



# FULL DISCLOSURE

ARCELORMITTAL SOUTH AFRICA LTD

Fact Sheet May 2019

## INTRODUCTION

**ArcelorMittal South Africa Ltd (AMSA)**<sup>1</sup> is a steel-producing company that owns and operates a number of steel plants, with the largest being the Vanderbijlpark Works situated in South Africa's industrial Vaal Triangle.

AMSA's holding company, ArcelorMittal, has its headquarters in Luxembourg and operates in 60 countries across Europe, the Americas, Asia, and Africa. AMSA is the largest steel-producing operation in Africa; currently producing more than 5 million tonnes of liquid steel per annum.

AMSA is also among the top 10 emitters of greenhouse gases (GHGs) in South Africa. Its Vanderbijlpark Works is located in the Vaal Triangle Airshed Priority Area (VTAPA),<sup>2</sup> so declared for its extremely poor air quality that compromises the health and well-being of the people living in the area.

Communities living in the VTAPA have long suffered the impacts of air pollution in the area and have always been vocal about the harmful effect of air pollution on their health and well-being and the infringement of their constitutional right to a healthy environment. In recognition of the seriousness of these health impacts, an alliance of civil society organisations, the Vaal Environmental Justice Alliance (VEJA),<sup>3</sup> was formed in order to represent communities affected by air pollution in Vanderbijlpark. VEJA, the environmental justice organisation groundWork and the Centre for Environmental Rights have been working together to address the negative impacts of AMSA's Vanderbijlpark facility and to hold them accountable for pollution and breaches of environmental laws and regulations.

1 <https://www.arcelormittalsa.com/>

2 In terms of section 18(1) of the Air Quality Act, 2005 (AQA).

3 <http://www.veja.org.za/about.html>



Centre for  
Environmental Rights  
Advancing Environmental Rights in South Africa



## AMSA'S ENVIRONMENTAL TRACK RECORD

### **A history of secrecy: AMSA ordered to release its Environmental Master Plan**

In 2014, after many years of refusing to share information with affected communities, VEJA won a court case<sup>4</sup> against AMSA in the Supreme Court of Appeal to compel it to disclose a copy of its so-called Environmental Master Plan, a comprehensive strategy document containing results of numerous specialist environmental tests for pollution levels at AMSA's Vanderbijlpark facility, as well as plans to address this pollution and rehabilitate the site over a 20 year period.<sup>5</sup>

### **Contaminated land, polluted water and a government remediation order**

The Environmental Master Plan revealed extensive historic pollution resulting from AMSA's Vanderbijlpark facility, posing severe risks to human health and the environment. Subsequent reports, such as the Department of Environmental Affairs

(DEA) annual National Environmental Compliance and Enforcement Reports<sup>6</sup> for 2008 to 2018 and AMSA's own external audit reports, reveal that many of these pollution concerns remain largely unaddressed. Meanwhile, AMSA has raised issues around insufficient funds and potential job losses in order to justify its inaction and non-compliance with environmental laws and licences.

AMSA's Integrated Report states that its water abstraction per tonne of liquid steel in 2018 was 2.90kl/tonnes and its total abstraction per annum is 14.7 million kl/tonnes. This equates to AMSA utilising roughly 39 200 Olympic-sized swimming pools of water annually.

In March 2015, as required by law, AMSA informed the DEA of possible contamination at its Vanderbijlpark Works. Thereafter, AMSA took almost 3 years to compile the necessary site assessment and reports. When eventually made available, these reports revealed significant contamination in the form of tar and tar remnants in the groundwater

surrounding the facility. On one site, an approximately 3m thick coal tar pool was found, with assessment reports identifying two people living in the area who may be at risk.

In November 2018, DEA issued AMSA with a statutory remediation order instructing AMSA to monitor, recover and treat the land contamination and water pollution and provide DEA with annual progress reports from the date of commencement of the remediation.

In its 2018 Integrated Report, AMSA states that the "*Vanderbijlpark Works showed a very encouraging improvement with full [Zero Effluent Discharge (ZED)] compliance being achieved in November and December 2018.*"<sup>7</sup> However, despite the ZED being a legal requirement in terms of its water use licence, according to minutes of the local meetings held at the Rietspruit catchment management, the plant has not been "zero effluent" for more than a few months between 2014 and 2018, and AMSA's most recent biannual audit reports have also not been made available to the public.

4 Company Secretary of ArcelorMittal South Africa v Vaal Environmental Justice Alliance 2015 (1) SA 515 (SCA). This matter concerned a dispute around access to information in terms of the Promotion of Access to Information Act, 2000 (PAIA)

5 <https://cer.org.za/news/victory-for-the-vaal-communities-as-the-supreme-court-of-appeal-orders-arcelormittal-to-release-environmental-records>

6 The NECERs provide a national overview of annual environmental compliance and enforcement activities undertaken by relevant institutions across the country during a certain period of time.



## Air pollution and pending criminal prosecution for violation of air quality laws

A 2016 DEA inspection of AMSA's Vanderbijlpark Works revealed that AMSA had not complied with its air emission licence conditions, which set out standards and restrictions in respect of AMSA's air pollution. This resulted in a criminal prosecution being instituted against AMSA. AMSA's Integrated Report states that:

*"In January 2019 we were informed of the prosecuting authority's intention to institute a criminal prosecution in relation to two listed activities and the sulphur-related emissions (in 2016) at Vanderbijlpark Works' coke-making facilities. It was agreed with the prosecution that before a prosecution was instituted, we would first be afforded an opportunity to meet with the prosecution to make representations regarding our defences against potential charges. This process had not been concluded at the time of reporting."<sup>8</sup>*

Despite this, AMSA's 2018 Integrated Report also discloses ongoing violations at the Vanderbijlpark Works:

*"Vanderbijlpark's sinter main stack remained sporadically non-compliant during 2018, the company responding with the appointment of a dedicated team to implement, and monitor, steel, particulate emissions for Vanderbijlpark Works were fully a quarter down on those of 2017... In the year SO<sub>2</sub> emissions grew by some 24% in absolute terms."<sup>9</sup>*

In August 2018, the DEA issued a warning that a compliance notice would be issued to AMSA for pollution that violated the limits in its air emission licence, in relation to the coke gas cleaning facility, which has not operated for more than a few months since commissioning. In August 2018, a final compliance notice was issued, requiring that the coke gas-cleaning facility be improved and reinstated within 30 months from the date that orders were placed for the required equipment.<sup>10</sup>

Despite these ongoing air pollution violations, and the fact that AMSA has been aware since at least March 2010 of the legal requirements to reduce air pollution to meet air pollution standards known as minimum emission standards, in February 2019 AMSA requested the DEA's permission to postpone compliance with those standards – a request that further exacerbates health impacts for people living in the VTAPA.

## Citizen enforcement action

In June 2018, the Centre for Environmental Rights, instructed by VEJA and groundWork, addressed a statutory demand<sup>11</sup> to DEA, detailing all the ways in which AMSA is causing harm to the environment, and giving the department 30 days to direct AMSA to clean up its pollution at its Vanderbijlpark facility. Should the department fail to take action, VEJA and groundWork have the right to take their complaints to court.

7 AMSA 2018 Integrated Report, page 41.

8 AMSA 2018 Integrated Report, page 41.

9 AMSA 2018 Integrated Report, page 41.

10 AMSA 2018 Integrated Report, page 41.

11 <https://cer.org.za/wp-content/uploads/2018/11/Notification-to-DEA-in-terms-of-s2812-of-NEMA-18-June-2018-%E2%80%93-under-key-correspondenceAMSAand-Remediation.pdf> Section 28(12) of the National Environmental Management Act, 1998 (NEMA) empowers affected parties to give the Director-General of the DEA 30 days to direct a polluter to stop any harmful action and remedy the impacts, failing which, the affected party may make an application to court to compel them to do so.



## Climate impacts and disclosure

The global crisis of climate change is highlighted in the 2018 report of the Intergovernmental Panel on Climate Change (IPCC) report, which states that GHG emissions need to be reduced by nearly half by 2030 to avoid a complete climate breakdown. Companies around the world are therefore facing growing pressure to be more transparent about the risks and opportunities they face from climate change.

According to AMSA's 2018 Integrated Report, AMSA's CO<sub>2</sub> emissions are exceptionally high, with AMSA producing 14.84 million tonnes of CO<sub>2</sub> per year.<sup>12</sup> This is more than the total annual CO<sub>2</sub> emissions attributable to electricity used in Cape Town<sup>13</sup> (13.38 million tonnes of CO<sub>2</sub> in 2012), and places AMSA in the top 10 GHG emitters in South Africa.

One of the main drivers behind the push for improved disclosure and transparency on climate risk exposure is the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD). The TCFD, released in June 2017, recommends a series of climate-related financial disclosures that are applicable across sectors and organisations.

While ArcerlorMittal in Luxembourg has supported the TCFD since September 2018, AMSA does not subscribe to the TCFD.

In its 2017 Integrated Report, AMSA acknowledges its potential impacts on climate change and identifies the "proposed carbon tax and climate change-related developments, including energy efficiency," as one of its material environmental issues for 2017. AMSA neither discloses whether climate-related issues form part of Board reviews, strategic decisions and business plans, nor provides further detail on how the Board monitors and assesses progress on climate-related goals and targets.

There is no evidence that AMSA is taking measures to mitigate its climate change impacts. Instead, AMSA vehemently opposes the introduction of a carbon tax in South Africa, stating that "[t]he imposition of carbon taxes on an industry which has already done as much as can reasonably be expected of it to reduce its emissions, threatens [its] viability".

Despite global trends to urgently address climate change, and although its parent company adheres to TCFD, AMSA has not taken adequate steps to address the climate change impacts of its operations. It has also not disclosed associated climate change risks, or immediate and long term financial and other commitments to address this urgent issue.

<sup>12</sup> AMSA 2018 Integrated Report, page 10.

<sup>13</sup> CCT 2018, Cape Town State of Energy 2015 report, page 16 [https://www.africancityenergy.org/uploads/resource\\_22.pdf](https://www.africancityenergy.org/uploads/resource_22.pdf)

## CONCLUSION

As one of the top 10 GHG emitters in South Africa and a major contributor to air pollution and water pollution in the Vaal Triangle, AMSA has a long overdue legal obligation to take meaningful, urgent steps to reduce GHG emissions and air pollution; to rectify non-compliance with environmental laws and regulations; and to rehabilitate the environment which it has polluted.

To date, AMSA has failed to take responsibility for its conduct or make a meaningful commitment to reducing its GHG and other polluting emissions. Instead, it has declared resistance to carbon taxes, applied for postponements of compliance with air pollution standards and resisted cleaning up large-scale pollution in Vanderbijlpark.

It is extraordinary that AMSA, one of the largest steel producers in Africa, remains entirely unaccountable for both historic and ongoing large-scale pollution of the environment and harm to people's health, and non-compliance with laws intended to protect our air, water and soil.

