

## ANNUAL WGEI STEERING COMMITTEE MEETING

### Illicit flows and Implications for Mining Industry

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# Presentation outline

1. Background
2. Defining the illicit economy and base erosion in mining
3. Impact of the illicit economy on the South African economy
4. Challenges and Remedial actions
5. Conclusion



# Background

- Base Erosion and Profit Shifting (BEPS) has been recognised as a risk to realising true value, from the exploitation of South Africa's mineral resources.
- The AU Commissioned a study on the effect of BEPS in extractive industries, which affirmed a minimum of \$50 Billion lost to this practice in the African Continent
- Further, the 2016 UNCTAD report highlights the risks associated with BEPS
- This essentially undermines the National Economic Sovereignty and erodes the socio-economic development impact
- A solution to this problem require a multi disciplinary approach, as well as closer collaboration by various government institutions locally within the mining industry.
- The MPRDA as a principal act, regulates the orderly exploitation of mineral and upstream petroleum resources in South Africa.



# Illicit economy and base erosion in mining

- The illicit economy in mining is defined by the unauthorized mining and trading of mineral goods, “illegal mining” and
- The under-reporting of profits in South Africa or “The setting of a price (artificially low) for the transfer of raw materials, products or services between the trading units of a large organisation”
- Both undermine the tax legislation and erodes the domestic revenue base
- Increasing revenue especially domestic tax base is a priority for most African countries.
- South Africa is no exception considering the technical recession we have just recently experienced

# Impact of the illicit economy

- **Economic**

- Estimated R20-50bn/year in lost sales, taxes and royalties
- Indirect impact on infrastructure development, reliability and economic growth
- Direct cost of increased security
- Cost of Mine Rescue Services
- Future environmental liabilities

- **Social**

- Human trafficking and undocumented migrants: estimated 90% of arrested illegal miners undocumented immigrants
- Health and safety risks to legal and illegal miners as well as adjacent communities including lives of illegal miners in accidents, and of community members in open holings
- Associated crime in communities including substance abuse and prostitution

- **Environmental**

- Illegal water usage and wastage
- Improper waste management and use of toxic chemicals including mercury
- Sinkholes created due to water pipeline 'spiking'
- Underground fires and explosions



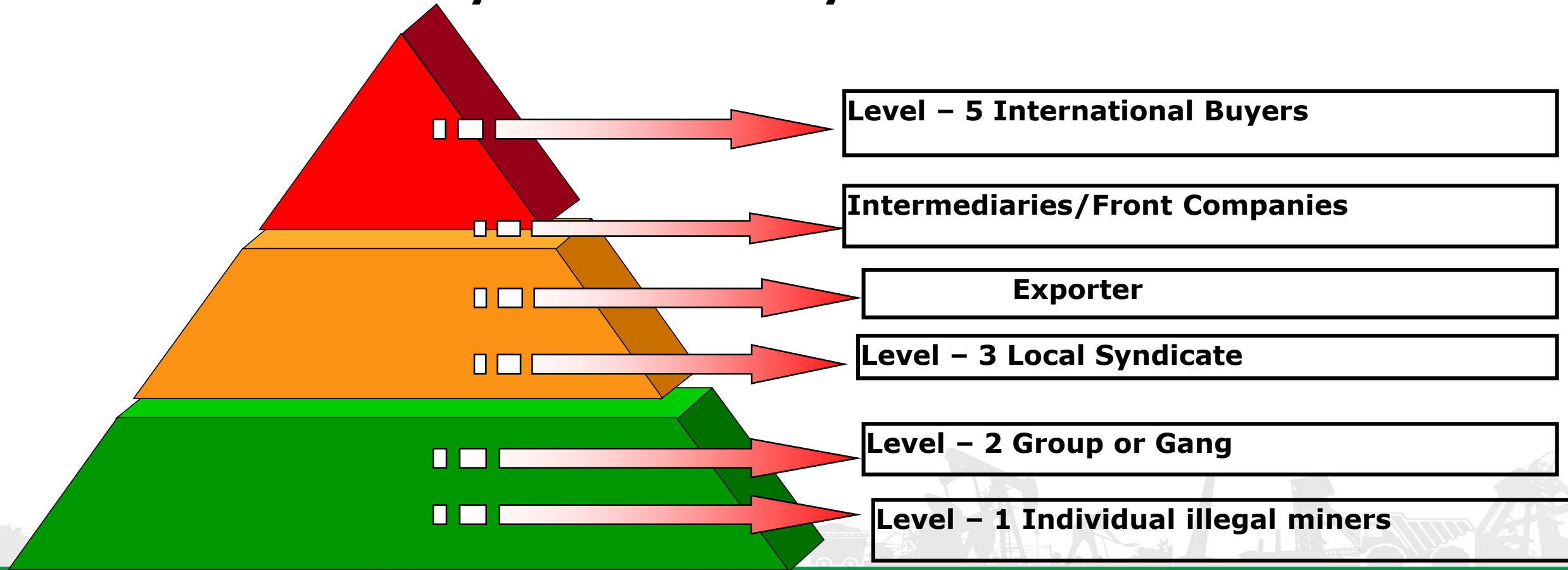
# Segmenting the challenges and intervention

Type of Illicit Mining Economy Activities	Approach
'zama zamas' and medium to large scale often linked to international syndicates	<ul style="list-style-type: none"> <li>• Law Enforcement</li> <li>• Awareness of Communities</li> <li>• Legitimising Resource</li> <li>• Rehabilitation and Closure</li> </ul>
Small scale, non-compliant	<ul style="list-style-type: none"> <li>• Community Awareness</li> <li>• Legitimising Enterprises</li> <li>• Support in compliance</li> </ul>
Large, licensed companies who mine and do not declare resources mined outside their licensed area	<ul style="list-style-type: none"> <li>• Enforcement of MPRDA provisions</li> </ul>
Transfer Pricing, base erosion and profit shifting	<ul style="list-style-type: none"> <li>• Tax law review and enforcement</li> <li>• Cooperation and information sharing between relevant authorities</li> <li>• Amendment of the Mining Charter includes measures to ensure that black equity shareholders including labour and communities participate in marketing and trading.</li> </ul>



# Segmenting the challenges and intervention

## Syndicate Activity Levels



# Remedial Actions

- Ensure coordinated and consistent policy and legislative tools, definitions, provisions and enforcement (incl. In MPRDA) rationalisation and strengthening participation in relevant domestic and international forum
- Enforcement of Criminal, Environmental and MPRDA provisions including Future Forums and Mine Closure Certificates
- Continued sharing of information between relevant authorities and refining of information systems: Diamond industry sales values by carat, value, and “round-robing”
- Find mechanism to unshackle the Big Four Accountancy firms





# Conclusion

- Transfer pricing is confirmed to be a challenge that undermines the National Economic Sovereignty
- The extent of transfer pricing has yet to be aptly quantified
- The marketing of South Africa's mineral products is largely externalised and the time is opportune for Government to initiate a process of ensuring re-localisation of marketing in South Africa
- The Australian Government, a comparative mining jurisdiction has already used appropriate mechanisms to achieve domestication of trading and marketing of minerals
- An urgent need to explore appropriate legislative instrument to secure localisation of marketing and trading of South Africa's extractive products





# Thank You

