

U M B O N O

# Empowering Local Stakeholders

Lessons from the South African  
Black Empowerment Experience

Liège, 12 January 2007

## The Dilemma

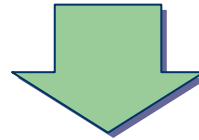
“The only social responsibility of business is to increase its profits”

– Milton Friedman

But can companies ignore social challenges...  
...which threaten their own operating environments ?  
...and risk catalyzing long term macro instability,  
resulting in unfavourable political, economic and  
legislative impacts ?

## Presentation Objectives

To examine whether the South African Black Empowerment (BEE) experience provides guidance for mining challenges in the DRC



- What led to the need for BEE in South Africa?
- South Africa's BEE experience and failures
- What has worked best in South Africa?
- A framework for mining companies
- Some thoughts for the DRC
- Umbono's experience

## What is BEE?

South African “black economic empowerment” policy to include participation of majority population in key sectors of the economy

- Mining Charter – bilateral agreement with industry
- Applied in legislation for new prospecting/mining rights and “old order conversions”
- Measured by “scorecard” – 10 year implementation
- 9 components of scorecard: **equity ownership**, staffing, management, procurement, beneficiation, migrant labour, community development, housing, reporting

## The Drivers of BEE in SA

In post-apartheid South Africa, BEE became a key policy to repair historical damage

- Pent-up need to rectify past injustice – colonial powers and whites enjoyed key national assets not black majority
- Black economic development understood as key requirement for long term social and political (and therefore economic) stability – required asset ownership/participation
- Policy response was “market friendly” – creating *opportunity* rather than *redistribution* - equity sales to be “at fair value”
- But maintaining legislative pressure for State “rights”
- Initial focus on the “emotive” economic sectors of land and mineral ownership, thereafter spread to rest of the economy

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- Black economic development (BEE) emerged as key requirement for long-term social and political (and therefore economic) stability. BEE focused on asset ownership/participation
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**“Past exploitation of national assets by outsiders and minority elites”**

## Will BEE Spread?

The question is whether the same drivers exist as in South Africa

“The Democratic Republic of Congo is one of the world’s richest countries in terms of mineral wealth, but the *vast majority of its population does not profit from this wealth.*

Since colonial times, the Congo has undergone a long history of plunder, culminating in what is now called ‘Africa’s First World War’. Over the past century, colonial powers, Cold War dictators, neighbouring states, private companies, criminal networks and rebel forces have all taken turns in pillaging the country.”

- Saskia Van Hoyweghen (Vrije Universiteit Brussel) report on DRC Expert meeting, 23-24 November 2005, Brussels, Belgium

# SA's Three Waves of BEE

Black empowerment in South Africa developed in three waves since 1994

1

## "Slow uptake"

- Resistance/denial from industry
- Lack of clarity from Government
- Unwise financial structuring and/or overpricing by sellers
- Stockmarket shock broke many initial deals

2

## "The Oligarchs"

- Clearer rules and better financial structuring but..
- Key political figures in deals creates black elite
- Often non value adding partners
- Popular/political dissatisfaction
- Implementation issues with Gvt

3

## Broad-Based BEE

- Community and staff-based schemes benefiting more people
- More value adding for mining firms
- More socially and politically sustainable
- Implementation challenges



# Causes of BEE Failures

Where BEE transactions have failed in SA, this has been for one of three principal reasons

1. Introduction of a “strategic” BEE partner who does **not deliver the intended “value”** as a business partner
  - Key political figures failing to deliver commercial value and withdrawing from actively involvement in the business once the deal is done
  - Promised political “clout” doesn’t bear fruit
  - “Cashing out” early
2. Friction because of the inadequate or inappropriate involvement of **local communities and staff**
  - Resentment among key black staff for non-inclusion
  - Friction with surrounding communities who are excluded or dealt with improperly
3. **Unsound financial structuring**
  - Transaction economics – price too high, debt %/terms too aggressive

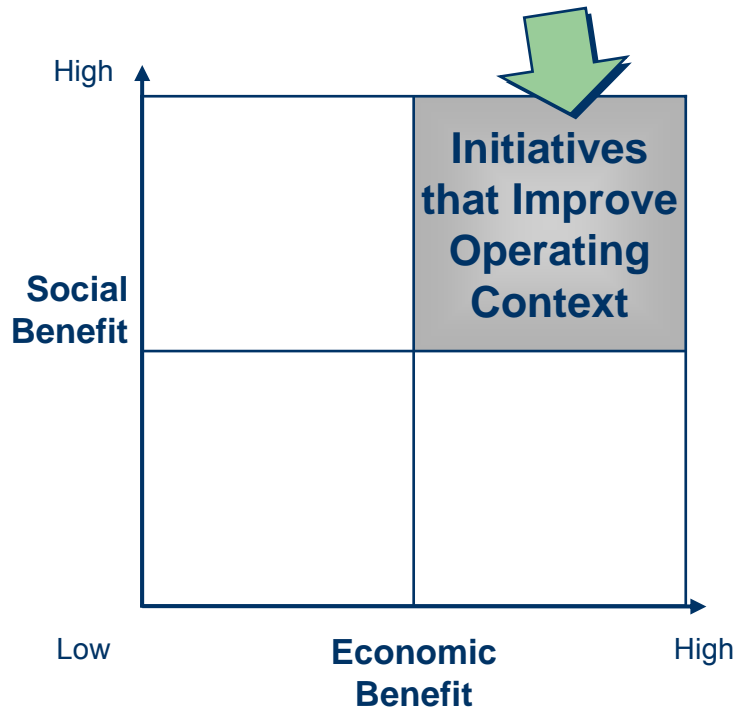
# An Example of BEE Success

## The Royal Bafokeng Nation and Impala Platinum

- Adjacent “community” group to Impala’s Pt mines
  - Gained a 11% profit royalty due to historical ownership
  - Feeder community for mine labour
- Funds from royalty have been wisely deployed
  - Community social/economic development
  - Skills development
  - Better infrastructure in community
  - Investment in local industry and businesses
  - Wise financial management and increase in “balance sheet”
- Each of these factors benefit the Impala mines
- The State royalty % is offset by the RBN royalty
- Impala “swapped up” the royalty into equity ownership to meet the BEE equity requirements

“We can’t afford to give away money!”

Ideal Focus of BEE or Other Social Initiatives



“There is no inherent contradiction between improving **competitive context** and making a sincere commitment to bettering society. Indeed, as we’ve seen, the more closely a company’s philanthropy is linked to its competitive context, the greater the company’s contribution to society will be”

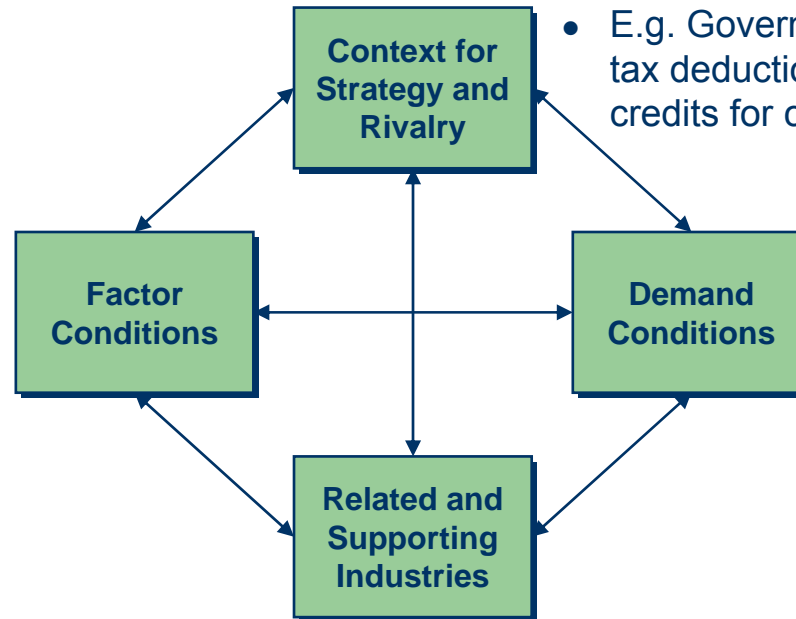
– ME Porter

# A Framework for Mining

## Improving Competitive Context in Mining

E.g. Government/  
Companies  
initiatives such as:

- Easier access to mining resources
- Initiatives for staff (training, etc)
- Physical infrastructure that benefits communities and mines
- HIV programs
- Environmental initiatives



- E.g. Government incentives (such as tax deductions for social spend, royalty credits for communities, etc)

- E.g. Downstream beneficiation initiatives - small scale business creation

- E.g. Mine supply services to be initiated in local communities (such as security, cleaning, maintenance, rehabilitation, etc)

# DRC Mining Challenges

The DRC faces several issues that threaten long-term mining sustainability – some of these include:

- ~500,000 artisanal miners
- Impoverished local communities
- Corrupt practices



# Possible Initiatives

- Mining company initiatives to “spread the benefit”



For example:

- “Harnessing” artisanal miners as a labour force
- Tangible local community initiatives linked to the mine’s business (eg supply services, beneficiation)

**BUT CRUCIALLY ALSO**

- Action, support and incentives from Government at all levels



For example:

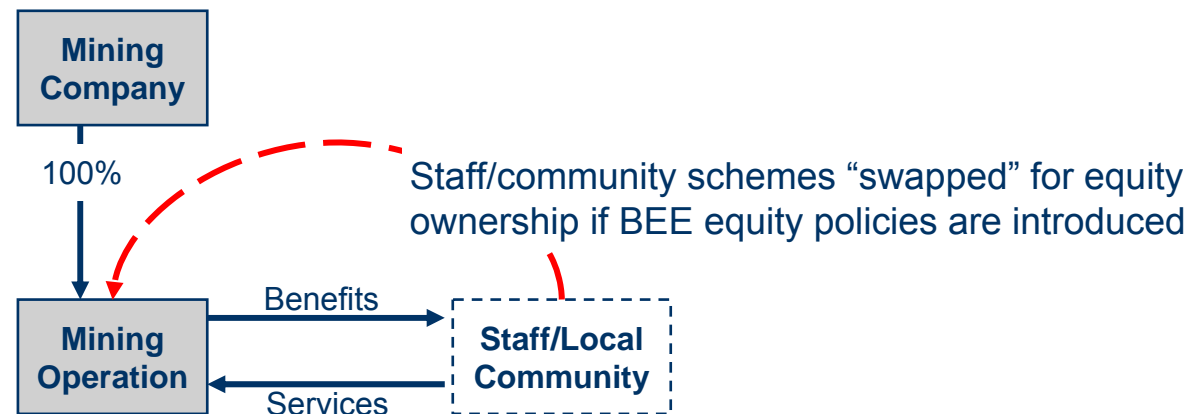
- Artisanal miners issue
- The mining parastatals
- Address corrupt practices
- Royalty sharing/tax breaks for social benefit spend

## Conclusion (I)

- The DRC, like SA, has an *unhappy history* of its majority population not enjoying the fruits of its great mineral wealth
  - Creating a risky situation for long term sustainable mining
- The South African BEE experience has taught that State-led policies to “spread the wealth” *can fail* as a result of:
  - Industry resistance
  - Enrichment of “oligarch” elites
- And that empowerment of *broad-based groups* provides the best and most sustainable BEE solution
  - Mine supply services by local communities
  - Staff and local community production incentive schemes
  - Small-scale beneficiation initiatives
- While providing the most commercial benefit for mining companies in improving their “*operating context*”

## Conclusion (II)

- It may be that the best initiatives for DRC mining companies should also focus on staff and local communities
  - Serving both the mining companies' interests and spreading wealth to local stakeholders
- Such initiatives will serve companies well in the event that BEE policies spread to other Southern African countries
  - Financial structuring can be used to “swap up” beneficiary groups into the equity ownership level at no cost





## About Umbono



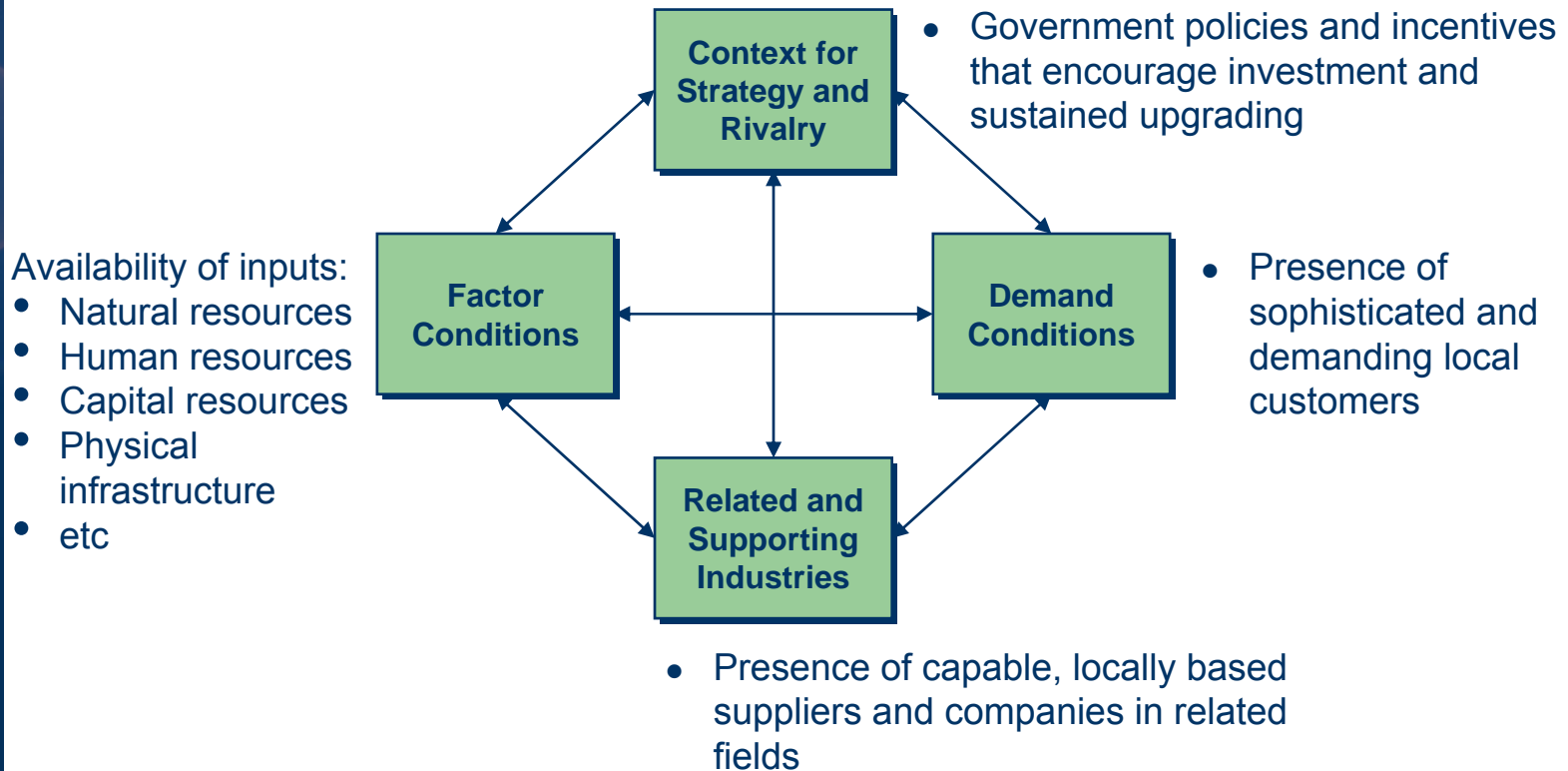
- Umbono is well placed to advise mining companies on strategies and financial structures for staff/community schemes
  - Extensive client advisory experience related to BEE transactions in **South Africa** – forestry, gold, diamonds, industrial minerals, copper
  - Umbono’s ownership structure in South Africa includes the Inhlakanipho Trust, holding **25% equity for broad-based BEE**
  - Currently developing financial structures for the involvement of local communities in a gold mining project in **Papa New Guinea**
  - Extensive interactions with “**First Nations**” in **Canada** associated with mineral projects

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Merci

# Improving Competitive Context

## The Four Elements of Competitive Context



# Example BEE Initiatives

