



CORRUPTION RISK ASSESSMENT IN THE MINING SECTOR IN MOZAMBIQUE

The Mozambican Centre for Public Integrity (*Centro de Integridade Pública*, CIP) is affiliated to Transparency International (TI) in the implementation of the Mining for Sustainable Development (M4SD) program. This program “seeks to improve the contribution of mining to sustainable economic and human development by promoting greater transparency and accountability in the granting of permits, contracts and authorizations in several countries”.

The assessment conducted in Mozambique used the Mining Awards Corruption Risk Assessment (MACRA) tool to analyse the mining legislation and actual practices by the applicant companies. According to the mining legislation, mining activities in Mozambique can be carried out through various mining licences and permits,

such as Prospecting and Research licenses; Mining concessions; Mining Certificates; Mining passes; License of Mining Processing; and License of Commercialization of Mineral Products. For the purposes of this report, the focus was on prospecting and research licenses and mining concessions, because they are potentially subject to corruption due to the amount of financial resources they mobilise and the socio-economic and environmental impacts they generate.

This report analyses 22 corruption risks because of their high impact and high likelihood of occurring. These risks were categorised based on the most critical issues identified in the contextual and process risk map. Thus, the analysis covered the following themes: application, processing and awarding of licenses; community consultations

and resettlements; environmental and social impact studies; verification of information; contracts and agreements; partnerships between domestic and foreign companies; and institutional capacity of the cadastre.

In general, the critical issues identified in the assessment can be summarized as follows:

In the case of Mozambique, mining legislation centralises the awarding process and monitoring of all licenses, except Mining Certificate for Construction and Mining Pass, in the hand of the Minister of Mineral Resources and Energy, who can be subject to external influence. Additionally, the cadastre staff enjoy full discretion over the timing and duration of each step of the licensing process, creating an environment conducive to corrupt practices.

Although mining is a very important sector of the economy, the human and technical capacity of the cadastre agency is reduced as compared to the volume and complexity of the licensing and monitoring (at central and provincial level) of mining projects, resulting in delays in the awarding of licenses. The delays are also attributed to the applicants' inadequate capacity to produce accurate and reliable documents, which conditions the approval of the licences. This contributes to putting more pressure on the understaffed cadastre agency.

It also seems that external interference (mainly political) might also be affecting the performance of the sector. In a large number of companies the

political elite have shares either individually or on behalf of the state, but only a few are actually in the production phase. This may suggest that there has been some external interference for the massive approval of licenses even without the guarantees of the applicant's technical and financial capacity to develop the mining activity. This also suggests that there are cases of conflict of interest, which have not been made public.

The institutions in charge of implementing the law have fallen short in curbing situations of conflict of interest that are regularly reported in the media and other platforms. Linked to this is a loophole in the public probity law that does not make it mandatory for public officials, who are not office holders, to declare their assets. Some of these officials are linked to foreign companies that remain undeclared because information about beneficial ownership is not publicly available. Additionally, the criteria for partnerships between domestic and foreign companies should be public (e.g. public tender).

This assessment also identified a situation of inadequate segregation of duties whereby a state-owned company (the Mozambican Mining Company, EMEM) "perform multiple roles in the sector, such as exploration, production and also have involvement in the awarding licences" (Nest 2016, p. 57). It appears that EMEM has privileged access to mining information due to the structure of the mining award process. One EMEM's three shareholders is the National Mining Institute

(INAMI), which is the mining sector regulator and is in charge of awarding mining licences. This suggests that EMEM, through INAMI, is simultaneously regulator and mining holder.

Conflicts of interest and inadequate segregation of duties reduce fair competition, as a small group of strategically placed persons have access to decision-making channels that ultimately influence decisions in the sector.

Community consultations and resettlements, as well as environmental and social impact studies, continue to be marred by problems at various levels, but the most critical appear to be the lack of the enforcement of laws. Both consultations and environmental impact assessment / Social impact assessment (EIA/SIA) processes have not been properly conducted, whether due to the lack of knowledge/ technical capacity by the stakeholders or allegations of manipulation.

Recommendations

Most of the problems identified in this assessment can be solved by an automated system that records the time and order of an application submission. The regulator (INAMI) is already in possession of a new software that is in the phase of installation and testing to better manage the information of the cadastre, but it is not known if this software includes an automation of the order of applications.

It is recommended that CIP prioritise risks that have a catastrophic impact due to their negative influence in the development of a sustainable

mining activity. The main recommendations of this assessment are:

- The depoliticization of license awards should be considered, creating conditions for the approval of licenses based on publicly known criteria and with the involvement of specialized technical commissions, which are not provided for in the current legislation. In a similar vein, there should be consideration of establishing an independent external review of the award as a measure to make cadastre staff accountable for their decisions.

- The upgrading of the cadastre's data system, combined with an automation of the various steps of mining licensing, will allow the elimination of expired and non-active licenses from the system, leaving room for new entrants. E.g. a digital (online) system for the submission of licenses applications that can be publicly monitored may eliminate the possibility of bribes for cadastre staff to speed up the processing of the applications of certain companies and / or individuals.

- It is recommended that the Government develop a policy of attracting and retaining staff in the cadastre agency.

- There must be an enforcement of laws with regard to community consultations and resettlements; environmental and social impact studies; declaration of assets by high public officials and office holders; and contracts and agreements.

The analysis produced in this evaluation will serve as a basis for the work of the various stakeholders in their efforts to improve the governance of the mining sector in Mozambique.



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