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## MEDIA STATEMENT

### MINERAL RESOURCES MINISTER SUSAN SHABANGU ANNOUNCES MEASURES TO BRING STABILITY TO SOUTH AFRICA'S MINING SECTOR

17 August 2010

Mineral Resources Minister Susan Shabangu made the following statement at a media conference in Pretoria on Tuesday, 17 August 2010:

"LADIES AND GENTLEMEN"

"I have noted with increasing concern the growing negative sentiment regarding South Africa's mining sector, specifically in relation to our regulatory framework. Various media reports and comments from analysts and other observers on these issues have combined in recent weeks to create an environment in which companies and investors alike are facing some uncertainties. Fact and fiction have blended in an unseemly fashion, leading to uncertainty and vulnerability within the sector.

"South Africa's mining industry has been and remains the bedrock of Africa's economic powerhouse. The mining sector, together with its related industries, remains critical to the country's socio-economic development. With Citibank estimating earlier this year that South Africa has two-point-five-trillion-rands (R2.5-trillion) worth of mineral reserves, it is clear that the mining industry is potentially an important cog in the wheel that is driving the war against poverty and underdevelopment in our country.

"I promised earlier this year that we would improve on our 2009/10 Fraser Institute ranking. I am pleased to note that, in the Fraser Institute's mid-year survey, South Africa has improved on its global ranking, rising 13 places from 44th out of 51 jurisdictions in April to 31<sup>st</sup> out of 51 countries this month (August). This is a positive development and I would like to think that the significant improvement in our ranking is as a result of the hard work we have put into bringing the entire leadership of the mining industry together to identify the challenges facing our industry.

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"You will recall that just a month and a half ago, on 30 June 2010, the leadership of the mining industry and I signed a declaration which underpins our 'strategy for the sustainable growth and meaningful transformation of the mining industry'. The aim of the strategy is to ensure that government, business and organized labour work together to ensure that, amongst others, the industry improves its global competitiveness, promotes investment and drives transformation.

"I mention all this to remind us about the fact that we have, in fact, been taking great and unprecedented strides toward ensuring that mining reclaims its rightful position in the South African economy.

"There is no doubt that clouds have been gathering over our country's mining reputation and I want to reassure all our stakeholders that South Africa is indeed a mining jurisdiction worthy of future investment.

"Flowing from the tripartite process which led to the Mining Industry Strategy and the more public debates recently, it is clear to me that:

- i. The Mineral and Petroleum Resources Development Act of 2002 contains a number of ambiguities; *(feensyphed)*
- ii. Due to the fact that the MPRDA is a relatively new piece of legislation, there is a lack of well-developed jurisprudence which would ordinarily assist with interpretation of the law. In the absence of such precedents, officials apply the letter of the law as opposed, for example, to interpreting the spirit or intentions of the law;
- iii. The lack of transparency in and access to our licensing data is causing unnecessary suspicion of our systems;
- iv. We have administrative capacity problems, and;
- v. There are increasing perceptions of corruption and/or incompetence.

"In order to address the above, I have instructed my Department to implement the following plan of action:

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- i. A joint Stakeholder Task Team has already identified a list of amendments to the MPRDA and these will be submitted to Parliament for processing as soon as possible;
- ii. With effect from 1 September 2010, information on the status of exploration and mining licences will be accessible on the Department's website. This is in the interest of transparency and means that all stakeholders, including members of the public, will have access to our new electronic administrative system.
- iii. In the interim, my Department is developing a totally new, integrated system of 'license-process-tracking' which will be ready for public access within the next six months;  
With effect from 1 September 2010, we will impose a moratorium on the receiving of prospecting applications. The moratorium is to be published in the Government Gazette shortly and will last for six (6) months to allow for a comprehensive audit of the licences granted since the promulgation of the MPRDA. This will further enable us to clean up our database, thus paving the way for the incorporation of uncorrupted data into our new integrated electronic application administrative system. All other existing licensing activities will continue as normal.
- iv. With immediate effect, prospecting rights will no longer be issued at Regional Office level and will instead be issued from our Head Office;
- v. The Director-General has since the beginning of this year initiated a process which has identified a number of administrative inefficiencies and fault-lines, including capacity problems. "To give some context to the issues at hand, it is important to consider that the DMR has dealt with no less than 25 600 license applications since 2004. The investigation conducted internally, which is ongoing, has revealed in excess of 100 cases of apparent administrative irregularities. These differ in degrees of materiality. A decision has already been taken that Chief Directors will be deployed to regional offices as of 1 September 2010 in order to strengthen leadership and oversight at the coalface of service delivery;
- vi. All cases of double-granting of licenses will be resolved within the next three (3) months.

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- vii. The upgrading of all our Regional Offices will continue and is scheduled to be completed within the next six (6) months;
- viii. Allegations of abuse of office and/or corruption will be dealt with speedily and effectively. Toward this end we would like to encourage the media and the general public to furnish us with the relevant information in order to investigate and refer for prosecution such cases.

"It goes without saying that many lessons have been learnt since the MPRDA became law in 2004 and our Department now has valuable experience upon which, for example, we are basing our proposals for amendments to the legislation which we intend taking to Cabinet before the end of this year.

"The order of processing of applications – the so-called 'packing order' in Chapter 4 of the Act - is an area where we will clearly need to make amendments. As a result, a number of areas that need amendment have been identified. In general, we have found some of the provisions of the law being open to more than one interpretation. For example, **Section 11**, relating to regulating the **transferability of rights**, is one other area of the law that we will be paying attention to as we amend, taking from the lessons and experience we have had where rights have been granted to certain entities and sold to others the next day without being exercised in term of the undertakings being made at application stage and therefore breaching the material terms and condition of such rights.

"Another example in which we have learnt serious lessons from the current construct of the Act is the grey area with regard to regulating associated minerals. Currently the law allows for the granting of different minerals to different entities on the same land. The amendment processes will therefore have to consider a clear format of regulation in the area of **associated minerals**.

"Another area is that the converted rights were held in terms of the old Mineral Act, which provided for undivided shareholding. However, the new Act which regulates the new order rights, including the converted old order rights, did not anticipate the fragmentation of rights.

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"Such issues, including matters of administrative discretion, will form part of the proposed legislative review.

"The new administrative regime will be supported by a new quality management IT system that will improve licencing application management and administration of existing rights.

"The system is designed with robust Global Information Systems (GIS) capability to enhance land use, protection of sensitive areas and communication with other interested stakeholders.

"Workflow capability is central to the new system's functionality. This capability will ensure tracking, sequential processing of applications and improve accountability of all personnel in the management of the licensing process.

"The Department will be able to conduct mine audits and inspections in line with a priority schedule generated by the system. Overall, the system will enhance document security and management with its built-in security features and control.

"The system will improve reporting to all stakeholders, government, markets and the departmental principals. Other benefits include common approaches or standardisation across the various administrative regions. Transparency and consistency will be the hall mark in the management of South Africa's mineral resources.

"In conclusion, ladies and gentlemen, I want to point out that we have been hard at work over a considerable period to improve on our performance as the regulator of South Africa's mining industry.

"In addition to our own experience in implementing the MPRDA, our interaction with business and labour in producing the Declaration which we signed on 30 June this year was invaluable in producing the measures which we have put in place. I am confident that these measures will produce the desired results to ensure that South Africa continues to rise in the global rankings as a reputable mining jurisdiction. As the Minister entrusted with this responsibility, I and my Department are committed to achieving this goal."

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*Issued by the Ministry of Mineral Resources, Republic of South Africa*