



The business interests of public managers in the extractive industry

## **Alliances with the stamp of trafficking in influence and conflicts of interest**

**by Milton Machel \***

**Enjoying privileged access to information on the country's natural resources, a group of public managers at the top of the extractive sector in Mozambique has formed business alliances among themselves, and with their former colleagues and former ministers. These links between technical managers and politicians are most blatant in the public company Empresa Nacional de Hidrocarbonetos (ENH - National Hydrocarbon Company), and in the Ministry of Mineral Resources (MIREM). This is another of those arrangements, bearing the stamp of conflicts of interest and trafficking in influence, that characterise the business strategies of the elite of the national public sector.**

The extractive industry in Mozambique is very appetising. Not only retired generals, former ministers, current ministers, and bosses and frontmen for the *Nomenklatura* and their families are interested in investing in and profiting from the sector.

In a country where politicians are the most flagrant example in setting up their private businesses, frequently at the expense of the State, the extractive industries are all the more attractive, the more one has privileged access to exact information about the country's natural resources. And this is where the technical managers come in.

At the same time as defending the public interest, for years the technical managers of this sector have been establishing an ethics of their own in doing business: they make alliances among themselves, they associate with former ministers, they connect with their former colleagues, and link up with other managers from the mining and energy sectors to form commercial companies intended to invest in the areas where they are servants of the Mozambican state.

An exhaustive investigation by CIP allows us to glimpse the shape of the alliances between senior state managers and politicians.

These alliances intermingle in the Ministry of Mineral Resources, the most powerful of the economic ministries in the Mozambican government, and in the National Hydrocarbon Company (ENH).

### **The technical staff of ENH**

Set up by Decree no. 18/81, of 3 October, as a State Company, the objective of ENH is research, development, production, transport, processing and distribution of petroleum and natural gas, as well as implementation of the national petroleum policy.

In 1997, ENH was transformed into a Public Company through Decree 39/97. Since that date it has possessed administrative and financial autonomy, and it has been managed through a Board of Directors.

As from that moment, ENH began to operate as the commercial arm of the Mozambican government for the area of hydrocarbon exploration and production. ENH participates, in association with petroleum companies, in all exploration activities.

Within ENH, there stand out the following staff members with business interests in the hydrocarbon area: Director **Paulino Gregório**, former director **Victor Julien**, petroleum engineer (technical adviser) **Guilhermino Fortes** and the current Head of the Legal Department **Iolanda Matsinhe**. They are among the large group of individuals who, in 2007, set up **IH - Investimentos & Hidrocarbonetos, Limitada (Investments and Hydrocarbons Ltd)**.

Set up as a private limited company, **IH** has as its company object, among others: **the acquisition and management of holdings, under any form, in commercial, industrial**

**or service companies, already set up or to be set up, in any part of the national territory or abroad; the provision of services and multi-disciplinary consultancy, in the hydrocarbon area.**

**Victor Julien, Guilhermino Fortes and Iolanda Matsinhe** had already launched themselves into business in 2004, when they set up the **Sociedade de Desenvolvimento e Hidrocarbonetos (Development and Hydrocarbons Company), S.A.R.L (SDH)** in partnership with other figures, including an important senior official of **MIREM** involved with the extractive industry transparency initiative: **Benjamin Chilenge**.

Despite its explicit name, one can only infer indirectly the intervention of **SDH** in the hydrocarbon sector, since its company object is given as “direct investment and management of **commercial, industrial** or service companies [...], or obtaining holdings in **commercial, industrial** or service companies (...)”.

For several years, **Iolanda Matsinhe** has been secretary of the General Meeting of **CMH**, a company dominated by **ENH** and by the **Mozambican state**.

A further figure no less linked to the public company **ENH** and associated to the private companies **IH** and **SDH** is **Issufo Dauto Anuar Abdulá**. Issufo Abdulá is the former Chairperson of the Board of **ENH** and a former director of the **Mozambican Hydrocarbon Company (CMH)**, a limited liability company in private law, in which 70 per cent of the shares are held by **ENH** and 20 per cent by the **Mozambican state**.

### **Former Ministers and former senior officials of MIREM**

In the commercial company **IH** the partners of those technical managers of **ENH**, also include two former ministers and recent former deputies in the country’s parliament, the Assembly of the Republic. They are **John William Kachamila**, who was Minister of Mineral Resources and Energy (1987 to 2000), and Minister for Coordination of Environmental Action (2000 a 2004), and **Ussumane Aly Dauto** (former Minister of Justice).

A former deputy in the Assembly of the Republic, and a Veteran of the National Liberation Struggle, **John Kachamila** is currently Chairperson of the Board of **CMH**, a subsidiary of the parastatal **ENH**. A geologist by training, and someone with a deep knowledge of the country’s mineral wealth (he has worked in this sector since 1979), in addition to this business coalition with his former subordinates in **MIREM**, **Kachamila** set up in 2011 **CCM General Mining, Limitada**.

This company, with a share capital of three million, two hundred thousand meticaís, has as an associate **CONSTRUÇÕES C.C.M., LIMITADA** and is dedicated to: drawing up

engineering projects; **energy financing and projects**; industrial activity; **exploration and processing of mineral resources**.

**Ussumane Aly Dauto**, former Minister of Justice and former head of the Legal Affairs Commission in the Assembly of the Republic, is also an associate of **Investimentos & Hidrocarbonetos (IH)**, and is chairperson of the Supervisory Board of CMH.

The former deputy general manager of ENH, where she was placed by the Ministry of Mineral Resources, **Miquelina Menezes** registered in 2004 her business interests in the minerals sector when, together with other associates, she set up **MIMOC - Minerais Industriais de Moçambique, Limitada<sup>i</sup> (Industrial Minerals of Mozambique, Ltd)**.

**Miquelina Menezes Lopes de Carvalho Julien**, to use her full name, is currently Chairperson of the Board of the National Energy Fund (FUNAE), an institution subordinate to the Ministry of Energy (ME) – N.B: in the past MIREM and the ME were a single ministry, and were separated in 2005.

**FUNAE** is a public institution endowed with legal status, and administrative and financial autonomy which seeks: the development, production and use of various forms of low cost energy; the promotion, conservation and rational and sustainable management of energy resources.

A former senior official of **MIREM**, and an investor and representative of foreign private interests in the mining sector, **Estêvão Tomás Rafael Pale**, is also an associate of **IH** and of **MIMOC - Minerais Industriais de Moçambique, Limitada**.

Currently the Chief Executive Office of the **Mozambican Hydrocarbon company (CMH)**, **Estêvão Pale** has about 30 years of experience in the mining industry, during which he served, from 1996 to 2005, as the National Director of Mines in MIREM. In this capacity, Pale was responsible for supervising and controlling mining activities in the country and for the formulation and implementation of mining and geological policies approved by the Government of Mozambique.

Holding a master's degree in mining engineering and financial economics, **Estêvão Pale** is currently a **Non-Executive Director** of the British firm, registered under Mozambican law, the **Ncondezi Coal Company Mozambique, Ltd**, which holds four coal exploration licences in the Zambezi Basin in Tete province.

In his own capacity, **Estêvão Pale** has had business interests in a variety of areas since the late 1990s, and in 2010 he set up his most recent undertaking aimed at the mineral sector: **ZAME - Zambeze Mineral Empreendimento, Limitada (Zambezi Mineral Undertaking Ltd)**, with **Mussa Mahomedali** as his partner.

With a very wide-ranging company object, **ZAME** operates and invests on areas such as tourism; industry; trade; computers; agro-industry; engineering; architecture; public works; the exploitation, bottling, marketing and distribution of water from natural sources; maritime, rail and road transport; and the manufacture of plastic bottles and derivatives.

### **Involvement of a veteran of Public Finance and law officer**

Someone else who is part of these business alliances and connections in the national extractive sector is the veteran public finance official and current Judge **on the Administrative Tribunal, Aboobacar Zainadine Dauto Changa**.

**Aboobacar Changa** is a veteran tax official, and while with one hand he helped the state collect taxes (in one of the branches of the **Mozambique Tax Authority**) with the other he was signing the public deed for his participation in **Investimentos & Hidrocarbonetos (IH)** in 2007, thus associating himself with various officials of **ENH** and of the **Ministry of Mineral Resources** in their business ventures.

**Aboobacar Changa** served from 2007 to August 2009 as a **Director of the Mozambican Hydrocarbon Company (CMH)**, the affiliate of **ENH** where many of his partners in **IH** work. Since December 2008, **Changa** has also been a judge on the Administrative Tribunal, appointed by a presidential dispatch. That is, **Aboobacar Changa** was simultaneously (at least from December 2008 to August 2009) one of the “auditors” of the State accounts, and a director of one of the companies in which the state participates and which is subject to these audits.

The President of the Republic, Armando Emílio Guebuza, appointed him at the time to that post in an interim capacity, after consulting the Higher Council of the Judicial Magistracy. He was a judge in the 2nd Section of the Administrative Tribunal (TA), the section which deals with tax and customs disputes. **Aboobacar Changa** was later appointed Chairperson of the Board of the Treasury of the Administrative Tribunal, by a dispatch of the TA President, Machatine Munguambe, on 21 April 2010.

In November 2011, President Guebuza confirmed Changa as a TA judge, when he swore him into office along with other colleagues of the TA and of the Public Prosecutor’s Office.

As a TA judge, **Aboobacar Changa** participated in 2009 and 2010 in supervising and auditing the accounts of public companies and companies in which the state has holding. That means that in the 2008 and 2009 TA opinions on the General State Accounts, he could analyse his work and that of his peers in **CMH** and of the **ENH** managers who are his partners in the private company **IH**. Interesting!

## **The MIREM business group**

The other front of public servants involved in these business connections between **Investimento & Hidrocarbonetos (IH)** and **Sociedade de Desenvolvimento e Hidrocarbonetos** is in the Ministry of Mineral Resources (MIREM).

They are **Afonso Samuel Sansão Mabica**, the General Inspector of MIREM, **Marta Vieira Jacob Pecado**, the head of the MIREM Department of Human Resources, **Luís Jossene**, an Advisor, and **Benjamim José de Samussone Chilenge**, the MIREM National Director of Planning and Development. Three of them are partners in **IH**, namely Afonso Mabica, Marta Pecado and Benjamin Chilenge. **Afonso Mabica** and **Marta Pecado** currently sit on company bodies of **CMH**, a company with a state holding, as a member of the Supervisory Board and as Secretary of the General Meeting, respectively.

**Luís Jossene**, an official at MIREM for more than 30 years, began his business ventures in 1991, when he set up the company **Sociedade Milamor, Limitada** in Tete province, with Mateço Castiano e Alexandre Boide as his partners. They left the company in 2006, when Jossene acquired Eugénia Augusta Fernandes Beny as his new partner.

**Milamor, Limitada** has as its company object: **research, exploration and marketing of durmortierite and agates, as well as consultancy work for mining studies and projects, and the like**. It may undertake any other industrial or commercial activity convenient for the company's interests, through a decision of the general meeting and as long as previously authorised.

At the time **Milamor** was set up, **Luís Jossene** was the General Manager of the state company **Empresa Nacional de Carvão de Moçambique (National Coal Company of Mozambique) - CARBOMOC**, a post that was entrusted to him by a Ministerial Dispatch of 1984. **Jossene** was appointed in 2006, again by Ministerial Dispatch, as one of the members of the **CARBOMOC** Liquidation Commission, with full powers to sell off the assets of this state company and to collect the debts which other institutions had contracted with this coal company .

**CARBOMOC**, which has its head office in Tete, controlled practically all the coal mines which are today being exploited by multinational mining companies such as **Vale** and **Riversdale** and other areas where coal and other minerals occur and where licences have been granted by the State to companies such as the British firm **Ncondezi** and **Jindal** of India.

As a highly trusted MIREM official, **Luís Jossene** was again, by a Ministerial Dispatch of 27 June 2008, appointed as a member of a Liquidation Commission: this time of the

Companhia de Desenvolvimento Mineiro (Mining Development Company), SARL, which had been declared abolished. Jossene and his other colleagues were then invested with special powers to sell off the assets of the Companhia de Desenvolvimento Mineiro, SARL, collect debts owed to it and represent the company inside and outside of court.

**Luís Jossene** is also one of the partners and founders of **MIMOC - Minerais Industriais de Moçambique, Limitada**, set up in 2004. This MIREM economist is one of the founder members of the **Associação Moçambicana de Operadores Mineiros (Mozambican Association of Mining Operators AMOMINE)**, a group that was formed in 2006. Part of its statutory object is the following:

- **To defend the general interest of its members through their approach and support to private initiative, their participation in the development of economic activities, in the technical, financial and commercial spheres;**
- **To promote the professional training of its members and their inclusion in the national and international business environment;**
- **To encourage new projects and commercial relations and promote the action of its members on the national and international market;**
- **To create a force for dialogue with official, governmental, economic, social, and cultural bodies, and with the supervisory ministry in particular;**
- **To contribute to the knowledge and dissemination of the activities of its members, increasing the placing of the their products on the national and international market;**
- **To collaborate actively in improving the legislation that affects the interests of its members and of the sector in general;**

That is, as an official of MIREM, **Luís Jossene** provides technical assistance for the decisions of the ministry on the one hand; while on the other, in **AMOMINE** he is defending the interests of a private group which often interacts with and may even come into conflict with the government body itself.

**Benjamin Chilenge** was, from 2007 to 2009, a director of **CMH** and is also one of the partners in **SDH** alongside some of his colleagues in the sector working at **ENH**. **Chilenge**, with his direct relatives and other associates in March 2010 set up **Chaambankuuya Investimentos, Limitada**. This is a private limited company whose company object includes, among other activities, "**direct investment in and management of commercial, industrial and mining companies**, real estate, tourism, agricultural, livestock and poultry activities, or the provision of social services".

As one of the Government representatives, **Benjamin Chilenge** is the **Coordinator of the Coordination Committee of the Extractive Industry Transparency Initiative in Mozambique (EITIM)**.

In 2011, Mozambique published the first national report on the payments and revenue from the extractive industry, covering 2008. One of the companies analysed in this report was **CMH**, a company of which **Benjamin Chilenge** was a Director in 2008.

It is clear that the privilege of access to information and of influence over strategic decisions concerning the public management of natural resources can become valuable merchandise for the leveraging of private business initiatives in Mozambique. **MM**

### **The relevance of the Anti-Corruption Legal Package**

In June 2011, the Council of Ministers approved the draft of what has become known as the **Anti-Corruption Legal Package** and sent it to the Assembly of the Republic, to be approved and passed into law. The **Code of Ethics of Public Servants** is one of the legal instruments in this package which will limit these business connections and alliances of this range of public managers of the national extractive sector.

The Code of Ethics of Public Servants will “**establish the bases and the legal regime concerning public morality and respect for public assets by public servants**”. This Code defines as public servants, among various others, the holders of political posts and public posts<sup>ii</sup>.

Chapter II of this Code establishes, among others, the following as “Ethical Duties of Public Servants”: loyalty, public probity, supremacy of the public interest; responsibility, justice, respect for public assets; knowledge of the applicable bans and special regimes; refusal to take part in acts that involve a conflict of interests; declaration of assets.

The Code states that: “**a conflict of interest occurs when the public servant finds himself in circumstances in which his private interests interfere, or might interfere, with compliance with his duties of neutrality and impartiality in the pursuit of the public interest .**”

Article 42 of this bill typifies and characterise as conflicts of interests the following :

- Relations of kinship and affinity;
- Patrimonial relations;



- Gifts and gratifications
- Illegitimate use of the capacity of a public servant to one's own benefit;
- The situation of a former holder of public office.

This article of the future Code of Ethics of Public Servants also establishes, in paragraph 2: **“even of the present law does not refer expressly to some situation corresponding to any of the types or categories mentioned in the previous paragraph, the public servant shall raise the doubt with the Ethics Commission of the sector, in the terms of this law, or in its absence, with his hierarchical superiors whenever his interests may potentially come into conflict with those of the public body or service where he works.”**

### **With the complicity of the *comrade* deputies...**

The passage into law of the Anti-Corruption Legal Package and of the Code of Ethics of Public Servants depends on the political will of the Frelimo party, which holds an absolute majority in the Assembly of the Republic. Many of these public and state managers are also members of Frelimo.

The Code will also affect the holders of political posts, such as current deputies of the Assembly of the Republic (AR) who are also directors/managers of public companies or bodies and/or companies in which the state has a holding.

Some of these technical managers are colleagues of **Eduardo Joaquim Mulémbwè** in **CMH**. A former chairperson of the AR, Mulémbwè in 2010 replaced Verónica Macamo as a non-Executive Director in CMH, while Macamo was elected to succeed him as Chairperson of the AR. Mulémbwé is a member of the Central Committee and of the Political Commission of the Frelimo Party, and also chairs the AR's Ad-Hoc Commission on Amending the Constitution of the Republic.

Others among these managers are colleagues of the Frelimo spokesperson and Central Committee member **Edson Macuácuá**, a director of **ENH** and a member of the AR Standing Commission.

These are the cases of politicians with direct “professional” links to this coalition of public managers and private investors in the extractive sector. But one should not underestimate the preponderant role of other deputies in a situation of conflict of interests, namely:

- **Teodoro Waty**, chairperson of the AR's Commission on Legal Affairs, Human Rights and Legality and Chairperson of the Board of LAM;

- **Manuel Tomé**, Member of the AR Standing Commission, and a Director of HCB;
- **Mateus Katupha**, Spokesperson of the AR Standing Commission and Chairperson of the Board of Petromoc;
- **Margarida Talapa**, Head of the Frelimo Parliamentary Group, member of the AR Standing Commission and a Director of mCel;
- **Isidora Faztudo**, parliamentary deputy and Chairperson of the Board of Cervejas de Moçambique (CDM – Beers of Mozambique);
- **Casimiro Huate**: Member of the AR Commission on Agriculture and Rural Development and Chairperson of the Board of the Environment Fund (FUNAB)
- **Virgília Matabele**: Member of the AR Environment Commissions and Deputy Chairperson of the National Institute of Tourism. **MM**

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## **Endnotes**

<sup>i</sup> Not to be confused with Minerais de Moçambique, Limitada (MIMOC, Limitada), a company set up in 2008 by the influential Beira businessman Ganha Ah Kom, by former Defence Minister and General of the Nomenklatura, Alberto Joaquim Chipande and the former Governor of Manica province and current governor of Gaza, Raimundo Maico Diomba

<sup>ii</sup> The Bill on the Code of Ethics for Public Servants classifies some of the following figures as Public Servants: Judges and prosecutors of the Public Prosecutor's Office and of all the courts, without exception; State Inspector; State functionary and agent; public manager; director appointed by a public body in a collective person in public law or in a company of public or mixed capital; managers, officers and staff of the courts and the attorneys' offices; managers, officials, staff or workers in public institutes, public funds or foundations, public companies and companies in which the state has a holding; managers, officials and workers of private companies granted public functions through concessions, licences, contracts or other contractual ties; public functionaries and workers of the public-administrative and business sector, integrated in the direct or indirect administration of the State, or the autonomous administration of the State.

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- On CCM General Mining, Limitada: **BR nº 23, III Series, Supplement, of 9 June 2011 - page 566- (9) a 2**

- On the National Hydrocarbon Company (ENH): **url: <http://www.enh.co.mz/>; url: <http://www.enh-mz.com/>**

- On Chaambankuuya Investimentos, Limitada: **BR nº 25, III Series, 2nd supplement, of 28 June 2010 - page 504-(28) - 3**

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- On Ncondezi Coal Company Mozambique, Limitada: **BR nº 42, III Series, of 20 October 2010 - page 862 - 1; url:<http://www.ncondzicoal.com/boardofdirectors.aspx>;**

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