin, Ioana, Diaconescu, Cristina, and, Topor Dan Ioan. "The role of mining in national economies." *International Journal of Academic Research in Accounting, Finance and Management Sciences* 4.3 (2014): 155-160.

resources through value addition and beneficiation. Zimbabwe's reintegration to the global village and economic revival plan seemed well timed. The world was ready, Africa was ready, and it seemed Zimbabwe was ready too.

This research ascertains the policy and legal framework of Zimbabwe between 2009 and 2016 and the drive towards value addition in the Minerals sector. It reviews and evaluates the impact of the framework on beneficiation by comparing the actual position with the recommendations of the African Mining Vision and International Best Practice. It will look at the mineral value chains with a bias to platinum, chrome, gold and diamonds. The writer will look at sector organization - taking into account facets like the licensing and control measures, resource data available, taxation and the use of resource rents by the government.[9] All this is in a bid to determine the efficacy of the regulatory framework with regards to facilitating beneficiation and in turn growing the Zimbabwean economy during the period under scrutiny. This paper will use internationally accepted yardsticks of economic growth such as the Gross Domestic Product, employment and foreign direct investment.

## 1.2. PURPOSE OF THE STUDY

The purpose of this study is to analyse the impact of the regulatory framework on the value addition drive through beneficiation in Zimbabwe's mining sector.

[9] Barma, Naazneen H., et al. *Rents to riches? The political economy of natural resource-led development*. 2012.

## 1.3. RESEARCH OBJECTIVES

1. To determine the efficacy of the Zimbabwean mining regulatory framework with regards to the beneficiation drive between 2009 and 2016.

2. To identify other exigent factors that affected the beneficiation drive

3. To suggest improvements to the current legal framework and policy

## 1.4. RESEARCH QUESTION

Primary Question: What was the impact of the mining regulatory framework to beneficiation and overall development of the sector between 2009 and 2016?

Secondary Questions: What were the laws and policies that regulated beneficiation in Zimbabwe?

1. How did the regulatory framework impact the drive for beneficiation in Zimbabwe?
2. What regulatory framework reforms if any are required to facilitate the optimum beneficiation threshold?

## 1.5. METHODOLOGY

The research was carried out primarily through an analysis of the existing legislation to ascertain what was in place in Zimbabwe at the time, in relation to the targeted mineral resources, namely platinum, diamonds, gold and chrome. The monitoring and regulation of the sector was analysed through the study of relevant mining journals, legislation and other relevant literature, as well as deducing the framework's impact on mining through economic indicators such as gross domestic product, employment and foreign direct investment during the period under review. A report detailing these findings was produced, including the analysis of the exigent factors that contributed to the successful implementation of beneficiation or hindered it.

## 1.6. SIGNIFICANCE OF THE STUDY

The importance of the mining industry to the revival of the Zimbabwean economy is undeniable. However, there are various reasons posited as to why this envisioned take-off is failing. This study thus sought to ascertain the role of regulatory framework in contributing to the growth of the industry/sector, with a specific focus on beneficiation. By identifying the optimum environment for beneficiation and evaluating the performance of the framework period between 2009 and 2016. It will be possible to adequately plan and create a suitable environment for beneficiation. Beneficiation is being targeted in this study as it is viewed as the next step in the development of the sector and the potential spark plug igniting the revival of the Zimbabwean economy.

## 1.7. CHAPTER OUTLINE

***Chapter 1 –***

This Chapter sets the background of the study. It describes the Zimbabwean context vis-à-vis the political and economic situation at the time covered by the study.[10] It also gives an account of Zimbabwe's resource position and its influence on the push for beneficiation. The study looks at various minerals, including platinum, diamonds, gold and chrome.

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[10] Asiedu, Elizabeth. "Foreign direct investment in Africa: The role of natural resources, market size, government policy, institutions and political instability." *The World Economy* 29.1 (2006): 63-77.

The aims and objectives of the research, as well as the parameters are attended to in this chapter.

***Chapter 2 –***

This chapter discusses the mineral value chain[11] and points out the role beneficiation plays in it. Beneficiation is defined and contextualized. The national resource management model is described with specific focus on how beneficiation is encouraged in developing countries in comparison with how it is encouraged in the developed world.

***Chapter 3 -***

This chapter identifies the laws and policies that regulated beneficiation and affected the sector as a whole between 2009 and 2016. It ascertains their impact on the beneficiation drive during the period under scrutiny, and compares the laws to international best practice.[12]

***Chapter 4 -***

This chapter ascertains the trajectory of the mining sector between 2009 and 2016 and identifies the exigent factors that may have impacted the beneficiation drive.[13]

[11] Turok, Ben. "Minerals are not forever: IFAA study for the United Nations economic commisssion for Africa." *New Agenda: South African Journal of Social and Economic Policy* 65.1 (2017): 21-24.

[12] Ibid.

[13] Morris, Mike, Raphael Kaplinsky, and David Kaplan. "“One thing leads to another”—Commodities, linkages and industrial development." *Resources Policy* 37.4 (2012): 408-416.

***Chapter 5 -***

This chapter proposes reforms in the regulatory framework to **enable** facilitate optimum beneficiation. Additionally, it concludes the study and makes recommendations to the state.

# CHAPTER TWO: LITERATURE REVIEW

## 2.1. INTRODUCTION

As noted earlier, mining has always been one of the cornerstones of the Zimbabwean economy. Regarding the policies that determine the value addition drive, it remains essential to define international best practice regarding beneficiation and the minerals value-chain. The literature surrounding mining activities in general and government policies in particular shows that across the continent, African governments are adopting beneficiation as a policy tool aimed at boosting domestic manufacturing, industrialization, employment creation and infrastructural development. Encouraging local value addition to minerals, rather than simply exporting them raw or unprocessed at a lower value, is often viewed as an integral part of African governments' development strategies.[14] It therefore remains pertinent to contextualize the mineral value chain and beneficiation in the Zimbabwean case.

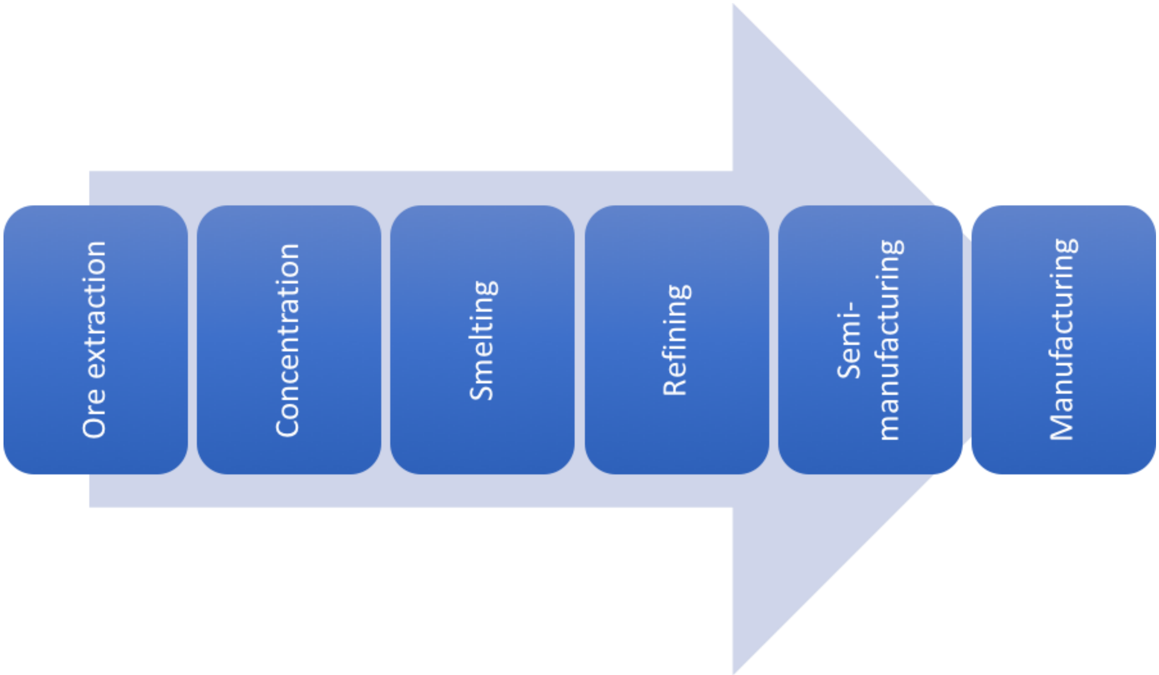
## 2.2. DEFINING THE MINERAL VALUE CHAIN

Mining in developing countries is sometimes oversimplified in its understanding as the primary extraction of ore from the ground. In essence, the mineral value chain involves the entire process, from ore extraction up to the finished end-user product (e.g. gold watches, stainless steel or diamond jewellery). As such, all intermediate industries from transport, telecommunications, insurance, security services, inter alia,

[14] Baissac C. et al. Zimbabwe Beneficiation Policy 2015

make up the minerals value chain. For example, Dube (2016) identifies the typical mining value chain in the diagrams below:[15]

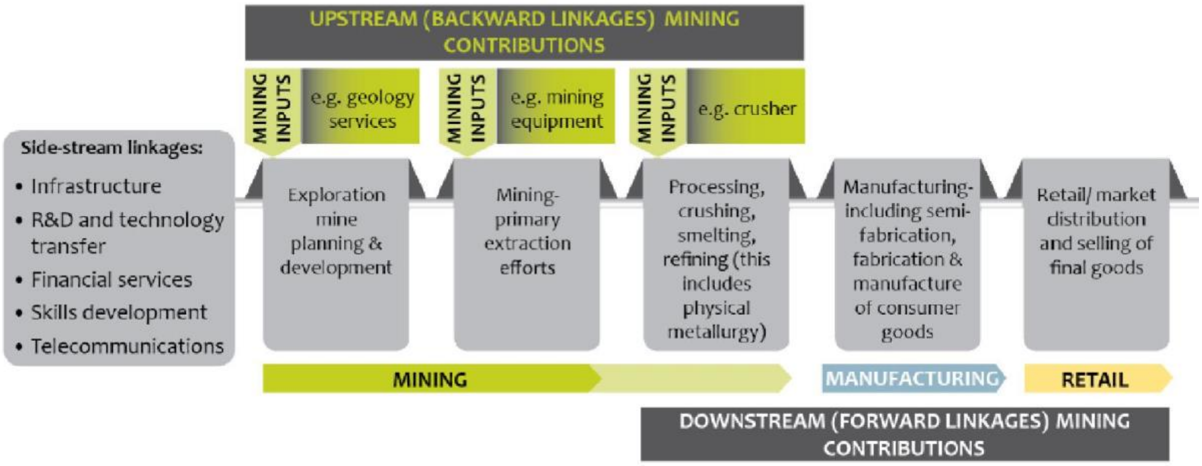
*Typical Stages for Minerals (Dube, 2016)*




Countries naturally endowed with natural resources view the mineral value chain as a basket of economic benefits and an important element of economic development. Beneficiation therefore is a process or series of processes that occur within the mineral value chain. As the Eunomix research paper highlights however, some proponents of beneficiation focus specifically on the economic benefits that derive directly from manufacturing- "the downstream transformative process which begins at

[15] Dube, C. 2016. *The Scope for Beneficiation of Mineral Resources in Zimbabwe: The Case of Chrome and Platinum*

mineral processing and sees forward linkages as the potential economic benefits to be captured."[16]




The diagram provides a process based breakdown of the value chain. It separates mining activities from manufacturing activities. Beneficiation occurs in this value chain.

## 2.3. DEFINING BENEFICIATION

Beneficiation in and of itself is a "complex technical process with many subtle conceptual nuances and differing interpretations."[17] To illustrate this some governments include manufacturing as part of the beneficiation process (like South Africa) whereas countries like Zimbabwe view beneficiation as a targeted policy seeking to increase "downstream value addition through the establishment of refineries and smelters".[18]

In Zimbabwe, beneficiation is generally deemed to have taken place when a product has migrated from one tariff heading to another. The government defines beneficiation as refining of minerals into metals, and therefore beneficiation is an activity to be conducted by miners. The term is equated by Zimbabwean lawmakers to 'refining and smelting', or taking

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[16] ibid. 11.
[17] Ibid. 14.
[18] Ibid. 12.

the mineral resource to its purest form. The main objective of the Zimbabwean government's beneficiation policy is hence, to encourage companies to set up precious metals refineries, smelters and catalytic converters domestically.

Eunomix further notes that "the policy stance adopted results from a need to hedge against sudden losses due to plummeting commodity prices, domestic economic challenges, and a trust deficit between the government and the private sector".[19] However, Zimbabwe's strategy of using bans and legislation to drive beneficiation, as opposed to incentive schemes, is not without risk, the study finds. Both the international trade context and Zimbabwe's business environment are not conducive to attracting investment in mining beneficiation capabilities at present.

According to the South African Institute of International Affairs (2016), mining specialists generally distinguish the processing of commodities from the beneficiation of commodities. Processing involves a deepening of value addition, as a commodity is refined or processed prior to being passed on to user industries. For example, iron ore is processed into steel, copper is smelted, and cotton is carded before spinning can take place. In this sense, the 'processing' of raw materials occurs in a technologically related industry. By contrast, beneficiation describes a process of transformation in which the processed commodity is converted into an entirely different product, generally in an unrelated manufacturing activity. For example, aluminium may be transformed into engine cylinder heads or into pots and pans, and gold is used in semiconductors.[20] The popular

[19] Baissac et al, Zimbabwe Beneficiation Policy, 2015.
[20] Grynberg, R and Sekakela, K. 2016. *Case studies in Base Metal Beneficiation: Lessons from East Asia and the SADC Region.* South African Institute of International Affairs. Research Report 21.

misnomer is now to use the term value addition and beneficiation interchangeably and while the former is a process the latter is an outcome determined by the laws of demand and supply. So just because something has been beneficiated does not necessarily translate to value addition. For governments, the attraction of beneficiation is the creation of linkages which will in turn create jobs, increase the tax base and stimulate growth in the economy.

A strong advocate for the linkages around beneficiation was Hirschman who argued that "the strongest linkage that the resource sector can create is in the area of linkages to production of inputs for the mining process and the process of using the mineral for further production and processing (beneficiation.)" In critiquing beneficiation as a model however, Hausmann concludes that the argument that lies at the very core of African industrial policy, i.e. beneficiation, is fundamentally flawed and that it is the technological proximity of activities rather than trade or commercial policy that dictates transformation from one sector into another.[21]

Downstream value addition involves a range of activities including large-scale capital-intensive activities such as smelting and refining as well as labour-intensive activities such as craft jewellery and metal fabrication. Mining beneficiation refers to the capabilities of the mining company in the areas of concentration, smelting or refining. Manufacturing beneficiation is when manufacturing companies have capabilities to produce a final consumer product. In addition to beneficiation as a technical process, it can also be viewed as a policy paradigm used by governments to spur economic growth and industrialisation. One of the defining phenomena of resource rich countries has been the 'resource curse' through which

[21] SAIIA, 2016.

countries rich in mineral resources are generally unable to boost their economic growth and sustain long term growth. Essentially this comes from the fact that many a resource rich countries export raw materials rather than invest in beneficiation and value addition technologies to boost their processed export receipts.

Under downstream beneficiation therefore, governments in developing countries seek to limit their dependency on raw materials by acquiring the technological capacity to add value to the minerals domestically. Economic benefits resulting from beneficiation thus emanate from factors such as a large manufacturing sector and value chain that generates higher skilled employment, technological advancement and increased government revenue.[22] Although the beneficiation drive has been noted as an essential for the development of the mineral value chain in Zimbabwe, it also remains pertinent to highlight the key challenges that have been acknowledged by the government. These include:

1. Current inadequacies in human and technological capacity
2. Low demand and limited size of the domestic market leading to diseconomies of scale
3. The 'distressed' and subdued nature of the engineering and metals sector
4. The difficulty of designing a 'one-size-fits-all' tax regime with generic fiscal and linkage conditions (local content, skills enhancement, beneficiation etc).

As such beneficiation is a complex and context specific issue which takes into consideration a number of different factors and actors. From a policy perspective mineral beneficiation and investment into the

[22] Ibid, 13.

mining value chain present a concrete option for countries to better manage their natural resources.

Table: Summary of Main Policy documents guiding beneficiation in Zimbabwe, Source: Baissac et al, 2015

| Policy Document:<br>Time period: | Beneficiation Objectives | Beneficiation Measures |
|---|---|---|
| **Constitution**<br>Time period: n/a<br><br>*Overall objective:* n/a | "The equitable sharing of national resources"<br>"The equitable access by all Zimbabweans to the country's natural resources" | n/a |
| **Zim-ASSET,** 2013-2018<br><br>*Overall objective:* Economic growth by an average of 7-3% | One of the four main clusters of ZimASSET is the value addition and beneficiation cluster. This cluster has four main objectives:<br>-Improving capacity utilization<br>-Achieving a net trade gain<br>-Creating employment<br>-Increasing fiscal revenues | Government should 'facilitate' beneficiation capabilities |
| **National Trade Policy**, 2012-2016<br><br>*Overall objective:*<br>-Annual export growth rates of 10% to reach a target of USD7 billion by 2016.<br>-Consolidate and expand existing markets and explore new markets in the region | -Promotion of value addition to primary commodities to improve manufacturing sector contribution from export earnings from 16% to 50%.<br>-Value addition linkages expected to grow exports, create employment, minimize the trade deficit, and increase fiscal incomes | -Duty drawback system<br>-Funding for companies in export processing zone<br>-Tariff and non-tariff measures and other trace defence mechanisms |
| **Indigenous and Economic Empowerment Act (IEEA**), 2010 – Present<br><br>*Overall objective:* Economic empowerment of 'indigenous Zimbabweans' | The law promotes the exploitation of the nation's natural resources by indigenous Zimbabweans. Implementation of the law has therefore specifically targeted mining firms. Beneficiation is seen as one of the measures by which this aspect of indigenization can be realized | -Mining firms need to cede a 51% stake to black Zimbabweans<br>-Configuration of local content obligations to privilege indigenous suppliers<br>-Venture Capital Fund to support indigenous enterprises |
| **Draft Minerals Policy,** n.a<br><br>*Overall objective:*<br>Downstream linkages into mineral beneficiation and | The Draft Minerals Policy aims to achieve down-stream linkages into mineral beneficiation and manufacturing | -Government intervention 'through incentives and disincentives'<br>-Tax policy e.g. 'a small export tax if the next value addition step is clearly viable', 'judicious export taxes will be |

| | | |
|---|---|---|
| manufacturing | | imposed on crude mineral exports where the next beneficiation step has been independently shown to be commercially viable'<br>-Mining licences for the export of crude ores, concentrates, alloys, or minerals will be conditional on a feasibility study being undertaken by an independent agent within a stipulated time period<br>-Amendment to the mining legislation that includes milestones for viable backward and forward linkages and a minimum corporate spend on knowledge formation, such as skills development and R&D. |
| Mines and Minerals Act, n.a<br><br>*Overall objective:*<br>Governs the mining legislation | Governs the beneficiation legislation | Defines 'approved beneficiation plant' and lays out how the owner of such a plant can have it approved and spell out the degree of beneficiation it takes to achieve, in order to apply for a rate of rebate of royalty |

The table above lists the main policy documents guiding beneficiation, setting out the policies' objectives and implementation measures, as well as the time period that they are in force.

## 2.4. NATIONAL RESOURCE MANAGEMENT MODEL

In attempting to understand the role of the state in the beneficiation process, Solomon (2012) argues that developing countries often face political instability, lack of transparency, corruption and fiscal and technical malfeasance in government.[23] These make up the key characteristics that derail many developing countries endeavours to bring to fruition large scale industrial beneficiation. Of significance is the prevailing view from many international financial institutions that calls for the rolling back of the state from direct economic interventions. The World Bank for instance maintains that

[23] Solomon, M. 2012.*The Rise of Resource Nationalism: A Resurgence of state control in an era of Free markets or the legitimate search for a new equilibrium.* South African Institute of Mining and Metallurgy.

"the statist approach endangers overall investment climates, can decrease the confidence and will of foreign companies and which in turn can have a negative ripple effect on employment and industrial development."[24] But with the rise of resource nationalism nations are keen to use their resources as stepping stones for development. How the sector is organised, is informed by these aspirations and policies. From how mining rights are awarded and transferred to the various stages of the extraction stage itself. The state is involved through subtle prompting such as incentives to compulsion through legislation. The nations development agenda is driven through the resource management model. The taxation model and how resource rents are collected and utilised as well as the development policies are all part of the national resource management model. In Chapter 3, we review the regulatory framework of mining in Zimbabwe and note the presence and focus of beneficiation. The World Bank's mineral value chain is a snapshot of our country's mineral management model which can be used to evaluate the sector's organisation and thrust.

**Contrasting developed vs. developing countries' beneficiation models**

According to Grynberg and Sekakela (2016),

> "evidence suggests that 60 years ago Japan and then China implemented very successful policies of base metal beneficiation to assure either a commercial advantage for producers down the value chain or national self-sufficiency in strategic minerals. Initially these efforts were based on what were, at least in part, domestic mineral supplies, but as industrialisation progressed the

[24]Baissac et al 2015: 30.

beneficiation of base metals was increasingly based on imported concentrate and raw materials."[25]

Opponents to beneficiation claim that Africa has a fundamental resource intensity and technical capacity that is completely different from that of Japan in the 1950s and China in the 1990s and should not pin their hopes on the same policy or assume they shall have the same success or results. This argument is in itself not incorrect, but it does not take into account that the trajectory of base metal beneficiation in Asia was determined not by factor cost, technical capacity and availability of resources but rather by industrial policies aimed at developing a national commercial advantage further down the value chain. A policy of beneficiation can only be successful in Africa if local producers are connected to international value chains especially the market.

Morris, M. Kaplinsky, R and Kaplan, D. (2012) argue that long term and sustainable growth require industrial development and an expansion of knowledge intensive service industries.[26] They note the success of Hong Kong, Korea, Singapore and Taiwan in the late 1960s as important examples of countries that rapidly industrialised. They note however the difficulties that entail other, particularly developing nations from emulating these successes as being contingent on two key issues: the first looks at the space available for import-substitution industrialisation and the second looks at blockages in the route to export oriented industrial development. The former relates particularly to the reduced feasibility of import-substitution economics resultant from pervasive trade liberalisation policies which have been pursued

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[25] SAIIA, 2016.

[26] Morris, M. Kaplinsky, R and Kaplan, D. 2012. *One Thing Leads To Another: Promoting industrialisation by Making the Most of the Commodity Boom in Sub-Saharan Africa.* University of Cape Town.

in many low and middle-income economies. In other words, creating robust and competitive value addition and beneficiation structures in resource-rich countries is inhibited by the fundamentals of the international political economy. The race to full technological industrialisation is difficult and costly for developing countries to emulate and build and requires in the final analysis that these countries have to institute some measure of industrial protectionisms for their industries. As such, the 'carrot' and the 'stick' perspectives of the beneficiation thrust of most countries is a relevant feature of the modern mineral value chain seeking to add value and beneficiate.

It has been identified in the literature that there are different levels of expectation in certain countries around the role of majors in the mining sector and their obligations to the beneficiation process. How to optimally implement a beneficiation policy has been the subject of vociferous international debate. In essence, and to simplify, they identify two main approaches to implementing a beneficiation policy:

*1.Negative incentivisation (the 'stick')*: This relates to the use of regulation and legislation to force the producer of minerals to beneficiate or make those minerals available for beneficiation –mainly through restrictions on exports. The writer calls it 'legislating the economy' or a 'Command beneficiation'. It is normally resorted to when there is mistrust between government and the other stake holders or a seeming reluctance to support the government's policies by players in the sector. The Zimbabwean government's ban on exporting Chrome Ore in 2011 is an example of such an approach. After giving producers eighteen months to put in place smelting measures, the government clamped down on the export of raw Chrome when there was seemingly no progress and no word on the smelting initiative from the producers. The result was a 64,8% decrease in Chrome output by 2015 when the ban was lifted and two major players, Zim Alloys and Zimasco, shut down but on the other hand it was a serious warning to the rest of the industry that it would not be enough to pay lip service to beneficiation and what the Minister of Finance Patrick Chinamasa referred to as 'labour pains' as they asserted the beneficiation policy.

The Zimbabwean government's beneficiation policy primarily follows the 'stick' approach, i.e. increased regulation and state intervention in the mining sector. Instead of reacting to market forces and the industry, the government appears to want to 'force' mining companies to invest in beneficiation capabilities, using ultimatums and outright bans of raw mineral exports to trigger progress. The government has actively applied the 'stick' approach to four main sectors of the mining industry:

i. **Chrome -** in 2011 the government banned the export of raw chrome but re-instated permissions in 2015.[27]
ii. **Gold -** in 2014 the government implemented a ban on the export unrefined gold and instituted Fidelity Printers and Refiners as the sole buyer and exporter of gold in the country.[28]
iii. **Platinum -** in November 2013 the government stated that it was mooting a ban on the export of raw unprocessed platinum along the same vein as the chrome export. This however was not implemented.[29]
iv. **Diamonds -** in 2014 the government implemented 15% levy on the export of un-beneficiated diamonds and announced plans to merge all

[27] *The Herald*, Ban on Ore Chrome Exports Welcome but… http://www.herald.co.zw/ban-on-chrome-ore-exports-welcome-but/ 14 February 2017.
[28] Baissac et al, 2015
[29] *The Daily News*, Implats Stock tumbles as Zim Mulls Platinum Exports Ban https://www.dailynews.co.zw/articles/2014/01/15/implats-stock-tumbles-as-zim-mulls-platinum-exports-ban 15 January 2014.

diamond companies into one first of which government would be a 50% shareholder.[30]

*2. Positive incentivisation ("the carrot")* – this approach involves market driven growth as opposed to intervention by the state, such as tax concessions, energy subsidies, the establishment of economic zones with favourable conditions for the investor, etc. The rationale is to make a business case for the policy to be supported by stakeholders rewarding innovation and investment. Dangling viability and profit in front of the entrepreneur is seen as the best way to have a sustainable and entrenched policy. In most jurisdictions 'carrot' policies are the first form of engagement with stakeholders. The problem, is this approach, can leave the state at the mercy of the investor, and to some extent fuels a bidding war with states going beyond what is fair to themselves in a bid to accommodate the investor. In developing nations, Governments have found themselves entering into agreements and arrangements that do not benefit the nation as much as they should. The competition for foreign direct investment has made emerging economies an investors market. The Governments engage the capital on its terms or else they will go elsewhere. Mining and the products of mining seek the international commodity market and taking into account the market forces, a nation can find its development agenda at loggerheads with viability and profits making it difficult for the host Government to entice stakeholders without compromising its development.[31]

[30] *The Patriot.* Time to Act on Beneficiation https://www.thepatriot.co.zw/old_posts/time-to-act-on-beneficiation/ 16 February 2017.
[31] Baissac, et al. 2015.

## 2.5 CONCLUSION

Beneficiation is seen as the next step in self-sufficiency and stimulating economic growth. Resource rich countries seek to unlock their full potential and avoid the resource curse by creating an optimum beneficiation ecosystem. It is clear that each jurisdiction will determine what it deems beneficiation. The role of a captive market and the fundamentals of supply and demand will be determining factors on how successful the beneficiation drive will be. The use of both the stick and the carrot, depending on the players in the sectors will help sustain the policy. The success of the policy will hinge on an honest assessment of the context that the policy exists in and dealing with the logistical support issues such as transport, energy provision and other key infrastructure required to create a conducive beneficiation ecosystem. A lesson learnt from the oil industry is how the OPEC[32] countries especially the Middle East nations have managed to some extent to dictate their terms to the market and investor and use their resources to anchor their development policies. In the next chapter the laws and policies that regulate beneficiation are identified and their impact on the mining sector during the period under scrutiny are analysed.

[32] OPEC: Organisation of Petroleum Exporting Countries

# CHAPTER 3: A REVIEW OF THE REGULATORY FRAMEWORK

## 3.1. THE SUPREME CONSTITUTION

Zimbabwe is a constitutional democracy with the Constitution being the supreme[33] law of the land. All actions and legislation are subject and subservient to the Constitution. Any aspect of the law, conduct, custom or practice inconsistent with the Constitution is invalid to the extent of its inconsistency. Section 68 protects the right to administrative justice and ensures that all actions and conduct by any administrative authority is subject to review and can be set aside in the event the action is found to be unreasonable, partial or disproportionate, either substantively or procedurally. Over and above common law, the Administrative Justice Act, Chapter 10:20 provides in sufficient detail as required by the Constitution how to obtain relief in the event that the powers that be abuse their authority. This right is clearly enshrined in the Constitution and justiciable.

Zimbabwe's mining legal framework has existed in this dispensation where the rule of law[34] is recognized and entrenched. The same Constitution recognizes in Section 71 Property Rights as a fundamental human right and freedom. The previous Constitution[35] was also supreme and also recognized in a similar fashion the rule of law and property rights in Sections 16 and 18 of its Declaration of Rights respectively on the right to just administrative action

[33] Section 2 of the Zimbabwean Constitution Amendment Number 20 (Act 2013).
[34] Section 3b of the Zimbabwean Constitution.
[35] The Lancaster House Constitution was Zimbabwe's first constitution and came into effect at independence in 1980.

is an essential facet recognised and protected in Roman Dutch Common Law which is applicable in Zimbabwe.

## 3.2. THE MINES AND MINERALS ACT 21:05

It is in that context that the legal framework that existed in 2009 should be viewed. The principal Act governing mining in Zimbabwe is the Mines and Minerals Act (MMA), Chapter 21: 05 enacted in 1961, four years before the settler government of the then Rhodesia[36] unilaterally declared independence from the British in November 1965. This principal piece of legislation prescribes how the exploitation of mineral resources is carried out and was promulgated with an eye towards self-sufficiency and socio-economic development. This was essential between 1965 and 1980 when the Rhodesian government was isolated by international sanctions and viewed as a rogue state. This was worsened by its relationship with the apartheid government of South Africa. “The mining sector with its value addition and beneficiation facet was seen as a means of possible sanction busting”.[37]

Zimbabwe is said to have the second largest industrial base in sub-Saharan Africa next only to South Africa.[38] At Independence in 1980 Zimbabwe had a well-established infrastructure and industrial base. The mining sector, through other factors including the legal framework, had contributed to the creation of a solid iron and steel industry, phosphate beneficiation, and nickel beneficiation, an indication of the enabling nature of the framework. After Zimbabwe’s independence. the MMA has been amended over twenty-six times to improve its efficacy and suitability.[39]

[36] Rhodesia is the name of the British colony that later became Zimbabwe in 1980.
[37] Honorable Former Senator and Minister David Coltart.
[38] Zimbabwe School of Mines, Certificate in Fundamentals of Mining Handbook, 2017
[39] Index to legislation Legal Resources Foundation of Zimbabwe.

The MMA is divided into twenty-seven parts and deals with tenure acquisition, the maintenance and transfer of mining rights and title. It also establishes a Mining Affairs Board to supervise the Act and clearly sets out its functions and powers in section 6 and 11 of the said Act. The MMA regulates all key facets of the mining sector and provides a plumb line for the resource management model of Zimbabwe. It covers the awarding of contracts, licences, exploration and extraction of mineral resources. It regulates and monitors mining operations, prescribes taxation in its various forms i.e. royalties and rebates, and touches on revenue distribution[40]. It seeks to stimulate the growth and diversification of the mining industry by entrenching policies such as beneficiation. The principal Act works in conjunction with other pieces of legislation such as the Precious Stones Act and Finance Act[41] and has over the years as the mining of specific minerals has grown, worked with the legislation promulgated for the specific minerals, such as the Gold Trade Act and Base Minerals Act[42]. The increase in diamond mining has seen calls for a piece of legislation to deal with diamonds with the draft bills serving as guiding policy as that facet of the sector grows organically in the enabling environment fostered by the MMA. Logistical issues such as the use of explosives and safety have the necessary legal instruments in place to provide the much needed clarity and detail. The Environmental Management Act Chapter 20:25 provides a safeguard that is now in line with international best practice and enjoys superiority over any other piece of legislation in the event there is a conflict[43] except for the Constitution.

Importantly, the MMA through Section 2 vests all mineral rights in the state, with the Office of the President being the custodian of the resources on the

[40] World Bank Mineral Value Chain.
[41] Precious Stones Trade Act, Chapter 21:06 and Finance Act, Chapter 23:04
[42] Gold Trade Act, Chapter 21:03, and Base Minerals Export Control Act, Chapter 21:01
[43] Section 3(2) of the Environment Management Act.

people's behalf. This exercise of sovereignty over its resources is a form of resource nationalism ensuring that the state puts itself in a strategic position to make the most of its mineral endowments. Zimbabwe is one the jurisdictions in Africa where this principle has been entrenched pre and post-independence spanning over 50 years The President's exercise of his power as custodian of the natural resources on behalf of the people is subject to the principles of legality, administrative law, and the Constitution, with a developed judiciary available for the interpretation and enforcement of the rights protected by the Constitution. The security of tenure with regards to mining rights is guaranteed with the MMA setting a low barrier of entrance into the sector. The acquisition of mining title in Zimbabwe has been described by Transparency International Zimbabwe as a "free for all"[44], which is "viewed as hospitable to both local and international investors because it has provisions that make it simple for investors to acquire and relinquish mining titles".[45]

The table below summarises the different mining titles and application requirements in Zimbabwe. It sets out the tenure of the issued title and the relevant authorities responsible for granting the title and, in the interests of efficiency, the estimated timeline for processing such applications.

[44] Transparency International Zimbabwe Annual State on Corruption Report, 2012.
[45] ibid.

Table: Mining regulations and requirements *Source: I H Harvey Advisory Services*

## MINING REGULATIONS AND REQUIREMENTS

- The table below summarises the different mining titles and application requirements.

| Title (Part or Act | Area | Minerals | Requirements | Length of tenure | Approving Authority | Processing period |
|---|---|---|---|---|---|---|
| Ordinary/special prospecting licence (IV) | • 10Ha precious stones.<br>• 25Ha base metals. | • ALL | • Any person above 18 years permanently resident in Zimbabwe.<br>• National ID card required.<br>• Companies to provide certificate of registration.<br>• Payment of all fees. | • 2 years | • Mining commissioner | • Instant (over the counter) |
| Exclusive prospecting order (VI) | • 65,000Ha.<br>• Any defined area (including reserved). | • All except coal | • Any person(s).<br>• Proposed work programme.<br>• Area description.<br>• Certificate of incorporation (provide details on directors and company shareholding structure). | • Initial period of 3 years.<br>• Renewable once. | • President | • 3 months |
| Mining lease (VIII) | • Amalgamation of contiguous mining location. | • All | • Holder of registered mining location.<br>• List of minerals to be mined.<br>• List of mining location contained.<br>• Name and address of land owner. | • Perpetual.<br>• Annual renewal. | • Mining affairs board. | • 3 months |
| Special mining lease (IX) | • As mining lease (VIII). | • All | • Holder of registered mining location and list of minerals to be mined.<br>• Investment of US$100 million.<br>• Mine output expected for export. | • Perpetual.<br>• Annual renewal | • Mining affairs board | • 3 months |
| Special grant (XIX) | • Any defined area. | • All | • Any person<br>• Area to be situated in reserved ground. | • Perpetual.<br>• Annual renewal. | • Secretary for mines and MD | • 2 months |
| Special grant under part XX of Act (21:05) | • 20,000Ha for coal.<br>• 100,000Ha for coal bed methane and natural gas. | • Coal<br>• Mineral oils.<br>• Natural gas. | • Any person<br>• Area to be situated in reserved ground.<br>• Intention to mine coal, mineral oils, natural gas.<br>• Full information on financial status and technical expertise. | • Perpetual.<br>• Annual renewal. | • President | • 3 months. |

With regards to beneficiation Section 159(3) e of the MMA requires any applicant for a Special Mining Licence to furnish the Mining Commissioner with a marketing plan setting out the proposals and a timetable for the beneficiation of the output of the proposed mine. Section 247 of the same Act empowers the Minister to declare an institution, a beneficiation plant and prescribes the rate of rebate of the royalty applicable to the mineral being beneficiated at the approved beneficiation plant. The existence of these two provisions form the legal basis that the government would seek to enforce its beneficiation policy and also prove that value addition and or beneficiation has always been part of the mining legal framework.

## 3.3. THE ZIMBABWE MINING DEVELOPMENT CORPORATION ACT 28:01

This Act creates a legal entity which serves as the commercial vehicle for all mining activities on behalf of Government. It is the agent of the state and can be used to stimulate growth and development in the mining sector. Section 20 of the same Act states the powers and functions of the entity. It created an entity which has the power to invest in the mining industry on behalf of the state, this includes running and managing mining projects through state owned entities. One of the ZMDC's key functions is set out in Section 20 (c) of the same Act and that is to engage in prospecting, exploration, mining and mineral beneficiation programmes. This is done through investing in joint ventures with investors, coordinating and implementing mining development projects on behalf of the state and advising the Minister of Mines on investments in the mining industry. Such legislation allows the state to participate in the development of a beneficiation and value addition industry through influence and presence as opposed to by directive. The Government walks in the stakeholders' shoes as it were. It allows the state to have insight into the challenges faced by the miners and other players in the industry as they engage the economy and set an example by implementing the desired policies via model projects.

## 3.4. THE ROASTING PLANT CORPORATION ACT CHAPTER 21:07

This is yet another Act creating an entity whose function was to deal in and treat ore and concentrate and its by-products. The plant was initially located in Midlands Province, where there was a thriving iron and steel industry,[46] but the Act empowers the Minister to designate any such other place that meets the purpose. Beneficiation as envisioned and described by the policy makers

[46] ZISCO Steel was at its peak the only integrated steel works in the region outside South Africa. Founded in 1940, it shut down in 2008.

requires such enabling legislation to provide practical and logistical support to the projects.

## 3.5. MINERALS MARKETING CORPORATION OF ZIMBABWE CHAPTER 24:04

The Act creates an entity whose purpose is to provide for the control and regulation, export, sale and stockpiling of minerals. It overseas mineral accounting by monitoring, inspections and assays amongst its powers and functions set out in Section 20 of the Act. Section 20 (d) specifically requires and empowers the corporation to "encourage the local beneficiation and utilization of minerals". So, the corporation in regulating the sale of minerals is empowered to be the sole marketer and sole agent of minerals in the jurisdiction. This corporation has been a key tool in the Government's attempt to assert and accelerate the beneficiation drive. Its supposed *raison d'etre* is to protect the interests of the nation, producers and the mining industry. The clamp down on the export of chrome ore between 2009 to date gives an insight on how this legislation has been used in a bid to induce beneficiation.

## 3.6. THE INDIGENIZATION AND ECONOMIC EMPOWERMENT ACT 14:33

This Act became law in 2008. It prescribes that all companies above a set threshold, initially US$500 000.00 should relinquish 51% of the shareholding in their business within a stipulated period to indigenous Zimbabweans. For purposes of the Act, indigenous Zimbabweans are defined as any individual who was previously disadvantaged by unfair discrimination on the grounds of his or her race before Zimbabwe independence in 1980.

Seemingly targeting mining industry in 2011, maybe because of the diamond rush in Chiadzwa and the increase in revenue from mining since dollarization, the Minister reduced the minimum threshold requiring indigenization for the mining sector from $500 000.00 to $1.00. This effectively meant that all mining businesses would have to indigenize. The definition of indigenization is indicative of the policy maker's intention. It is defined as a "deliberate involvement of indigenous Zimbabweans in the economic activities in the country to which hitherto they had no access, so as to ensure the equitable ownership of the nation's resources."[47] The transfer of the 51% stake must be for a consideration i.e. the market value of the shares. The National Indigenization and Economic Empowerment Charter found in the fourth schedule of the IEE Act sets out the objective as being to develop a competitive, sustainable and industralised economy through the use of the country's natural resources. The Charter seeks to promote the use of local raw materials and value addition in economic activities.

In Section 5 (2) of the IEE Act the Minister is empowered to cancel the license to operate the businesses that have not complied with the Act. It is important to point out that this closure can only be done after due process has been carried out, i.e. the entity concerned has to be given written notice of its non-compliance and be afforded an opportunity to explain why they have not indigenized and show just cause why their licence should not be cancelled. It also has a Section[48] which covers the local procurement policies in industry seeking to address the local content issue and at the same time protecting the space for indigenous Zimbabweans' interest as and when the multiplier effect comes into play. This Act was the elephant in the room as the GNU sought to bring in foreign direct investment and revive the economy by encouraging the existing investors in the country to channel more investment into the country to support the beneficiation drive. With the land resettlement program still

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[47] IEE Act, 2008.
[48] Section 3 of the Indigenization and Economic Empowerment Act.

fresh in the minds of the international community this piece of legislation had all business owners nervous. In practice, the implementation of the law has consisted of proclamations and "policy shifts including recent promises to foreign investors that the law would not be an impediment to their ventures".[49] Key to that is section 4 of the IEE Act which provides for the submission of an indigenization plan accompanied by an explanation and a timeline of how the indigenization plan will be implemented. With the indigenous partner having to pay for the shares they acquire, the indigenization programme has a funding facet and this challenge has resulted in the indigenization of businesses being dealt with on a case by case scenario and extensions given to "offending" businesses once they explain themselves. To date no business has been permanently shut down for non-compliance.

## 3.7. ZIMBABWE INVESTMENT AUTHORITY ACT, CHAPTER 14:30

This Act came into effect in January 2007 with its purpose being to promote and coordinate investment in Zimbabwe. All foreign investors have to obtain approval from the Zimbabwe Investment Authority to allow them to invest in Zimbabwe. This approval is in the form of an investment licence. In considering an application the factors to be considered are set out in Section 14 of the Zimbabwe Investment Authority (ZIA) Act. One of the requirements of Section 14 (1) (c) is to ascertain the extent to which the investor will use local raw materials and how they will beneficiate them. Section 14 also provides for incentives to be given to investors involved in value addition and import substitution. These incentive guidelines are created in consultation with the Ministry of Finance to ensure that there is coherence in implementing the legislation and policy. Section 25 of the ZIA Act defines beneficiation "as means to cause such raw material to undergo any process which changes the

[49] Baissac et al, 2015

form or adds value to it". In the same Section the authorities are empowered to determine which sectors are exclusively the domain of local investors and also empowers the authorities importantly to prohibit the export of specified raw materials which can be beneficiated and to define what will be deemed sufficient beneficiation.

### 3.8. S.T.E.R.P

The Short Term Emergency Recovery Program was part of the implementation of the Global Political Agreement entered into by the three political players namely ZANU PF, MDC-T and MDC-N based on dollarization and was launched in March 2009. It sought to stabilize the situation by rehabilitating and resuscitating the economy. It also intended to lay the foundation going forward for a more comprehensive economic framework. With regards to mining and in particular beneficiation and value addition the policy mooted penalties for the exportation of raw materials and also warned of an upward review of the levies charged on resources. An undertaking was made to amend the MMA and bring in an Act which supported beneficiation better and would provide a clear strategy to achieve beneficiation and value addition in the economy in the shortest possible time. It sought a moratorium or softening of the indigenization policy to facilitate the engagement of investors and lure the much needed foreign direct investment into the country. Between declarations, pronouncements and the legislation, it is apparent that it was believed that having finally got the political will beneficiation would be stimulated.

## 3.9. S.T.E.R.P 2

STERP 2 succeeded STERP 1 after the lapse of its 9 month time frame.[50] The goal was to further stabilise the economy and build confidence in Zimbabwe for business and investment. On the mining domain, raising the capacity in mineral production, continuous exploration as well as beneficiation and value addition of minerals would benefit from joint ventures with strategic partners who had the necessary technology and foreign currency back-up.

STERP eliminated the pricing gap in respect of which domestic prices lagged behind international prices. In this period, gold remained a strategic reserve asset, whose licensing and marketing were in terms of the Gold Trade Act. However, producers were paid international prices for their gold with no amount retained by the Reserve Bank. Confidence in the RBZ was restored as all payments for deliveries were done without failure and much delays.

STERP also ensured that steel, a beneficiated product was marketed by the producer instead of MMCZ. This improved efficiency in marketing and sales of products.[51]

## 3.10. NATIONAL TRADE POLICY

Zimbabwe is drafting its second National Trade Policy (NTP) after the expiration of its first ever trade policy in 2016. It had been in operation since 2012. Before the formulation of the NTP, trade was guided by inferences from existing policies and trade agreements. The goal in formulating the NTP was to harmonise various trade related policies in government ministries and departments into a single, coherent, multi-sectoral framework. The vision of

[50]STERP 2.
[51]STERP, p46.

the NTP (2012-2016) was "to have trade function as the engine for sustainable economic growth and development of Zimbabwe".[52] Amongst other objectives of increasing exports and exports markets, expediting trade flows, the policy specifies: "to promote enhanced value-addition of primary commodities in all sectors of the economy thereby restoring the manufacturing sector's contribution to export earnings from the current 16% to 50% by 2016". Value-addition and beneficiation are suggested in other frameworks as key for the growth of the mining sector in Zimbabwe which is the focus of this study.

A trade policy is crucial for open economies such as Zimbabwe, as it defines the country's standards, goals and rules and regulations that pertain to trade relations with other countries.[53]

The National Trade Policy (2012–2016) took centre stage in the transformation of the productive sectors of the economy towards the production and export of high value-added products in order to realise the country's full export potential. Further, the policy sought to diversify the country's exports, expand and explore new markets, as well as promote the consumption of locally produced goods and services.[54] The achievement of the objectives of the National Trade Policy hinged on policy consistency and coordination within Government as well as participation of all stakeholders in a strategic and focused manner.

The NTP framework worked closely with the Industrial Development Policy (IDP). The focus areas of the NTP were defined in its sister framework, the Industrial Development Policy (2012–2016). The four priority sectors, namely,

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[52] Zimbabwe National Trade Policy (2012–2016).
[53] ZimTrade News: "New Trade Policy to be launched" Publish Date: Tuesday 14 March 2017.
[54] Zimbabwe National Trade Policy (2012–2016).

agro-processing (food, beverages, clothing, textiles, leather, wood and furniture), fertilizer industry, pharmaceuticals and metals and electrical were viewed as drivers and pillars of industrial growth. The Government puts in place export support measures to the priority sectors such as exemptions from duties on imported inputs and preferential access to trade finance in order to boost the level of exports.

The drive for value addition according to the NTP was the observation that Zimbabwe's exports were dominated by primary products especially in mining and agriculture whose international prices are vulnerable to frequent shocks. The export of commodities would be regulated in order to boost local product beneficiation. Government would control through appropriate instruments, the exportation of primary products where value-addition options are readily available. A link would be created and encouraged between producers of commodities and manufacturers that are involved in value-addition. The whole value chain of selected products was monitored so that support programmes for value-addition were continuously put in place at each level they thought beneficiation was possible.

## 3.11. ZIMBABWE AGENDA FOR SUSTAINABLE SOCIO-ECONOMIC TRANSFORMATION

The Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim-ASSET): October 2013-December 2018 is Zimbabwe's latest blueprint for economic growth. The plan was crafted to achieve sustainable development and social equity anchored on indigenisation, empowerment and employment creation which is largely propelled by the judicious exploitation of the country's abundant human and natural resources.[55] More or less similar to the NTP

[55] Zim-ASSET document.

priority areas, Zim-ASSET has four strategic clusters namely: food security and nutrition; social services and poverty eradication; infrastructure and utilities; and value addition and beneficiation. The cluster approach is envisaged as an enabler for prioritisation of programmes and projects in implementation and resource allocation. Since the 2014 fiscal year, Treasury has used Zim-ASSET as the basis for the macroeconomic budgetary framework.

The mining sector, in the Zim-ASSET blueprint is regarded as a major foreign currency earner with potential to become the pillar for economic growth through value addition and beneficiation. However, the sector continues to be constrained by energy and transport infrastructure challenges, depressed international mineral prices and shortage of utilities among other factors. Given the country's abundant mineral resource base, government foresaw this sector contributing immensely towards GDP growth. This was going to be achieved by establishing indigenous mining syndicates, consortia, SMEs and co-operatives, hence resonating well with the government's thrust of indigenisation, empowerment and employment creation.

In view of the above mentioned, national institutions such as the Mineral Exploration Company, Zimbabwe Mining Development Corporation (ZMDC) and the Minerals Marketing Corporation of Zimbabwe (MMCZ), played a pivotal role in management of the minerals value chain system in terms of creating a conducive environment for minerals exploitation, value addition and marketing.

On value addition and beneficiation, government acknowledged the role of the private sector for financing and execution of activities. Government support was discernible through alignment, consistency and cohesion of policies in which players operated in. Such policies included the National Trade Policy, Industrial Development Policy, and indigenisation and economic empowerment Policy. According to Zim-ASSET, the success of the value addition and beneficiation cluster is dependent on the availability of key enablers that include energy, water, transport and ICTs.

On the value addition and beneficiation cluster matrix, on mining, Zim-ASSET expressly focuses on the diamond as it was written just after the “diamond rush”.

The table below focuses on diamonds and the beneficiation drive of the mineral. Outcomes are stated and measured against actual output.

| Cluster Key Result Area | Cluster Outcomes | Cluster Outputs | Strategies | Lead Institution |
|---|---|---|---|---|
| **Mining** | -increased revenue from diamonds<br>-increased employment | -1.2 million carats polished gem diamonds Produced<br>-1000 jobs created<br>-Value added industrial diamonds produced<br>-Skilled personnel produced | -Establish Diamond Cutting & Polishing centres | -Ministry responsible for Mining |
| | -improved planning for mineral resources development. | -Data base on the country's minerals Established<br>-Geological Survey Unit strengthened | -Evaluate the country's mineral resources | |

Table: Value Addition and Beneficiation Cluster (Mining)

## 3.12. AFRICA MINING VISION

The Africa Mining Vision (AMV) was adopted by Heads of State at the February 2009 AU summit following the October 2008 meeting of African Ministers responsible for Mineral Resources Development. The AMV is holistic. It advocates thinking outside the "mining box", integrating mining into development policies at local, national and regional levels.[56]

Local development is actuated through environmental protection and communities' realisation of real benefits from large-scale industrial mining. In the case of Zimbabwe, this is best illustrated through the community share ownership scheme implemented in all mining areas. At national and regional

[56]UNECA, About AMV.

levels, governments should realise benefits from mining activities and integrate mining into trade and industrial policies.

The principles of AMV entail down-stream linkages into mineral beneficiation and manufacturing; up-stream linkages into mining capital goods, consumables and services industries; side-stream linkages into infrastructure (power, logistics; communications, water) and skills and 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.

The Zim-ASSET mining cluster is in harmony with the AMV in that it sought the strengthening of the country's geological survey unit and creation of a mineral database allowing for a comprehensive knowledge of mineral endowment. Additionally, the Zim-ASSET blueprint has been clear about mineral value addition and beneficiation in harmony with the AMV. This stance which is in line with international trends had regional support and signalled much valued policy harmony and coherence.

## 3.13. CONCLUSION

"The regulatory framework guided by policy - which is its spirit, a supreme constitution which is the skeleton, and legislation which is the flesh - is a body whose purpose is to achieve the will of the people".[57]

The mining regulatory framework provided the desired integrated land use and development plans.[58] Mineral rights were clearly defined and tradable for

[57] Gerber, L.J. June 2017.
[58] Mzumara.D.W.et al Harmonization of Mining Policies, Standard, Legislature and Regulatory Framework in Southern Africa 2004.

over 50 years. The policies were on the whole consistent and coherent to the extent of being viewed as populist and had the support or at least the ideological approval of the regional and international political community. The age of Zimbabwe's Mining industry and the fact that Robert Mugabe and his party had been at the helm since 1980 provided a certainty and stability that gave stakeholders a clear idea of the terms of engagement. So, as at the beginning of 2009 clearly steeped in the mining legal framework, beneficiation now also had the backing of the politicians emboldened by the resurgence of resource nationalism[59] and the launch of the African Mining Vision. They looked at the mining sector as the golden goose that had to lay the golden egg - beneficiation. So, what seemed like a push for beneficiation through mere fiscal policy when the GNU Finance Minister Tendai Biti came into office in 2009, was in fact based on a legal framework that had in place both the "carrot" and the "stick" at its disposal to engage stake holders and push for their perceived panacea - beneficiation.

In the next chapter the growth of the mining sector between 2009 and 2016 is assessed and the exigent factors are discussed.

[59] A term whose meaning and history is well articulated by Dargin J in *Resource Nationalism from Spanish Roots to an Arab Tree.*

# CHAPTER 4: ECONOMIC IMPACT OF THE MINING SECTOR ON THE ECONOMY

## 4.1. INTRODUCTION

This chapter outlines the economic impact of the mining in Zimbabwe during the period 2009- 2016. The indicators used in the study are GDP, fiscal contribution and employment rates attributed to the mining sector. The year 2009 carried hope for the nation after formation of the government of national unity in September 2008. In February 2009, the GNU introduced the multi-currency regime.[60] On April 12, 2009, the Zimbabwe dollar was demonetised i.e. suspended as legal tender.[61]

As alluded to in Chapter 3, the first quarter of 2009 under the auspices of the GNU saw the launch of the STERP, as an economic reform mechanism under the Global Political Agreement (GPA).[62]

The Ministry of Finance acknowledged that the implementation of STERP had a positive impact. It resulted in economic growth, inflation reduction, revival of business activity and subsequent improved supply of basic commodities on the shelves, the quality of life of the people improved. There seemed to be improved management of public resources, recovery of basic public services provision, normalisation of financial services, and most importantly re-

[60] Noko, 2011
[61] Ibid, p348
[62] STERP 2

engagement with the international community, as which is key in the bid to attract foreign direct investment, an essential facet of the mining sector.[63]

During the period of the GNU and the multi-currency regime, Zimbabwe's economy seemed to be on the rise. GDP growth averaged 10% between 2009 and 2012. Despite the global financial crisis that was underway, Zimbabwe recorded a positive growth rate of 6%.[64]

Economic recovery from 2009 was based on mining, basking in the glow of the boom in global prices. The mining sector became the leading export sector, on account of high mineral prices and increased platinum, diamonds and gold output. Mining replaced agriculture as the leading light of the Zimbabwean economy. Mining's share of GDP grew from an average 10.2% in the 1990s to an average 16.9% in 2009-2011.

Between 2009 and 2016 the Government seemed to be seriously pursuing the drive for local beneficiation of mineral resources, most of which were being exported in raw form. The rationale for the push for beneficiation in the mining sector was to cushion mining export earnings against fluctuations in international commodity prices. Employment creation would be guaranteed with increased activity in the mining and mineral processing chain. In 2011, the Government of Zimbabwe also introduced a ban on the export of raw chrome as a strategy to enhance beneficiation. The ban was removed in 2015. However, ferrochrome which was considered significantly value-added remained open for exports. The reason for the upliftment of the ban was that there was no marked increase in smelted chrome and that the extractive

[63]STERP 2, p17.
[64]Ibid.

sector had lost a source of livelihood. The stick seemed to have failed to yield the desired results.

## 4.2. MINING SECTOR CONTRIBUTION TO GDP

The term Gross Domestic Product (GDP) is the total value of goods and services produced within a country's boundaries during a year.[65] Using the expenditure method, the figure of GDP is calculated at market prices. To convert GDP at market prices to GDP at factor cost, indirect taxes (e.g. sales taxes) are deducted while subsidies are added to GDP at market prices. The term GDP at factor cost measures the value of goods and services according to the factors of production used.[66]

The contribution of the mining sector to the country's GDP went up since 2009, although there was a slight dip in the momentum in 2014 (See Table below). Mining sector contribution to real GDP increased from about 8.5% in 2010 to about 12.3% in 2014. However, it is critical to note that the services sector, especially distribution, hotels and restaurants, is currently the leading driver of the country's GDP, having increased in contribution from about 14.5% in 2010 to about 16.8% in 2014. Similarly, the agriculture sector, manufacturing as well as transport and communication sectors are contributing more to real GDP[67] than the mining industry. So, the fact that Government policy focuses on value addition and beneficiation is not because the sector is the biggest contributor to GDP. The prioritisation is because natural resources are finite and their use must be maximised in that light.

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[65] *The Balance,* What is Gross Domestic Product? https://www.thebalance.com/what-is-gdp-definition-of-gross-domestic-product-3306038

[66] Compendium of Statistics, 2014, p83.

[67] Real GDP is a macroeconomic measure of the value of economic output adjusted for price changes (inflation/deflation).

Real GDP sectorial breakdown, 2009-2015 (Adapted from Intellego)[68]

| Sector | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|
| | % | % | % | % | % | % | % |
| Agriculture | 21 | 34.8 | 5.1 | 4.6 | -2.6 | 26.3 | -8.2 |
| Mining | 33.3 | 60.1 | 25.1 | 10.1 | 11.7 | -2.9 | 3.5 |
| Manufacturing | 10 | -4 | 15 | 2.3 | -0.6 | -5.1 | 1.6 |
| Electricity And Water | 1.9 | 20 | 7.8 | 0.3 | 5 | 5 | -4.2 |
| Construction | 2.1 | 4.9 | 6.2 | 1.9 | 3.9 | 5.5 | 3.9 |
| Finance And Insurance | 4.5 | 5.6 | 2 | 5.1 | 11.3 | 7.2 | 4.4 |
| Real Estate | 2 | 4.9 | 3.1 | 4.9 | 0.7 | -1.7 | -1 |
| Distribution, Hotels & Restaurants | 6.5 | 8.8 | 4.3 | 3.9 | 3.9 | 3.6 | 5.1 |
| Transport And Communication | 2.2 | 20.5 | 18.7 | 5.8 | 7 | 0.9 | 3 |
| Public Administration | 2 | 0 | 4.8 | 3 | 3.4 | 4.4 | 1.5 |
| Education | 2.8 | 0.5 | 0.5 | 1.4 | 2.9 | 3 | 2.3 |
| Health | 3.2 | 15.8 | 10 | 2.5 | 0.5 | 5.9 | 3.2 |
| Domestic Services | 2.2 | 6.7 | 0.4 | 1.5 | 6 | 1.5 | 2 |
| Other Services | 2.3 | 14.6 | 10.9 | 5 | -4.7 | 1 | 3 |
| GDP at Market Prices (%) | 5.4 | 9.6 | 10.6 | 4.4 | 4.5 | 3.5 | 1.5 |

The table above shows the contributions of the different sectors of the Zimbabwean economy for the period 2009 to 2015.

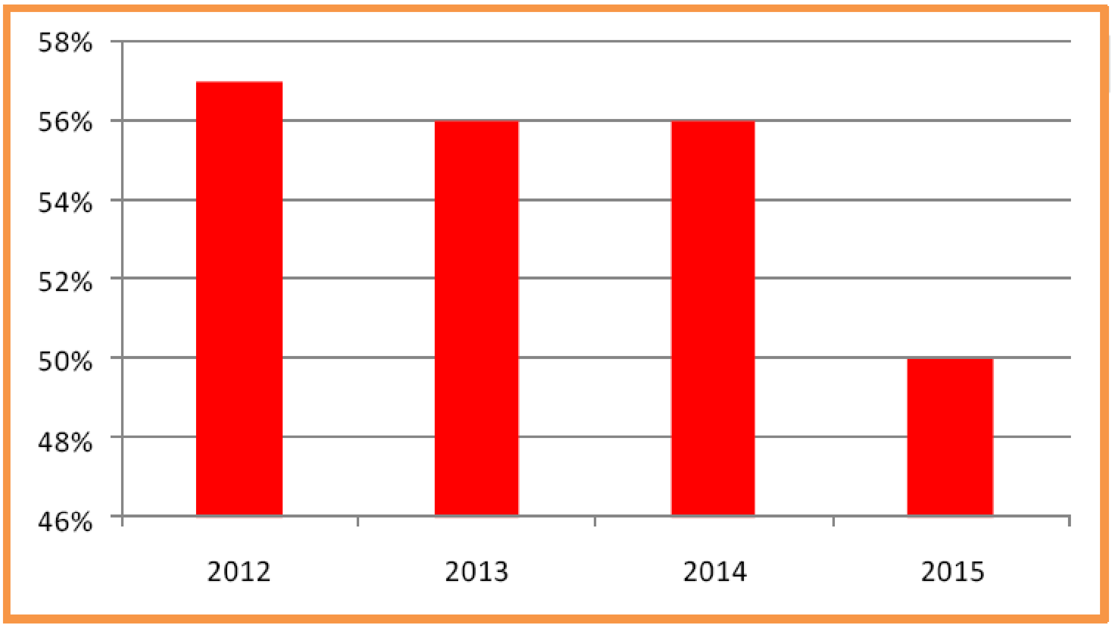
## 4.3. MINING SECTOR CONTRIBUTION TO TOTAL EXPORTS

Although the mining sector's contribution to real GDP is not the largest sectors, mining's contribution to the country's total exports cannot be understated. Mineral exports constitute the bulk of Zimbabwe's exports, having contributed about 50% of total exports in 2015 (see Table below on Mineral Contribution to total export). There is, however, a decline in total contribution to exports, as mining exports used to contribute about 56% of total exports in 2013 and 2014.[69] The decline can be attributed to the

[68] Intellego Consultants, Zimbabwe's Economic Outlook (2016).
[69] Zimbabwe Chamber of Mines, State of the Mining Industry Survey Report, 2016.

continuous fall in mineral prices in the export markets. Gold (which is sold in refined form) constitutes the bulk of mineral exports, having constituted about 23.3% of total exports in 2015, whilst diamonds (raw) and ferrochrome are the next at a distant 6.6% and 5.8% respectively. Most minerals continue to be exported as raw ore and concentrates, with such ores and concentrates constituting about 8.4% of total exports in 2015. Thus, the government stance on beneficiation appears to stem from such high export volumes of ores and concentrates.

Figure: Mineral exports contribution to total exports, Zimbabwe, 2012-2015 (Source: Nu Times Innovations, 2015)[70]




[70]Based on a study commissioned by the Zimbabwe Chamber of Mines.

## 4.4. MINING SECTOR CONTRIBUTION TO TOTAL FISCAL REVENUE

Total tax payments to government by the mining sector through royalties, taxes on income and profits, Value Added Taxes (VAT) and customs duties increased from about US$50.61 million in 2009 to about US$335.88 million in 2014. This saw the contribution of the mining sector tax revenue to total government revenue increasing as well from 5.4% in 2009 to 9.56% in 2014 (see Table below). The increase in mining sector contribution generally shows that the rising tax payments from the mining sector was not being matched by a similar increase in non-mining sector contributions. This could also suggest that government has been concentrating more on tax measures in the sector relative to other sectors. For example, statistics from the Ministry of Finance and Economic development show that royalties constitute the bulk of tax payments from the mining sector, constituting about 57% of total tax payments from the mining sector in 2014 and averaging about 53% of total mining tax payments between 2009 and 2014. However, the royalty rates have been constantly varied between 2009 and 2015. For platinum mining for example, between 2009 and 2015, royalties have been changed five times, having been increased over the years from 3% in 2009 until 10% in 2012 (Chigumira et al, 2015)[71]. This could also explain the increasing level of tax payments from the mining sector.

[71]Jourdan, P, Chigumira, G, Kwesu, I and Chipumho, E (2012), 'Mining Sector Policy Study', *Zimbabwe Economic Policy Analysis and Research Unit.*

Figure: Mining Sector Contribution to Government Revenue, 2009-2014 (Source: Ministry of Finance and Economic Development)

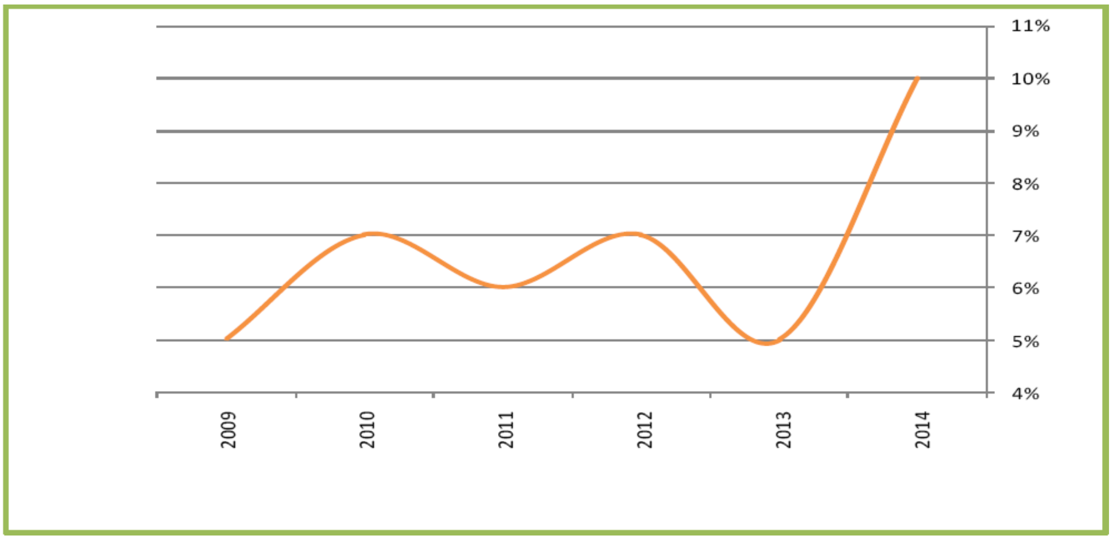



**Table 4.10: Average Earnings by Sector, (Million US$) 2011 - 2013**

| | 2011 | 2012 | 2013 |
|---|---|---|---|
| **Mining and Quarrying** | 75.5 | 355.3 | 354.6 |
| **Manufacturing** | 209.4 | 868.2 | 746.0 |
| **Electricity and Water** | 52.7 | 244.7 | 292.3 |
| **Construction** | 29.8 | 147.5 | 192.7 |
| **Finance, Insurance and Real Estate** | 123.0 | 556.9 | 597.1 |
| **Distribution, Restaurants and Hotels** | 112.7 | 537.7 | 553.0 |
| **Transport and Communication** | 49.0 | 307.7 | 338.4 |
| **Public Administration** | 151.9 | 670.7 | 858.0 |

The export earnings recovery of Zimbabwe during this period was is driven by primary commodities: of the US$14.1 billion in export receipts generated between 2009 and September 2013, US$9.2 billion (65.2%) emanated from the mining sector. This implies that primary commodities (mining and agriculture) accounted for 93.5% of export earnings during the period 2009-2013.[72] There were significant changes in the sources of export earnings, with greater reliance on primary commodities. The increased dependence on mining in the latter period 2009 - 2012 is apparent. Increased reliance on primary commodities exposes the economy to the volatility of the international commodity markets and weather patterns.[73]

Gross domestic product by industry at current price, percentage contribution, between 2011-2014

**Table 7.3(b): Gross Domestic Product by Industry at Current Price, Percentage Contributions: 2011-2014**

| Industry/ Year | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|
| Agiculture, Hunting and Fishing and forestry | 11.2 | 11.1 | 10.1 | 12.0 |
| Mining and Quarrying | 9.2 | 8.6 | 8.8 | 8.1 |
| Manufacturing | 11.8 | 11.5 | 10.8 | 10.2 |
| Electricity and water | 4.0 | 3.6 | 3.6 | 3.8 |
| Construction | 2.6 | 3.0 | 3.0 | 3.0 |
| Finance and Insurance | 6.4 | 7.6 | 8.0 | 8.1 |
| Real Estate | 1.8 | 2.4 | 2.5 | 2.7 |
| Distribution, Hotels, and Restaurants | 12.8 | 12.9 | 14.2 | 13.6 |
| Transport and communication | 12.1 | 10.8 | 10.2 | 10.4 |
| Public administration | 2.9 | 3.1 | 3.0 | 3.1 |
| Education | 4.7 | 5.7 | 6.5 | 7.2 |
| Health | 1.0 | 1.0 | 0.9 | 0.9 |
| Domestic Services | 0.4 | 0.3 | 0.3 | 0.3 |
| Other Services | 4.1 | 3.4 | 3.0 | 2.8 |
| Less Fin.Int Services Indirectly Measured | -0.5 | -0.5 | -0.6 | -0.6 |
| **GDP at factor cost** | **84.5** | **84.5** | **84.2** | **85.7** |

[72] Kanyenze, Chitambara and Tyson, (2017: 12)
[73] Ibid

## 4.5. MINING SECTOR CONTRIBUTION TO EMPLOYMENT

On average, the mining sector accounts for about 2% of national employment and 9% of the non-agricultural employment.[74] These low rates of employment in the sector are as a result of the capital-intensive nature of the sector that depends much on mining equipment and skilled workers. The mining sector employed 33 000 in 2009 before climbing up to 45 000 in 2012.[75] On average, employees in the mining sector used to earn US$197.9 per worker per month in 2009 and this later rose to about US$811 per worker per month in 2014 (See Table below). The compensation of employees accounted for 6.56% of the total earnings by the non-agricultural employment sector. Thus, for employment creation objectives, the mining sector during this period showed marginal growth. No significant progress has occurred, however the presence of illegal miners which has increased during this period and is felt in the increase of gold output suggesting that the mining sector is engaging more people informally who are not accounted for by the statistics. This could also explain why beneficiation in the industry is being pushed as an employment creation objective.

| | Number of Employees | Total earnings (USD) | Average earnings per worker per month (USD) |
|---|---|---|---|
| 2009 | 37 000 | 87 900 000 | 197.97 |
| 2010 | 39 500 | 231 200 000 | 487.76 |
| 2011 | 42 975 | 302 800 000 | 587.16 |
| 2012 | 42 975 | 355 300 000 | 688.97 |
| 2013 | 39 800 | 354 600 000 | 742.46 |
| 2014 | 39 200 | 381 500 000 | 811.01 |
| 2015 | 37 500 | 371 300 000 | 825.11 |

*Figure: Employment in the Mining and Quarrying Sector (Source: ZIMSTAT, 2016)*

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[74] ZIMSTAT, 2016.
[75] http://www.herald.co.zw/mining-sector-in-35pc-growth/

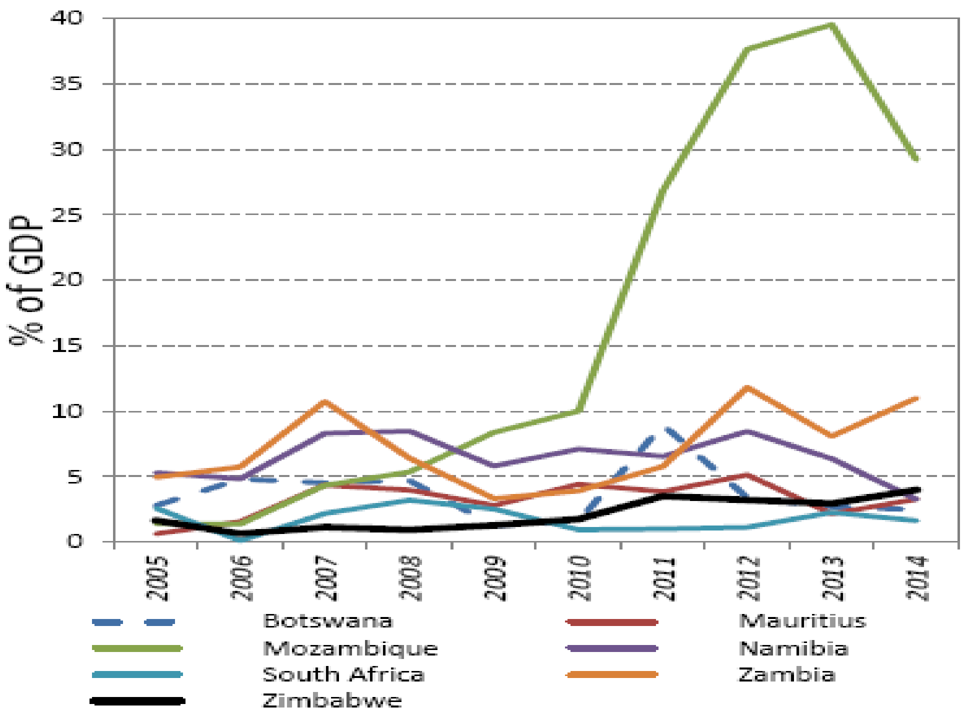
## 4.6. FOREIGN DIRECT INVESTMENTS INTO ZIMBABWE

According to the United Nations Conference on Trade and Development (UNCTAD), foreign direct investment (FDI) refers to an investment made to acquire lasting interest in enterprises operating outside of the economy of the investor[76]. Mining by its nature is capital intensive, governments under the fiscal pressure of development initiatives usually cannot fund their own mining ventures. Majors who are international conglomerates are well funded and have the capacity to bankroll such capital-intensive ventures. To gauge the ability of Zimbabwe's capacity to attract investors in the period under study involved comparison with its neighbours in the region (Southern African Development Community -SADC). Whilst there was growth in response to the stabilisation brought about by dollarization, eliminating the exchange control risk factor. In comparison with its neighbours Zimbabwe is failing to attract investment which with its potential it should be getting.

Zimbabwe's FDI rose steadily from 1.7% in 2005 to 4% in 2014. Mozambique receives more FDI relative to its GDP. Regional economic powerhouse South Africa FDI inflows averaged 1.8% of GDP between 2005 and 2014. Inward direct investment to Zimbabwe fell 30 percent in 2016 to US$294,66 million from US$421,2 million, in 2015, reflecting worsening investor sentiment and against a long-term target of at least US$1 billion.[77]

[76] http://unctad.org/en/Pages/DIAE/Foreign-Direct-Investment-(FDI).aspx.
[77] The Financial Gazette, FDI to Zimbabwe Down 30 percent to US295 million in 2016 http://www.financialgazette.co.zw/fdi-to-zimbabwe-down-30-percent-to-us295-million-in-2016/.

Figure: FDI inflows for selected SADC countries (% of GDP) (Adapted from: UNCTAD)




The table above shows a comparative analysis of the foreign direct investment inflows between SADC countries.

## 4.7. MINERAL PRODUCTION TRENDS

Statistics since 2009 show that the Zimbabwean economy has experienced changes, where the dominance of platinum in production values in 2009 and 2010 has being replaced by gold. The increase of gold prices in the international commodity market and the role played by small scale miners and *makorokoza*[78] increasing the gold output made this possible. The value of chrome produced in the country continued to be very low relative to other minerals, having slightly decreased from about 3% of total minerals produced in 2009 to about 2.3%, having peaked at 4.6% in 2010. Thus, the ban on raw

[78]The local term for illegal gold miners.

chrome exports in 2011 also coincided with the year in which a decline in production values started.[64] The changes in mineral production and their contribution shown by the graph below show the impact and importance of international markets to the beneficiation drive. Players will not mine at a loss and while the state pushes policy market, forces will push back regardless.

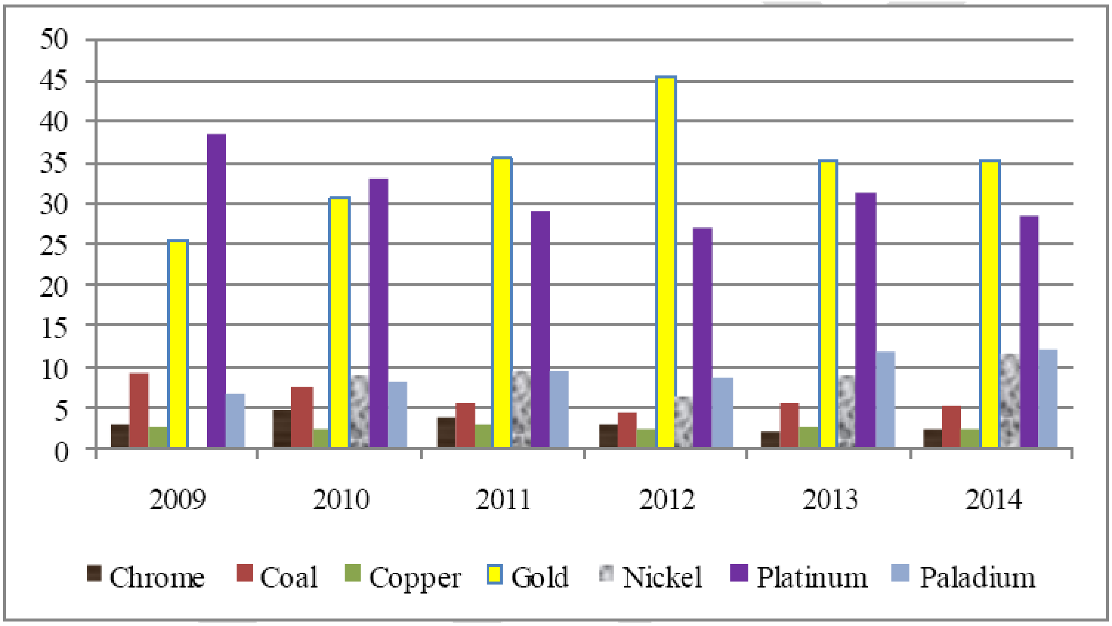



Figure: Share of mineral production value to total minerals produced, Zimbabwe 2009-2014 (Adapted from Dube, 2016)[79]

According to the 2013 Kimberley Process Certification Scheme annual diamond statistics, so far Zimbabwe has exported close to 40.373 million diamond carats worth $1.961 billion from 2009 to 2014. Generally, the mining sector contribution to total exports earnings averages 51% from 2009-2014 and amounts to $10.505 billion. The share of diamonds to total mineral exports earnings averages 16% from 2009-2014 which amounts to $1.835 billion. In terms of the law, Government is entitled to tax revenue in the form of royalties (15%), depletion fees (2.5%), marketing fees (0.875%) and all of which are deductible from the fair diamond market values17. Other tax revenue also accruable is in form of income tax, Value Added Tax (VAT) on

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[79] Dube C. The scope of beneficiation of Mineral Resources in Zimbabwe 2016.

shareholders' income and Pay As You Earn (PAYE). Further, government is supposed to have a share of profits through dividends stemming from its equity participation in Marange diamond mines. The Treasury has had fiscal challenges stemming from underperformance of diamond dividends. In 2012, the nation suffered fiscal stress when the budgeted $600 million diamond dividend failed to materialise. Further, the budgeted $61 million dividend in 2013 was not realized and no provision for diamond dividends was made in 2015.[80]

| | 2010 | 2011 | 2012 | Total |
|---|---|---|---|---|
| Revenue | 120 000 000 | 279 600 000 | 307 400 000 | 707 000 000 |
| Profit before Tax | 120 193 972 | 126 955 771 | 90 075 868 | 337 225 611 |
| Tax | 19 601 679 | 16 787 065 | 10 985 302 | 47 374 046 |
| Dividend | 61 932 750 | 72 686 628 | 19 300 000 | 153 919 378 |

*Figure: ZMDC Fiscal Contribution, 2010-2012 (Adapted from Mtisi, 2015)*

It can be seen from above table that ZMDC paid a total of $153,919,378 between 2010 and 2012. This shows that state owned entities can be highly profitable mining projects which can contribute to the revenue stream of Government. Transparency and accountability of the current Government seem to be the issue.

Mining exports in particular are concentrated in two commodities (platinum and diamonds), with the top five exporters contributing more than 60% of the export receipts (Zimplats- platinum; Mimosa- platinum; Mbada- diamonds; ZIMASCO- chrome; and Unki- platinum). The economy is exposed to commodity cycles more than ever. The numbers do not lie. Mining's role and significance to the Zimbabwean economy is apparent, and whilst there has been growth and stabilisation from 2014 going

[80]Mtisi, 2015 p.14

onwards, there seems to be a stagnation. The regulatory framework has not changed. One has to look at other possible factors hindering beneficiation.

## 4.8. EXIGENT FACTORS AFFECTING THE BENEFICIATION DRIVE

This section looks at the factors that affected the beneficiation and value addition drive in Zimbabwe's mining sector. These internal factors make a successful translation of beneficiation policy even more difficult to achieve. The period is between 2009 and 2016 and focuses on the minerals: gold, platinum, chrome and diamond.

### 4.8.1. Governance challenges and policy volatility

The era under review was marked by shifts in Zimbabwe's political and economic priorities which had negative effects on the overall regulatory environment.[81] For instance, the application and implementation of the indigenisation policy has seen substantial shifts over the last few years, ranging from a far-reaching extension of the policy, to the banking sector, to declarations that the policy will only be applied to foreign companies that are exporting raw materials. A 2012 Centre for Global Development (CGD) report also identified political patronage and corruption as one of the major constraints to investment in Zimbabwe.

According to the Eunomix report, Zimbabwe's political economy is characterised by high policy volatility, low government capacity and a high degree of state intervention and regulation. These observations are all the more critical since ZimASSET squarely puts responsibility for implementation

[81]Ibid.

of the highly ambitious growth plan on the public sector, which is tasked with designing and implementing the multifaceted strategies identified and funding these –though reference is made to public-private partnerships. Intended to be fully implemented in a short five years, ZimASSET is essentially a wish list of economic and social targets and reforms, at the same time very broad and loosely defined. Short on implementation details, and leaving aside key constraints and enablers, it relies on a number of assumptions for its success, including fiscal and financial. Given the aforementioned governance constraints, it remains doubtful that government will be able to successfully implement the Agenda. Indeed, so far, progress on achieving the goals of the ZimASSET has been weak/negligible if any .

Given the amount of investments required for beneficiation, the unpredictability of the Zimbabwean situation diminishes confidence that the beneficiation policy will not experience the same constraints affecting the politics, policy stability, and administrative and fiscal capacity. Furthermore, the unpredictable policy environment makes investments in local refining less likely. Lastly, state capacity may be insufficient to implement large-scale industrial transformation due to the mere size and timeline needed for such an immense development step.

### 4.8.2 Power shortages

Mineral beneficiation is an energy intensive activity yet Zimbabwe has witnessed erratic power supplies to the detriment of mining and processing. The African Development Bank (AfDB) noted that transport and energy are key economic enablers which assist in the promotion of extractive and processing industry, trade and innovation.[82] Beneficiation especially smelting

[82]African Development Bank (2015) Infrastructure and growth in Zimbabwe: An action plan for strengthened recovery

and re-smelting of products requires competitive prices and a large and stable power grid, preferably with surplus capacity to accommodate growth and expansion.[83] Mugano[84] in the Chronicle edition of 9 December 2015[85] reported that power outages cost the country the equivalent of half of its annual budget. The annual budget for 2016 was $4 billion, thus, the estimated cost of incessant power cuts was $2 billion.

In 2016, the Chamber of Mines stated that national demand for electricity was about 2200MW yet the combined local generation from five power stations stood at 726MW.[86] To exacerbate the situation, the tariff regime was too high and not sustainable for the mining industry for the quality of deposits exploited. The average tariff for the mining industry was 10 cents per kilowatt hour (KWh), gold producers were paying 13cents/kWh, while the general tariff stood at 9 cents.[87] To remain competitive, the mining sector preferred tariffs of an average 8-9 cents/kWh.

According to the Zimbabwe Economic Policy Analysis and Research Unit (ZEPARU), electricity consumption by the mining sector is expected to rise by 19% by 2020.[88] However, the government is not capacitated to resolve the energy constraints in the near future. An analysis of the governance and financial sustainability of Zimbabwe's power authorities shows that the sector faces several structural problems, including substantial financial constraints, a lack in technical capacity, and management shortcomings.[89]

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[83]Baissac, et al. 2015
[84]Gift Mugano is a renowned economist and academic.
[85] The Chronicle, Power Cuts Cost Economy 2bn Annually, http://www.chronicle.co.zw/power-cuts-cost-economy-2bn-annually/
[86] The Chronicle, Power outages cost mining sector millions. http://www.chronicle.co.zw/power-outages-cost-mining-sector-millions/.
[87]Ibid.
[88]Chigumisa, G. 2016. Zimbabwe Economic Review: Presentation at the Policy Institute Committee.
[89]Ibid.

#### 4.8.3. Human capital and technical capacity

Traditionally, Zimbabwe has boasted about having high literacy rates. However, the same cannot be said about the innovations and skill-set required for the beneficiation drive, an exercise which requires high technical expertise and experience. Imparting the necessary skills along the value chain is a major challenge for the country's education system which churns out graduates without an off-take for them. Indeed, 'low human capital' has been identified by the 2012 Centre for Global Development (CGD) report as one of the major constraints to investment in Zimbabwe. The economic crises of 2008 resulted in a massive loss of skilled workers in this sector as they migrated to other jurisdictions.

Despite beneficiation being regarded as one of the means by which to achieve indigenisation, a study conducted by the Zimbabwean Centre for Natural Resource Governance (CNRG) shows that most indigenous Zimbabweans neither have the skills, nor the financial resources to venture into value addition and beneficiation activities. Whilst the country's indigenisation law and economic blueprint aim to create economic opportunities for previously disadvantaged black Zimbabweans, value addition and beneficiation favours foreign direct investments due to a lack of technical skills and the lack of financial capacity. So whilst the policy and ideology are good on paper the reality and challenges on the ground have either not been taken into account or ignored.

#### 4.8.4. Lack of adequate infrastructure

Zimbabwe's infrastructure is largely degraded after decades of non-investment and poor maintenance. According to the African Development

Bank (AfDB) report in 2015, Zimbabwe's poor infrastructure is slowing economic development in a country badly in need of investments.[90] Poor state of infrastructure has affected all aspects of the country's logistical capacity: transportation networks, utilities and their distribution networks, etc. Transport infrastructure constraints, in the form of a lack of capacity and rapid cost escalation, are limiting access to imported inputs, export markets and effective domestic production logistics. The National Railways of Zimbabwe a key player in Transport Logistics of the mining has needed $400 million for recapitalization over the past 7 years and to date Government has failed, neglected and refused to date to find a conclusive solution*. The above elements are necessary requirements for beneficiation to take place.

### 4.8.5. Perception of Investors

Beneficiation and value addition require large-scale investments. Zimbabwe's business environment is not viewed as favourable to large-scale investments in refineries and smelters, and might be too weak to attract foreign investment in mining when the pending export barriers are in place.[91] While 2009 restored confidence in Zimbabwe, the inertia was not sustained over a considerable time to attract huge capital investments. The Minister of Mines and Mining Development, Walter Chidhakwa, in 2013 conceded that, the country needed policies to cater to both the ordinary Zimbabwean and the investor where the Zimbabwean benefits from mining and the investor realises profits for their investments[92]. Minister Chidhakwa proffered that Government was working on a new progressive mineral development policy that speaks to the country's aspirations, but also caters for investors' needs.[93]

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[90] African Development Bank (2015) Infrastructure and growth in Zimbabwe: An action plan for strengthened recovery.
[91] Baissac et al, 2015
[92] http://www.herald.co.zw/mining-sector-in-35pc-growth/
[93] http://www.herald.co.zw/mining-sector-in-35pc-growth/
[80] http://www.independent.co.zw/2017 /09/15 NRZ deal

The country is lowly ranked in investment ratings globally. According to the 2015 Doing Business Report, Zimbabwe was ranked 171 out of 189 economies in the world, one place down the rung from the 2014 ratings. The World Economic Forum's Global Competitiveness Report 2014 ranked Zimbabwe at 131 out of 148 countries.

### 4.8.6. International trade challenges

The international commodities market already has established players who are dominating beneficiation and value addition. For example, Japan and China are entrenched as giants in steel manufacture. They have the technical capacity and when new players come in, they make it difficult, if not impossible for late comers like Zimbabwe to beneficiate in a cost effective manner.

Add to that, the laws of demand and supply and their impact on the prices of commodities available. Mineral dependent countries find themselves at the mercy of the markets, which is dangerous and not ideal for effective planning and policy support. Zambia's copper crisis and other jurisdictions face similar challenges when the international commodity prices dips, which reminds us of the need for a diversified economy, as putting all of one's eggs in one basket can have dire repercussions for a government.

Zimbabwe lies next to one of the most developed mining sectors in the World (South Africa) and any attempts to develop their sector is affected by the shadow of the South African mining industry. The proximity to South Africa results in, from a business case perspective, it not being viable to beneficiate locally. An example of this is the platinum scenario ZimPlats in Zimbabwe wholly owned by Impala Platinum in South Africa are not encouraged to beneficiate or set up a refinery in Zimbabwe when they can transport the mined product to South Africa for processing.

## 4.9. CONCLUSION

A look at the yardsticks of economic growth shows that the GNU brought about first and foremost stability and during its tenure 2009 – 2013 there was clear economic growth, but when ZANU PF won the elections in 2013 and the GNU was dissolved,  Zimbabwe began to regress. There was a clear slow down in growth, with the first act of the ZANU PF government in relation to fiscal policy being to abandon the Medium Term Policy which was meant to run from 2011 – 2015. Although the Government introduced Zim-ASSET, which was similar in content and thrust to the Medium Term Policy, the reputation of the ZANU PF Government precedes it and had a negative impact on the possible attraction of foreign direct investment and engagement with the international community needed to fund the beneficiation drive. So after the elections,  the reaction of the economy is discernable in the 2014 figures of all the yardsticks we are using to measure economic growth. There is a dip in the trajectory in response to the political developments.

# CHAPTER 5: RECOMMENDATIONS AND CONCLUSION

## 5.1. INTRODUCTION

Mining has been occurring in Zimbabwe for over a hundred years[94] it has grown organically and for it to realise its full potential, the framework must be reviewed in line with its desired objectives. As pointed out in Chapter 3, beneficiation and value addition are steeped in the legal framework and throughout the history of Zimbabwean mining, there has been some sort of beneficiation and value addition occurring for different reason.

Optimum beneficiation, as envisioned by the policies of the current government requires a conducive ecosystem[95] which consists of energy, transport, water, a bustling research and development sector supported by aptly trained and qualified personnel. The Government must also put in place the necessary infrastructure, logistics and support for their jurisdiction to be attractive as a beneficiation destination.

All this requires funding. As at 2016, it was apparent that the Government did not have the funds to bank roll the beneficiation drive, with a budget deficit of 1.4 billion United States Dollars[96] by the end of 2016, the government was for all intents and purposes strained financially. This financial incapacity has had a negative impact on the implementation on the existing regulatory framework. All criticism of the framework should be viewed in that light. The

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bbb [94] Huffman, T.N. Ancient mining and Zimbabwe. Journal of the South African institute of mining and metallurgy. (1974).

[95] Abedin (2013).

[96] Minister of Finance: P. Chinamasa, Parliamentary Report, July 2017.

Government to date has failed to secure funding from development fund Institutions, Institutional Investors such as Sovereign Wealth Funds and commercial and investment banks. The first stage and an important part of any reform strategy will be to address the bankability of mining projects in Zimbabwe i.e. "*the acceptance or otherwise of a project structure and potential return as the basis of financing".*[97] At the top of the factors considered when bankability of a project is ascertained, is the issue of political risk.[98]

There is distrust between the current leadership and major players in the international mining industry. The would-be investors and international financial community have made it clear that they are seeking assurances before they invest in Zimbabwe. The assurances needed are on legal certainty, the rule of law, with specific focus on ownership and property rights, governance, corruption and transparency and whilst the existing legislation has the provisions to provide this, the investors doubt the political will and administrative capacity for them to be enforced. Zimbabwe as a mining investment destination needs an image makeover handled by experts in strategic communication and policy development. These experts should be engaged to correct the international perception through genuine stakeholder engagement which will result in an understating of the existing policies and more importantly an agreement on the changes in legislation and institutional framework with the safe guards and conditions that the Government and investors agree on.

[97]Jugoo, A. et al. Financing in the extractive industries. (2017).
[98] Fitzpatrick, M. The definition and assessment of political risk. (1983).

## 5.2. RECOMMENDATIONS

In the interim, whilst the Government waits to be 'asked to the dance', they should address the following:

1. Prepare and adopt a comprehensive mining policy. At this stage there is no specific minerals policy that outsiders can refer to. The equivalent of the South African Mining Charter must be prepared and must take into account the contextual challenges facing the mining sector, but also provide a realistic timeline for the implementation of beneficiation and principles like indigenization. It should be supported by an infrastructure policy and a more detailed beneficiation policy with the three operating in tandem to create a conducive atmosphere.

2. Proceed with the amendment of existing legislation whilst the principal legislation, the MMA has been effective to this point. In line with calls for rebranding and as proof of genuine engagement by the Government with its stakeholders, a new Act should be promulgated which addresses the following concerns:
   (a) The right to information. The Act must protect and further the right to information. Officials should be compelled to disclose information pertaining to available minerals and in line with international best practice, the State must be compelled to join initiatives such the 'publish what you pay' movement initiative as well as EITI[99].

   (b) Power of review. The new act must spell out how the powers of Provincial Mining Officers, Ministers and the President are curbed

[99] Extractive Industries Transparency Initiative: The global standard for good governance of oil, gas and mineral resources.

and reviewed. The appeal mechanisms must be set out to ensure that the administrative Acts of officials can be held up and tested for transparency. Parliament should be consulted with regards projects that involve strategic minerals and high value national projects.

(c) Compensation in line with international best practice. Compensation to any person who suffers damage as a result of granting mining rights must be sanctioned by the Act with the details of how the process of compensation is carried out, set out in a clear and practical fashion.

(d) The new Act should also protect the natural resources and environment by creating a fund aimed at rehabilitating the environment after the impact of mining. This fund will act as a fail safe to cater for illegal mining and abandoned mining claims.

(e) Creation of a cadastre in keeping with the international best practice where mining title is readily ascertainable along with readily available geological data.

(f) Enact a Diamond Act to provide for the mining and trade in diamonds.

(g) The indigenization policy must be reconsidered, bearing in mind that in line with resource nationalism, the minerals vest with the state and that the granting of rights is in essence on the terms and conditions of the people as represented by the state. The indigenization policy should seek to encourage beneficiation through local content arrangements and other incentives.

## 5.3. CONCLUSION

Zimbabwe in 2009 found itself in a unique position. The new political dispensation had the opportunity to embark on an economic revival. The mining sector was viewed as the pillar that the economic growth would be based on. Beneficiation was the spark plug that would ignite the economy and it did have the potential to do so. The existing mining regulatory framework had created a successful iron and steel production industry in the past but had also presided over its demise. A look at the beneficiation policies in place between 2009 and 2016 reveal coherent and rational policies add to that; a supportive regional context one would have expected beneficiation to flourish.

And yet, beneficiation did not take off as envisioned. The initial flurry of activity can be attributed to the stability, dollarization brought to the economy. From 2014 going onwards there was stagnation followed by regression. This is as a result of the exigent factors mentioned above. There seems to have been a marked failure by the politicians to understand the competitive global context in which they were operating in as they sought to lure investment. The perceived political risk of operating in Zimbabwe seemed to outweigh the prospective returns during the period in question. So whilst the regulatory framework is an important facet in creating the optimum beneficiation ecosystem, it is not definitive. The success of other jurisdictions with inferior regulatory frameworks during the same period e.g. the Democratic Republic of Congo and Mozambique confirm that it is an investors market and small countries like Zimbabwe who rely on external sources for investment and expertise must pay due regard to the exigent factors if they are to succeed. The current regulatory framework in Zimbabwe has managed to preserve the mining industry and perhaps that should be viewed as a success and proof of its efficacy.

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Minerals Marketing Corporation of Zimbabwe Act, Chapter 21:04

Mines and Minerals Act, Chapter 28:05

Mines and Minerals Amendment Bill

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Zimbabwe Mining Development Corporation Act, Chapter 28:01

Indigenization Economic Empowerment Act, Chapter 14:33

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