



CENTRO DE INTEGRIDADE PÚBLICA
Anticorrupção - Transparência - Integridade

A large-scale mining operation is shown from an elevated perspective. A yellow mining truck is positioned in the lower-left foreground, its bed tilted upwards. An orange Hitachi excavator is in the process of dumping a large quantity of dark, rocky ore into the truck's bed. The excavator's arm and bucket are visible, with the brand name 'HITACHI' clearly marked on its side. The background consists of a steep, dark rock face, likely a mine wall. The ground is covered in loose rocks and dust. The overall scene is industrial and active.

CORRUPTION RISK ASSESSMENT IN THE MINING SECTOR IN MOZAMBIQUE

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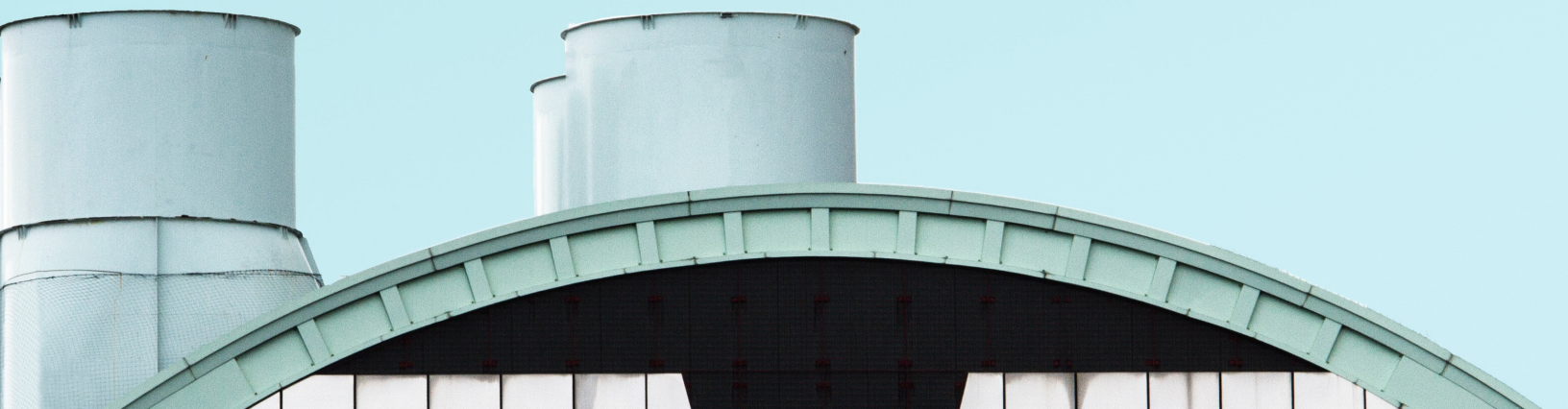


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Executive Summary

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.



1. Introduction

Since the beginning of 2000, a number of initiatives have been developed at the international level to promote good governance in the extractive sector through improved transparency and accountability. However, as of 2012, many of these initiatives, for example, Extractive Industries Transparency Initiative (EITI), Transparency and Accounting Directives of the European Union, Dodd-Frank Act of the USA, were only concerned with fiscal issues. Recently, EITI has in particular expanded its focus to include the entire mineral resource value chain, but without focusing on mitigating the risks of corruption in the licensing phase.

The lack of accountability and transparency in the awarding of mining sector licences, permits and contracts – the first step in the mining value chain – is a root cause of corruption in the mining sector (Nest 2016, p. 4). It is in this context that Transparency International Australia is leading an initiative known as the ‘Mining for Sustainable Development’ (M4SD) programme for the exploitation of mineral resources,, which focuses “on the start of the decision chain, the point at which governments grant mining permits and licences, negotiate contracts and make agreements” (M4SD leaflet). This programme “seeks to enhance the contribution of mining to sustainable economic and human development through a focus on enhanced transparency and accountability in awarding mining-related permits, licences and contracts across a range of national jurisdictions”.¹

M4SD is being implemented in 20 countries that are conducting institutional and context analysis at the national level, which includes an inventory of national-level permit, licensing and contract negotiation frameworks and practices, a stakeholder map and context analysis, and a corruption risk map. This foundational analysis will provide the evidence necessary to then develop, in a multi-stakeholder process, in-depth country action plans.²

The Centre for Public Integrity (CIP) of Mozambique, affiliated to Transparency International (TI) in implementing the M4SD project, has conducted a country analysis that is the subject of the present report. This report analyses the risks of corruption in the mining licensing process in Mozambique in order to build evidence on the practices, as well as to contribute to the improvement of its transparency. This exercise should lead to the development of an action plan to respond to the identified risks as well as to feed in the “Country Mining Vision” (CMV), which has been recently adopted by the Mozambican Government in line with the African Union’s Mining Vision (UNDP 2014, p. 6), which will contribute to the goal of mining for sustainable development.

The report analyses the mining awarding process in Mozambique based on the 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 is on prospecting and research licenses and mining concessions, because they are potentially subject to corruption due to the large financial resources they mobilise and the socio-economic and environmental impacts they generate.

After this brief introduction, the report presents the background of the country analysis. This is followed by the methodology and analysis of the awarding process. The discussion of the results and recommendations are presented next, which is followed by the conclusions, references and annexes.

¹ <http://transparency.org.au/index.php/our-work/mining-for-sustainable-development/>
² http://transparency.org.au/wp-content/uploads/2017/02/Mining-programme_Factsheet-Oct-2016.pdf

2. Background

The recent discovery of mineral resources in the late 1990s and early 2000s and the expectation of wealth generated from its sale led the Mozambican Government to approve new mining legislation. Since 2002, when the Mining Law was approved (Law 14/2002 of June 26), the Government has approved more than 95 percent of all legal provisions in the mining sector. Mining law initiatives³ have predominantly been undertaken by the Government and approved by the Parliament. This suggests that the Parliament, through its various committees, is not very active in drafting legislation for the sector.

Mozambique has a vast potential and diversity of mineral resources and hydrocarbons, which includes reserves of more than 20 billion tons of coal, heavy sands and other minerals and basic metals, such as iron-vanadium, titanium, tantalite, tourmalines, bentonite, pegmatites, marbles, bauxite, graphite, diamonds, gold, precious and semi-precious stones, phosphates, and limestone, among others. The country also has significant hydrocarbons potential. The Pande and Temane reserves in the province of Inhambane are currently under exploration by the South African multinational Sasol. New discoveries of natural gas have been made in the Rovuma Basin since 2010, whose reserves put the country at the 9th place worldwide and whose production will put the country in the third position in Africa after Nigeria and Algeria.

Given this potential, mining has become a very important activity in Mozambique. The rapid growth of Mozambique's extractive sector, driven by coal exports and natural gas discoveries, has led to an influx of capital to support the development of megaprojects. According to the Bank of Mozambique, foreign direct investment (FDI) increased 91 percent between 2011 and 2012, with megaprojects accounting for over 80 percent of this growth.¹³ Over the same period, megaprojects also induced a 17 percent rise in imports, with corresponding impacts on the country's current account balance (Capstone Report 2013, p. 25).

According to the former Minister of Mineral Resources and Energy, Esperança Bias, in 2011 the gross domestic product (GDP) increased to \$13,740 billion, from \$10,420 billion the previous year (Bias 2012). The total size of the extractive sector (including oil and gas) grew 22 percent in 2013 and accounts for 5 percent of GDP, which is estimated to increase to 10 percent by 2017 (Lillywhite, Kemp and Sturman 2015. p. II).

The cumulative flow of FDI decreased by 26.2 percent, from USD 6,175.1 million to USD 4,902.8 million, between 2013 and 2014. Still, the extractive industry represented the largest FDI destination in 2013, with 89 percent (shares and participations accounting for USD 108,4 million, supplies and commercial credits for an amount of USD 5,002.5 million) and 62 percent in 2014 (shares and participations accounting for USD 44.2 million, trade in the amount of USD 3,017.3 million) (ITIE Mozambique 2015, p. 15).

The legal framework of the national extractive sector (in particular mining) is open to new projects. Anyone interested in exploring mineral resources is invited to consult the mining cadastre to check for available areas, make a reservation of areas and then request the respective mining license. Due to this administrative opening, Mozambique has thousands of awarded licenses; however, only less than two hundred are in production. For example, there are currently only four coal mines in operation, against more than 10 licensed projects, one ruby mine and three heavy sand mines. ⁴

With regard to hydrocarbons, there have been five rounds of oil licensing to date (2017), which have resulted in the approval by the Mozambican Government of several concessions for hydrocarbon exploration in 11 areas of the country. The starting of gas (floating liquefied natural gas-FLNG) production in the Rovuma Basin by the Italian company Eni is planned for 2022. However, it seems that the Government is still developing its capacity through the training of sector employees to better understand all aspects of the gas value chain (e.g. technology, costs, revenues, monitoring of projects and contract negotiation).

A good knowledge of natural resources and their value chain is a key factor to ensuring their sustainable management and exploitation, in order to contribute to the development of the country. Mozambique has just over 350 geologists and mining engineers trained locally and abroad, a number considered to be very small for the needs of the extractive industry during rapid growth (Notícias 10 September 2014). Besides the above-mentioned challenges in terms of the number of qualified staff, Mozambique's natural resources also pose new challenges to the integrity of the Mozambican public sector (Transparency International 2012).

Natural resource development expands and multiplies opportunities for rent seeking, as officials are tasked with allocating the distribution of both enormously valuable extraction rights and lucrative government contracts for developing complementary infrastructure (Jensen and Adalima 2016, p. 8). "The discoveries of coal deposits in the northern province of Tete, gas in Inhambane province and petroleum offshore have not only attracted international mineral resources companies but have also linked business interests, Party and the State much more tightly together" (BTI 2016, p.3).

³ This includes the drafting of laws and decrees as well as the approval of Ministerial Diplomas.

⁴ http://www.geologia.uem.mz/index.php?option=com_content&task=view&id=79&Itemid=1.

Anti-corruption and anti-bribery clauses in contracts do not guarantee corruption will never occur, but including them can be a deterrent: they are signals that the Government is focused on this issue and can make prosecution easier (Cabeçadas 2016, p. 137). “Although transparency in extractives has improved significantly over the past years, particularly in comparison with other sectors such as land, access to regularly updated information on production, exports and revenue from coal and other extractive industries is still difficult to come by. The current situation is hard to assess, as the new Government still has to settle down and get websites, such as for the restructured Ministry of Mineral Resources and Energy (MIREME), up and running (at the time of writing, this site was inaccessible for several weeks)” (Vines et al. 2015, p. 6).

Despite Mozambique’s compliance with EITI since 2012,⁵ concerns have been raised regarding former President Armando Guebuza’s personal discretion over the awarding of certain resource rights. He is reported to have used his influence to secure a major government contract for the Pemba Logistics Base to Orlean Invest (Mimbire e Nhamire 2015). This type of transactions is a troubling evidence of an inappropriate collusion between the public and private sectors (Jensen and Adalima 2016, p. 8).

There is evidence that Mozambique’s contracting process is subject to undue influence by private companies. For instance, 32 percent of respondents in the 2010 World Bank Enterprise Surveys reported paying bribes to secure government contracts, a far higher rate than any other form of business corruption. Recent studies have revealed an abusive use of direct awards and falsification of specifications of the requirements under the contracting of services by the State, in order to favour certain companies (CIP 2017b).

“The complex and burdensome regulatory requirements, deficient oversight mechanisms and underpaid public officials are responsible for corruption (including bribery), particularly in the private sector. The power to “expedite” bureaucratic processes provides government officials with the means to extort bribes. The low wages of public officials create a powerful motive, and lax oversight—or the outright complicity of supervisors—affords the opportunity. Convoluted bureaucratic procedures multiply opportunities for corruption. Officials tasked with issuing licenses, permits and other formal approvals for doing business enjoy leverage over companies, and a combination of individual discretion and lack of direct oversight enables officials to use the regulatory burden to extract rent” (Jensen and Adalima 2016, p. 10).

Mozambique has made some progress in strengthening the fight against corruption by establishing its main anticorruption agency in 2004, the Central Office for Combating Corruption (Gabinete Central de Combate à Corrupção, GCCC). This institution is under the Office of the Attorney General but enjoys budgetary autonomy.⁶ However, the agency’s mandate is limited to investigation—it does not prosecute corruption cases itself, but instead refers them to the Public Prosecution Service, which has a poor record of successfully prosecuting corruption cases, especially against high-ranking officials (Jensen and Adalima 2016).

In recent times, a Probity Law was approved in order to promote morality, transparency, impartiality and respect in the management of state assets (Law 16/2012 of 14 August). Following this, a central committee, as well as provinces and sectors commissions of public ethics, have been also established.⁷ A whistle-blower protections law was also passed in 2012 (Law 15/2012 of 14 August) contributing to strengthening anti-corruption efforts by the Government. It appears that the regulatory framework governing conflicts of interest, public transparency and whistle-blower protections is adequate in principle (World Bank 2014). Nevertheless, there are a number of cases of conflict of interest involving senior public officials and politicians.

⁵ Mozambique produced the first payment and receipts reconciliation report under the EITI in the first quarter of 2015, guided by the new transparency standard (Kråkenes 2012). However, EITI reports to date have noted significant weaknesses in firms’ adherence to reporting requirements (EITI 2014).

⁶ “In practice, the GCCC lacks the technical expertise and financial resources necessary to execute its core functions, and it may be subject to undue political influence” (Jensen and Adalima 2016, p. 8).

⁷ The main focus of the commission’ work fall under the Article 50 of the Probity Law, which aims at assessing and monitoring conflict of interest situations in order to take appropriate measures to eradicate them. This probity law aims to end conflicts of interest and provides for the extension of the mandatory declaration of assets of the leaders of the state apparatus of Mozambique. The new law applies to members of the Government, of Parliament, Judges, and Prosecutors, at all levels, members of the state administration, members of provincial governments, district governments and even municipalities (APRM 2015).

3. The mining legislation

Over the past 19 years, more than 30 legal instruments for mining activities have been approved. Currently, the primary law regulating the mining sector is Law 20/2014 of 18 August (Mining Law) and Decree 31/2015 (Regulation of the Mining Law). However, due to the nature of the mining sector, there are hundreds of licenses in force in the country, regulated by previous regimes (Mining Laws 14/2002 of 26 June; Law 5/94 of 13 September and Law 2/86 of 16 April).

In terms of property rights, the Mozambican Constitution contains a fundamental principle that all mineral resources in the soil, subsoil and water are the sole property of the State. Private prospecting, research and mining of mineral resources are carried out through mining licences awarded by the Ministry of Mineral Resources and Energy (Law 20/2014; Cabeçadas 2016, p. 135).

The Ministry of Mineral Resources and Energy, together with INAMI, the administrative entity of the Ministry of Mineral Resources and Energy, are the mining sector regulators (Law 20/2014 of 18 August; Decree 31/2015; Cabeçadas 2016, p. 135).

According to Article 6 of Decree 31/2015, the Minister for the Mineral Resources Sector is responsible for deciding on:

The attribution, modification, transmission and revocation of a prospecting and research license, mining concession, mining certificate, mining processing license, mining treatment license and authorizations;

The direct or indirect transmission of participatory interests, bonds and / or mining rights, including the transfer of shares, quotas or other forms of participation;

- a) **The declaration, modification and extinction of designated areas of mining pass and,**
- b) **Any conflicts that result from a total or partial overlapping of requests over the same area.**

The Minister may delegate all or part of the competencies indicated above (Decree 31/2015, Article 6, No. 3). INAMI is responsible for:

- a) **Propose development policies for the mining sector and monitor their implementation;**
- b) **Analyse and approve projects of technical and economic studies for the opening of new mines as well as their rehabilitation and / or closure;**
- c) **Receive, prepare, organize and analyse the processes related to the awarding of prospecting and research licenses, mining concessions, and mineral water concessions, and practicing the acts assigned to it under the mining regulations**
- d) **Promote, support and control, in coordination with other institutions, the prospecting, research and extraction, as well as use and exploitation of mineral resources, excluding oil and gas;**
- e) **promote, support and control small-scale mining, taking into account the minimization of negative environmental and social impacts resulting from such activities.**

Although the Higher Authority for the Extractive Industry (AAIE) has been established under Law 20/2014, it has not been set up yet nor has its staff been appointed. It is not clear why it has not yet been installed and what role it is going to play. In some countries, such as Tanzania, an institution like this plays the role of an independent supervisor of extractive industry activities (Averdade 11 September 2015).⁸

Mineral rights and licences are granted to applicants on a first-come basis by considering the proposal that offers better conditions, advantages and gains for the Mozambican State as the owner of the mineral resources (Decree 31/2015, Art. 9). Only one type of mineral right can exist over an area of land at any one time. The acquisition, modification, transfer and termination of mineral licences are subject to registration. The most important licences for medium- and large-scale projects are the prospecting and research licences (for the exploration phase) and the mining concessions (for the mining and production phase) (Cabeçadas 2016, p. 136).

Information on mining areas is available on the online mining cadastre, which was established in 2013 and is accessible to anyone free of charge, as long as you have access to the internet. The mining cadastre shows all types of areas available, the platform allows searching the records through a map or the license number, the company name and the geographical coordinates of a certain area.

The use of land for mining purposes is subject to a different legislation. However, land use rights granted for mining purposes last for the duration of the mining title (Decree 31/2015, Art. 10). The awarding of the mining rights does not necessarily presuppose the right to use the land or other pre-existing rights, which will remain in state custody until the mining activity is closed (Decree 31/2015, Article 20, No. 1).

The Mining Law establishes the general principle that the expropriation of assets and private property rights allocated to the mining permit holders can only occur exceptionally for justified public interest reasons, and the expropriated party will always be entitled to receive compensation (Law 20/2014, Article 66, No. 1 and 2, Cabeçadas 2016, p. 137). Mining rights' protection and enforcement can be made through the local courts, although specific knowledge of technical mining issues is not always present. Litigation in Mozambican courts tends to be an expensive and time-consuming exercise. One possible alternative to local judicial courts is international arbitration (Cabeçadas 2016, p. 137; Jensen and Adalima 2016). In the context of international arbitration, disputes will be submitted to the International Center for Settlement of Investment Disputes (ICSID).

The Mozambican State's right to participate in mining projects is established by law, which indicates that "for the award of exploitation rights over natural resources, the State reserves the right to negotiate a gratuitous participation of no less than 5 percent of the share capital during any phase of the project" (Law 15/2011, of 10 August;⁹ Decree 16/2012, of 4 July;¹⁰ CIP 2015, p. 3; Cabeçadas 2016, p. 137). Moreover, the law establishes also an obligation of foreign mining companies to have a partnership with local companies (Law 20/2014, Art. 24).

Mining contracts are often entered into between the Government and the holder of mining rights, in particular prospecting and research licenses, and mining concession holders (Law 20/2014; Decree 31/2015; Cabeçadas 2016).

A mining contract stipulates the need for the inclusion of local content, local employment and a technical and professional training plan; incentives for minerals added value; corporate social responsibility by the mining holder; memorandum of understanding between the Government, mining company and local communities; and a mechanism for dispute resolution by arbitration (Law 20/2014, Article 8). The mining contracts must be confirmed by the administrative court (auditing authority) 30 days before they can be published in the Official Gazette (Law 20/2014, Article 8, No. 4). Finally, the contracts must be approved by the Parliament (Law 20/2014, Article 8, No. 5).

The main vehicle for the State's participation in the mining sector is the Mozambican Mining Company (EMEM), which was established by Decree 29/2009 of 29 June, as an instrument of economic mining policy. EMEM has the mandate to boost the State's participation in mining revenues, promote greater inclusion of local content, develop initiatives to create capacity for local processing of these resources, generating more added value / revenues and thus boost the process of industrialization of the country. Thus, through EMEM, the State is a shareholder in most companies in the sector, but its influence and capacity are still incipient.¹¹

EMEM is also directly involved in mining activity, and it has been awarded some mining licenses.¹² EMEM has the role of promoting the commercialization of the most diverse minerals such as coal, gold, gems and building materials through integrated channels. Likewise, EMEM has an area for the support of mining license application for new areas, aiming at increasing the volume of assets in prospecting and research, in order to boost the growth of the national mineral industry.

3.1. Mining licenses

According to the Law of mines, there are six types of mining licenses available, namely:

- Prospecting and research license;
- Mining concession;
- Mining certificate;
- Mining pass;
- Mining license and;
- License for the commercialization of Mineral Products.

⁹ Law on Public-Private Partnerships, Large Scale Enterprises and Business Concessions

¹⁰ Regulation on Public-Private Partnerships, Large Scale Enterprises and Business Concessions.

¹¹ EMEM S.A., represents the State in the following companies: Grafite de Ancuabe (10 percent EMEM) Vale Moçambique (5 percent EMEM) Kingho Investment Company, Lda. (10 percent EMEM) Areias Pesadas de Chibuto (10 percent EMEM) ETA Star (25 percent EMEM) Minas de Changara, Lda. (25 percent EMEM) Gemoz (55 percent EMEM) Mozacimentos, Lda. (25 percent EMEM) Marsal, Lda. (49 percent EMEM) Minas Moatize, Lda. (5 percent EMEM) (TIE Moçambique 2015, p.80-1; EMEM web page: <http://www.emem.co.mz/indexen.php>; <http://www.emem.co.mz/docs/perfil-da-empresa.pdf>).

¹² BR+2+III+SERIE+2013.pdf.

The mining licenses are granted at the request of the interested parties (or through public tender) in accordance with the principle of first-come, first-served by considering the proposal that offers better conditions, advantages and gains for the Mozambican State as owner of the resources Minerals (Law 20/2014, Article 9, Decree 31/2015, Article 8; 21).

Table 1: Types of license and validity

License types	Activity	Validity
Prospecting and research license	Geocentric and geotechnical activities that allow the evaluation of the potential of mineral resources, aiming at the discovery, identification, determination of the characteristics and economic value of the respective minerals	2 years renewable for an equal period of time (mineral resources for construction) and 5 Renewable years for 3 years (mineral resources)
Mining Concession	Operations and work related to the development, extraction, treatment, processing, mining, as well as the disposal of mineral products	25 years renewable for an equal period of time
Mining Certificate	Carry out on an exclusive basis the small-scale mining activities and operations 10 years renewable for an equal period of time	
Mining pass	Right to carry out artisanal mining operations. 5 years renewable for an equal period of time	
Licence of commercialization of mineral products	Purchase and sale of mineral products The commercialization of mineral products and allowed natural and legal persons holding a mining concession, mining certificate and mining pass when deriving from its production, under the mining legislation (Decree No. 16/2005, Article 2, No. 3)	5 years renewable For an equal period of time
Mining processing licence	operations along the extractive industry chain, in order to obtain the mining concentrate	25 years renewable for an equal period of time

According to Decree 31/2015 (mining law regulations), prospecting and research licences and mining concessions requirements are as follow:

Upon receipt of an application for a mining title, the official of the cadastre shall immediately, in the presence of the applicant:

- a) **Verify that the application form submitted by the applicant is properly completed and, if not, request the applicant to correct it;**
- b) **Check the availability of the requested area, if the area is not under a mining license or another request; if applicable, the applicant must amend;**
- c) **Order the payment of the processing fee, if the requirements established in the foregoing subparagraphs are fulfilled;**
- d) **Accept the request against proof of payment of the processing fee, immediately record the data in the logbook. indicate the exact time the application was registered, and sign the same book together with the applicant;**
- e) **Print two copies of said form, which will be subsequently stamped and signed by the applicant and the cadastre official, with one copy for the applicant and another attached to the respective file;**
- f) **Produce a receipt of the application containing an assigned code, the geographical coordinates, a geographic outline of the requested area, if applicable, which must be signed by the applicant and the cadastre official and;**
- g) **Issue within 48 hours the notice of publication in a large-circulation newspaper, which must be duly signed.**

“The applicant must, within a period of 15 days after receipt of the notice of edicts, submit to the mining cadastre the proof of its publication in a large-circulation newspaper, otherwise the application will be considered null” (Decree 31/2015, Art. 5, No 2).

“If 30 days after the publication of the edicts there are no claims, the National Institute of Mines will continue the process of

awarding the respective mining title, which takes 90 days” (Decree 31/2015, Art. 5, No 3).

The processing of the mining title applications and authorizations is subject to payment of fees, of which 60 percent goes to the state and 40 percent to INAMI (Decree 31/2015, Article 16, and No. 5). The mining owners are also subject to the provision of a financial guarantee (Decree 31/2015, Article 17, No. 1), the amount of which is calculated on the basis of the budget established in the work plan. For prospecting and exploration licenses and mining concessions, the value is situated at 2 percent of the planned budget or investment (Decree 31/2015, Article 17, and No. 3).

At the request of the holder of the mining certificate, the Minister or Governor of the province may exceptionally waive the provision of the financial guarantee, taking into account the type of mineral resource and the scale of the mining operation (Decree 31/2015, Article 17, No. 7).

No other mining title shall be awarded to holders of one or more mining titles that, after 12 months from the date of issuance of the mining title or authorization, are not mining activities (Decree 31/2015, Article 21, No. 4).

4. The focus of the evaluation

This evaluation focuses on the licensing of prospecting and research projects (exploration phase) and mining concessions (mining and production phase), because these are the most important for large and medium-sized projects. It is with these two types of licenses where there is potentially a greater risk of corruption because of their complexity and the large amounts of financial resources that they mobilise. In addition, the implementation of the activities covered by the two types has major socio-economic and environmental impacts on mining sites as they involve people’s resettlement and community development plans.



5. Methodology

The methodology used in this assessment was entirely qualitative and was based on a combination of methods of data collection and analysis. This involved a review of mining literature / studies (legislation, press reports, academic surveys, mining cadastre and other evaluations by national and international institutions), an adaptation of the questions, suggestions and analytical categories of the Mining Awards Corruption Risk Assessment Tool (MACRA) to the national context and conducting interviews. The analysis was done through a triangulation and comparison of documented information and interviews.

The literature review focused on the mining legislation (including analysis of the legislation), procedures / requirements for mining applications as well as accountability mechanisms in order to have a clear picture of the mining licensing process and the current situation in the mining sector in general. It also allowed for the understanding of mining opportunities, constraints and incentives to corruption as well as institutions and stakeholders' roles. Additionally, the desk review helped to identify and select key informants based on their involvement in the sector as well as examining the extent to which their activities and practices conform to the law and promote transparency and accountability.

The review, adaptation and use of MACRA were intended to provide a comprehensive contextual framework on the risks of corruption in Mozambique. First, it helped to map the process and practice, i.e. illustrate the official licensing process and what happens in practice when applicants submit license applications. Secondly, MACRA was used to build a flow chart on mining licensing in Mozambique and to identify vulnerabilities to corruption in the sector. Thirdly, there was a mapping of the context in which licensing takes place through the analysis of political, economic, social and technological (PEST) factors and the identification of respective vulnerabilities associated with corruption. The objective of a PEST analysis is to help identify 'events' that could cause corruption.

The mappings and associated vulnerabilities, as well as the contextual analysis, were used in the interviews to deepen an understanding of the process and its contextual and temporal dynamics. The interviews aimed at matching/comparing the licensing process as it is established by law with the concrete practice of applicants. In other words, identify possible gaps between the law and mining licensing practices.

In total, interviews were conducted with approximately 2813 people representing various stakeholders in the sector, namely, four government institutions in charge of mining licensing; three mining companies; an economic association; and civil society organizations, all based in Maputo city and province. This figure is low considering the companies and individuals involved in the mining activity in Mozambique. Although CIP contacted many more institutions, only those indicated above were available to participate in the interviews.

It should be emphasized that one of the interviews with an Economic Association involved 8 people representing various interests in the mining sector (i.e. academics and specialists, mining companies, public institutions and individual mining operators). Another meeting with public officials involved 13 participants in representation of different departments.

All people interviewed were asked to be part of the advisory committee, and all have accepted. However, at the first of two workshops, which was held on the 25 May 2017, other people were able to attend and accepted to be part of the multi-sectoral advisory committee. The risks identified in this assessment were shared and validated by the workshop participants, who promised to send additional input in the days thereafter.

5.1. Risk scoring

"The purpose of scoring risks for likelihood and impact is to create information to be used for identifying priority risks". "Scoring is not an end in itself, and scores are just one factor to consider for prioritisation" (Nest 2016, p.42). The overall scores were calculated based on the formula (Likelihood x Impact), which results from the assessment of the Likelihood of occurrence of events causing corruption (Likelihood) and their different impact (Impact) (Nest 2016). Our assessment produced the risk scores that are illustrated below in table 4.

¹³ Some interviewees expressed the desire not to be cited because some aspects of the interviews were sensitive and likely to affect their relationship with other stakeholders. For this reason, the names of the interviewees and the institutions they represent are not mentioned in this report.

Table 2: Risk assessment scores

Risk	Likelihood and Impact	Total Score
Risk 1 (CF10)	Likelihood = 3 Impact = 5	3X5 = 15
Risk 2 (CF5)	Likelihood = 5 Impact = 3	5X3 = 15
Risk 3 (CF 8)	Likelihood = 5 Impact = 3	5x3 = 15
Risk 4 (PD5)	Likelihood = 5 Impact = 3	5x3 = 15
Risk 5 (PD7)	Likelihood = 3 Impact = 5	3x5 = 15
Risk 6 (PD8)	Likelihood = 3 Impact = 5	3x5 = 15
Risk 7 (PD9)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 8 (PD14)	Likelihood = 5 Impact = 3	5x3 = 15
Risk 9 (PD16, PP6, PP7)	Likelihood = 5 Impact = 3	5x3 = 15
Risk 10 (PD18)	Likelihood = 5 Impact = 3	5x3 = 15
Risk 11 (PD21)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 12 (PD22)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 13 (PD28)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 14 (PD32)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 15 (PP1)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 16 (PP4)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 17 (PP8 & PP9)	Likelihood = 5 Impact = 5	5x5 = 25
Risk 18 (PP10 & PP11)	Likelihood = 3 Impact = 5	3x5 = 15
Risk 19 (PP13)	Likelihood = 5 Impact = 3	5x3 = 15
Risk 20 (RA7 & RA9)	Likelihood = 3 Impact = 5	3x5 = 15
Risk 21 (RA12)	Likelihood = 3 Impact = 5	3x5 = 15
Risk 22 (RA14)	Likelihood = 5 Impact = 3	5x3 = 15

The risk scores from table 4 are recorded in a two-dimensional matrix, which is standard in risk management. The matrix is used to plot the total scores (Likelihood x Impact) of different risks and is coloured using a multi-coloured “traffic light” system. There are five levels of importance, each with a different colour, as illustrated below in the table 5.

Table 3: Traffic light system for colour-coding risks

Colour:	Blue	Green	Yellow	Amber	Red
Risk level:	<i>Very low</i>	<i>Minor</i>	<i>Moderate</i>	<i>Significant</i>	<i>Very high</i>

The traffic light system was used to plot the total scores on the risk matrix below, in table 6.

Table 4: Risk Matrix

Likelihood	5 Almost Certain	5	10	15 Risk 2,3,4,19, 21	20	25 Risk 6,7,9,10, 11, 12, 13,14,15,16
	4 Likely	4	8	12	16	20
	3 Possible	3	6	9 Risks 17,18, 22	12	15 Risk 1,5,8,20
	2 Unlikely	2	4	6	8	10
	1 Almost impossible	1	2	3	4	5
		1 Insignificant	2 Minor	3 Moderate	4 Major	5 Catastrophic
Impact						

As indicated in table 5 (traffic light system for colour-coding risks), the colours in the matrix determine the severity of the corruption risks. However, it should be mentioned that “the colour-coding of the various possible scores is not always consistent, in that identical total scores are not always categorised at the same level/colour of risk. The matrix emphasises impact as the key factor of concern”. Therefore, “risks that have a high likelihood but that do not have an equally high-impact are categorised as less important than risks with the same total score where that score is based on low likelihood/high impact” (Nest 2016, p. 45).

In table 6 (Risk Matrix) we have plotted all the 22 risks we have identified and, as can be observed in the table, the risks are spread from moderate (yellow and amber) to catastrophic (red colour) impact. All the moderate and catastrophic risks have a likelihood of occurring, while others are almost certain that they will occur. The analysis we present in the next section covers all the risks with a moderate and catastrophic impact.

6. Key vulnerabilities and related corruption risks

According to the MACRA tool, there are five categories of risk, namely, contextual factors (CF), process design factors (PD), process practice factors (PP), accountability mechanisms (RA), and legal responses (RL). Within each of these categories, the risks are then also organised as much as possible according to the elements in the awards process, which include the legal and administrative framework; administration, oversight and practice; pre-award engagement; application and approval process; and post-licence issues, including termination (Nest 2016, p.52).

Table 5: Vulnerabilities and Risks

<p>Category 1: Contextual Factors (CF) contains risks related to the context of a country’s mining sector, outside of the immediate process for awarding licences, permits and contracts.</p>	
<p>Political factor Prospecting and research licenses and mining concession licenses require local-level (province and district) opinions but the local level has weak knowledge of central-level processes. In addition, there is poor coordination between the two levels (sometimes local level advice is ignored), which creates delays in the approval of the licenses.</p>	<p>CF5: What is the risk that decentralisation of government decision-making (such as to agencies at the provincial or local government level) will create uncertainty in the awards process?</p>
<p>Economic factor In the mining cadastre, there are many areas occupied by natural persons who do not have sufficient capital to develop the mining activity. Many companies begin their activity applying for a single license, but the delay in the approval of their requests entails high costs of maintenance of offices and personnel. To avoid these costs companies may opt for corrupt practices that lead to accelerated approval of their projects.</p>	<p>CF8: What is the risk that a proposed project is critical for the survival of the applicant?</p>
<p>Political Factor The Public Probity Law provides for the declaration of assets, but this requirement is applied only to holders of public office and not to public officials (Article 20 of the Law 16/2012 of 14 August 14). However, these statements are not public, which makes it impossible to ascertain whether there are any conflict of interests, increasing the risk of non-disclosure</p>	<p>CF10: What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?</p>
<p>Category 2: Process-Design (PD) contains risks related to opportunities that stem from the design of the awards process.</p> <p>Risks related to the Legal and Administrative Framework</p>	
<p>Social factor The salaries of employees in the mining cadastre are low as those of other public officials. In general, private mining companies pay salaries well above those paid in the civil service. Low wages paid by government make public officials vulnerable to bribery and other corrupt practices. It also creates opportunities for employees to leave the state to work for the companies maintaining, however, links with their former institutions allowing getting insider information.</p>	<p>PD5: What is the risk that salaries of cadastre (or equivalent) agency staff are less than a living wage?</p>

<p>Political factor Mozambique is compliant with the EITI, so it must annually publish a report on payments and receipts. Despite this, there is some reluctance on the part of the Government to disclose information about assumptions for the receipt of revenues paid by companies. This, in itself, can create opportunities for misappropriation or misuse of funds and prevent the scrutiny of public accounts.</p>	<p>PD7: What is the risk that terms and conditions for upfront bonus or 'signature' payments (i.e., to pay for resources that may otherwise take several years to generate income via royalties or other forms of taxation) will not be publicly knowable?</p>
<p>Social factor In general, there is a poor understanding of the legal framework on community consultations which affects their effective participation in the process. Moreover, the capacity of local governments to engage effectively with civil society is weak, partly because of lack of knowledge and information. A number of research and press reports show that there has been manipulation (including payment of bribes and gift giving) for community approval.</p>	<p>PD8: Assuming consultation with communities or landholders is required, what is the risk that the legal framework for consultation is not publicly knowable?</p>
<p>Political factor Mining legislation requires the identification of the licence holders, shareholders and their capital value but there is no practice of verifying the history of companies applying for licences (technical and financial capacity) to develop mining projects.</p>	<p>PD9: What is the risk that applicants for licences etc. will be controlled by undeclared beneficial owners?</p>
<p>Risks related to Institutional Administration and Oversight</p>	
<p>Political – economic factor EMEM was established by the state and it has as one of its areas of activity the support for the processing of applications for mining licenses in new areas. One of EMEM' three shareholders is the National Mining Institute (INAMI), which replaced the former Geology and Mining Institute (Instituto Geológico-Mineiro, IGM). However, INAMI appears as a regulator and operator simultaneously, which reduces the possibility of competition and increases the opportunity to favour the interests of public enterprises (EMEM).</p>	<p>PD14: What is the risk that a SOE with mining interests will be directly involved in awards, e.g., because of the structure of the government's mining portfolio and organisations?</p>
<p>Risks related to Pre-Award Engagement</p>	
<p>Social factor There have been reports of co-optation of some community leaders and local state officials by companies/ or people representing companies interests to skip steps in exchange for individual benefits (e.g. employment, transportation, and money just to give some examples).</p>	<p>PD16: Assuming consultation with communities or landholders is required, what is the risk that negotiations for landholder or community agreements can be manipulated?</p>

<p>Political factor Considering the weak technical capacity of public officials on some specificities of contracts in the mining sector, the knowledge of the negotiating team might be reduced. The roles and responsibilities of the negotiating team are not made public. However, there is a perception that the public officials in the negotiating teams are there to give an advantage to the companies, against the interests of the State.</p>	<p>PD18: Assuming contract negotiations are required, what is the risk that the roles and responsibilities of the government negotiating team will not be clear prior to negotiation?</p>
<p>Economic factor The details of partnerships between foreign companies and a state-owned or private national company are not in the public domain, which creates opportunities for local elites to demand bribes or favours (such as positions) from foreign companies in exchange for partnerships.</p>	<p>PD21: When foreign companies are legally required to partner with local companies or a local SOE for mining activities, what is the risk that details of these partnerships will not be publicly knowable?</p>
<p>Risks related to the Application and Approval Processes</p>	
<p>Political factor The mining legislation centralizes the entire mining awarding process as well as monitoring of all licenses, in the hands of the Minister of Mineral Resources and Energy. The fact that the position of minister is based on political trust it results in the interference of politicians and other senior public officials in the awarding of licenses.</p>	<p>PD22: What is the risk of external interference in the cadastre agency's awarding of licences etc.?</p>
<p>Economic factor Cadastre staff have full discretion over the timing and duration of the steps, and their discretion is never checked or controlled. The duration and timing of the awarding process, which are established by law, are not respected in full. There are cases of licenses that have been awarded in a record time while others with huge delays. This disparity in the handling of applications is indicative of the speeding up of some procedures to the detriment of others. This suggests that there are incentives for cadastre staff to manipulate the duration and steps of the awarding process</p>	<p>PD28: What is the risk that the duration and timing of each step of the awards process can be manipulated?</p>
<p>Economic factor Currently, the processing of mining license applications is a combination of manual and computerized procedures. There is a possibility that license applications may be handled and / or filed incorrectly or deliberately "lost", or that their processing may be delayed unless a bribe is paid to the cadastre staff.</p>	<p>PD31: What is the risk that lodged applications will be deliberately mishandled?</p>
<p>Economic factor The lack of information (for example, not published online) about the licence application's stage, together with the long delays in communicating the results, creates opportunities for employees to retain the information to demand bribes.</p>	<p>PD32: What is the risk that companies will be confused or misled about the stage their application is at in the awards process?</p>
<p>Category 3: Process-Practice (PP) has risks related to opportunities that stem from actual practice in the way permits, licences and contracts are awarded.</p> <p>Risks related to Institutional Administration and Oversight</p>	

<p>Technological factor</p> <p>It seems that the number of staff involved in the processing of mining licenses applications and monitoring (at the central and provincial levels) lags behind the amount of existing work and the complexity of projects. This is reflected in the delays in the awarding of licenses, which creates incentives for the cadastre staff to handle selected applications whose applicants are available to pay bribes to expedite their processes.</p>	<p>PP1: What is the risk that cadastre staff and managers will be unable to cope with the workload of the agency?</p>
<p>Technological factor</p> <p>Stockpiling of licences or permits is forbidden by law but due to cadastre system deficiencies, there are companies and individuals with more than one license some of which expired and with no activities performed. The proliferation of these licenses gives an impression that there is no room for new applicants and creates opportunities for cadastre staff to use this information to solicit bribes or money in exchange for information for potential new mining projects or companies.</p>	<p>PP4: What is the risk that mining companies can stockpile licences or permits, without actually doing any work?</p>
<p>Risks related to Pre-Award Engagement</p>	
<p>Social factor</p> <p>The speed for companies to secure licenses and start with their activities and Communities' lack of knowledge about their role in the consultations has contributed to skipping the process steps by manipulating consultations locally. There have been reports of co-optation of some community leaders and public officials to forge local communities' consents.</p>	<p>PP6: Assuming consultation with affected communities is required, what is the risk that their free, prior, informed consent will be ignored as a result of corrupt practices?</p>
<p>Social factor</p> <p>There have been reports on the co-optation of some community leaders and local state officials by mining companies with an interest in the area in order to forge the consent of the communities. Community leaders have been accused by their own communities for not defending their interests</p>	<p>PP7: What is the risk that community leaders negotiating with a mining company will not represent community members' interests?</p>
<p>Economic factor</p> <p>Social impact reports are conducted by consulting companies hired by the mining applicant companies, which are then submitted to the government for approval. However, the social impact assessment reports are not adequately checked, partly because of the limited technical capacity of civil servants. Similarly, it appears that the companies also lack the interest / willingness to present accurate or truthfulness of social impact assessment. Most of the time the information in the reports is incomplete and in some cases is truthful Applicant mining companies may bribe both the officials responsible for conducting the assessments and those who approve the report by the government to manipulate the impact data</p>	<p>PP8: What is the risk there is no verification of the accuracy or truthfulness of social impact assessment (SIA) reports?</p>

<p>Economic factor</p> <p>Environmental impact reports are conducted by consulting companies that then submit them to the government for approval. However, the social impact assessment reports are not adequately checked, partly because of the limited technical capacity of civil servants and, on the other, because of the lack of corporate will. Applicant mining companies may bribe both the officials responsible for conducting the assessments and those who approve the report by the government to manipulate the impact data</p>	<p>PP9: What is the risk there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports?</p>
<p>Technological factor</p> <p>There is no system in the Mining Cadastre for due diligence on applicants' claims regarding their capacity and financial resources. This creates an opportunity for companies to falsify / omit details or bribe cadastre staff to accept their statements without proper verification.</p>	<p>PP10: What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity and financial resources?</p>
<p>Technological factor</p> <p>There is an inadequate due diligence of applicants integrity mainly due to the lack of a system to check companies past lawful conduct and compliance. This opens space for criminal interests or illegal behaviours to be ignored allowing the entry of entities that are more likely to be involved in corruption.</p>	<p>PP11: What is the risk that there is no due diligence on applicants' integrity, such as past lawful conduct and compliance?</p>
<p>Risks related to the Application and Approval Processes</p>	
<p>Political factor</p> <p>Although the law establishes the awarding of licenses on a 'first come, first served' basis, the state gives itself the right to choose the project that offers the best conditions, advantages and gains. Therefore, there is no guarantee that the first to submit the application will be awarded the license. This creates opportunities for cadastre staff to use this aspect to favour another applicant in exchange for money or other incentives.</p>	<p>PP13: If a 'first come, first served' system is in place, what is the risk that the first applicant will not be awarded the licence or permit?</p>
<p>Category 4: Responses-Accountability (RA) has risks related to mechanisms designed to hold public officials, mining companies and others accountable when there are concerns that corruption is a possibility.</p>	
<p>Risks related to Pre-Award Engagement</p>	
<p>Political factor</p> <p>The law establishes that the reports must be public (Decree 54/2015, Article 15, No 12) but not all environmental impact assessments (EIAs) are available to the public. The uncertainty about the EIA content may create an opportunity for corruption as communities and other stakeholders are not aware of the aspects that have been included and excluded from the report. Non-publication itself creates an opportunity for corruption, as there will be no public scrutiny.</p>	<p>RA7: What is the risk that EIA reports will not be publicly available once finalised?</p>

<p>Political factor Social impact assessments (SIA) reports available to the public on the internet. The implementation of EIA and AIS conclusions and recommendations appears to be inconsistent; therefore, it becomes difficult to hold mining companies accountable for mitigating environmental and social impacts.</p>	<p>RA9: Assuming SIAs are required, what is the risk that SIA reports will not be publicly available once finalised?</p>
<p>Risks related to the Application and Approval of Processes</p>	
<p>Political factor The prevailing practice in Mozambique shows that businesses and communities should sign a memorandum of understanding that should result in community development plans. However, community development plans have never been made public. Failure to disclose plans makes it impossible to scrutinize what community rights and benefits are protected</p>	<p>RA12: What is the risk that the content of final agreements between mining companies and communities or landholders will not be publicly knowable?</p>
<p>Risks related to the Post-Licence Issues, Including Termination</p>	
<p>Economic factor There is poor monitoring of projects for staff shortages when compared to the extensive territorial extension and the licenses awarded. The technical capacity of the employees to monitor mining activity is also reduced. The lack of adequate monitoring creates the opportunity for companies to bribe the employees of the cadastre to present information about the companies' work.</p>	<p>RA14: What is the risk that there will be inadequate monitoring of licence- and permit-holders and their obligations?</p>
<p>Category 5: Responses-Legal (RL) has risks related to the legal mechanisms that exist to respond to corruption when it is alleged or identified</p>	
<p>Political factor According to mining legislation, the termination or cancellation of a mining license, authorization or contract falls within the competence of the minister of mines and the decision is communicated to the applicant. The current legislation does not provide for the resolution of such cases by judicial means. However, the minister is at risk of manipulation and / or may use his discretion to favour certain interests.</p>	<p>RL3: If a licence, permit or contract is improperly cancelled or changed, what is the risk that there will be no legal process to settle the grievance?</p>

6.1. Validation workshop

Workshop participants highlighted and gave examples from experience about some of the vulnerabilities and risks presented. The main highlights of the workshop were:

- There are great risks of corruption associated with low salaries affecting the entire public sector, including mining. There is a need for Mozambican society at large to reflect on new values that condemn corruption in the public and private sector.
- Delays in the awarding of licences and constant changes in legislation were seen as penalising mining operators. The question asked by one of the participants was “how to harmonise delays and constant changes in the legislation without affecting the interests of the companies and individuals involved in mining”.
- “The government has limited capacity to train its employees on the legislation that keeps changing every

two years”.

- **The existence of several mining areas for the same few people.**
- **Community consultations remain a big problem and local communities need to be cherished. There is a need for clear guidelines and responsibilities about the consultation process. “Most of the times, communities approve a mining project through consultation without knowing that they are giving up the land definitively, considering the duration of a mining exploration licence and the environmental impact associated with mining activity”.**
- **There are different powers within the communities. The consultations must take into account the different interests in the communities, such as the traditional leader, Government and social groups.**
- **There is a problem of coordination between the institutions involved in mining licencing both at the national and local levels (MIREME, DIREME, MITADER, DITADER).**

6.2. Limitations of the assessment

One of the major limitations of this assessment was the unavailability of the various stakeholders for interviews. Initially, CIP sent letters to explain the nature of the project as well as requesting interviews. A few responded promptly to the request but others did not, despite several attempts made by CIP. It should be mentioned that most of the institutions contacted showed a certain caution during the interviews, which might suggest how sensitive it is to talk freely about the sector. For this reason, some of the details suggested in the MACRA tool could not be deepened, because the interviewees avoided talking about their own experience regarding the constraints associated with the mining licensing process. For example, the delay in the awarding of licenses; the divergence between the requirements of the law and the requests by the cadastre staff; and the initial difficulty of dialogue with the regulator, to mention a few issues.

7. Political and Administrative Context

7.1. Licensing award decision making process

The mining legislation centralises the awarding process and monitoring of all licenses, except the Mining Certificate for Construction and Mining Pass, in the hand of the Minister of Mineral Resources and Energy, who can sometimes delegate some of his powers to other staff in the ministry, especially to the National Directorate of Mines. The Provincial Governors has the power to award the Mining Certificate for Construction and Mining Pass.

Politically powerful individuals linked to Frelimo (the party in power) are involved in different big investments, including mines.¹⁴ For instance, some former mining ministers have shares in mining companies. The former Minister of mines Letícia Klemens, who was appointed in 2016, appears to be associated with several companies, some in the extractive sector (mining and gas), in partnership with relatives of the three previous Mozambican Presidents. For instance, “the minister involved with the former President Armando Guebuza’ family in the company Miguel Nhaca Beta Holding - Business and Technology Applications Limitada; with the son of the late President Samora Machel she has a participation in the company +258 Limitada, which includes the daughter of former President Joaquim Chissano as one of the shareholders” (Averdade 18 Outubro 2016).

The processes of monitoring and enforcement continue to pose a challenge, as regulatory capacity is not commensurate with the speed and scale of the growth of extractive industries in Mozambique. As a result, implementation of the legal framework is considered to be weak (Aaboe and Kring 2013 as quoted in Lillywhite, Kemp and Sturman 2015, p. 7; Nombora 2011, p. 15).

The capacity of institutions in deliberating and implementing policies and legislation, as well as in ensuring policy coherence, needs to be strengthened at both the national and sub-national levels. Specific needs for capacity development are in 1) the Ministry of Mineral Resources (MIREME) to lead the formulation of a broadly shared mining vision; 2) the Parliamentary Committees (Economic Affairs Committee and Budget Committee) to undertake deliberations of submitted legislation and amendments on the basis of solid analysis and evidence; 3) the former Ministry of Environment (MICOA), which is now the Ministry of Land, Environment and Rural Development (MITADER), in implementing the environmental impact assessment law and related regulations, particularly addressing weaknesses with regard to the oil and gas sector; and 4) sub-national government institutions (UNDP 2014, p. 8-9).

¹⁴ CIP database on political elite’ business interests.

The mining license process is characterised by huge delays, given the fact that the processes must go through various stages and levels for technical opinion and approvals. This has led applicants to devise ways to speed up their applications, but in other instances some investors have just decided to leave the country for other jurisdictions with fewer obstacles. Cadastre staff has had difficulty in interpreting the law, which has been constantly changing (every two years or more often). For instance, sometimes the guidance provided by the cadastre staff is different from what is required by the legislation, as mentioned by interviewees.

7.2. Description of the licensing of prospecting and research projects

The prospecting and research license is the mining title assigned to perform geoscientific and geotechnical activities that allow the evaluation of the potential of mineral resources, aiming at the discovery, identification, determination of the characteristics and economic value of the respective minerals (Law 20/2014).

The applicant must submit the completed licensing form at the place where the application was submitted and the relevant supporting documentation, including:

- **The availability of technical and financial resources as well as their experience in the management and conduct of the intended operations,**
- **The publication, in the Official Gazette, of the Articles of Association or a certified copy of the certificate of incorporation of the company, including the identification of the shareholders and the respective value of subscribed capital and any changes,**
- **Work programme, including the environmental management program and its budget,**
- **Proof of payment of the processing fee,**
- **The unique tax identification number (NUIT) of the applicant,**
- **Certificate of tax discharge.**

According to Article 5 of Decree 31/2015 (Mining Law Regulation), after submission by the applicant of an application for a mining title and receipt by the official of the cadastre, the cadastre shall immediately, in the presence of the applicant:

- a) **Verify that the application form submitted by the applicant is duly completed and, if not, request the applicant to correct it;**
- b) **Check the availability of the requested area, if the area is not under a mining license or other request; if applicable, the applicant must change his request;**
- c) **Request payment of the processing fee, if the requirements established in the previous paragraphs are fulfilled;**
- d) **Accept the application by proof of payment of the processing fee, immediately record the data in the logbook and indicate the exact time the application was registered, signing the same book together with the applicant;**
- e) **Print two copies of this form, which will be subsequently be stamped and signed by the applicant and the person in charge of the cadastre, with a copy for the applicant and another one attached to the respective file;**
- f) **Issue a receipt that contains the assigned code, the geographical coordinates, and a geographical sketch of the requested area, if applicable, that must be signed by the applicant and the cadastre official and;**
- g) **Issue within 48 hours of the notice of publication in a newspaper of wide circulation, which must be duly signed.**

In accordance with Decree 31/2015, Article 31, No. 2, in considering the application for a prospecting and research license, IMAM may:

- a) **Notify the applicant of the correctness of any errors or omissions or the provision of any additional information, setting, for this purpose, a maximum period of 15 days**
- b) **Verify the information provided in the application, as well as the applicant's background and references;**

- c) **Consult or request opinions from other institutions and / or bodies, as required;**
- d) **Make recommendations and / or propose changes to the application.**

The decision on the application for a prospecting and research licence is taken by the Minister within 90 days after its submission and notified to the applicant 10 days after the decision (Decree 31/2015, Article 32, No. 1 and 2).

The validity of a prospecting and research license is two years for mineral resources for construction, being renewable once, for the same period (Decree 31/2015, Art. 34, No. 1); and five years for other mineral resources, including mineral water, being renewable once for a further three years (Decree 31/2015, Art. 34, No. 2).

7.3. Description of the licensing of mining concession projects

A mining concession is the mining title attributed to operations and work related to the development, extraction, treatment, mining, as well as the disposal of mineral products (Law 20/2014).

The application for a mining concession may or may not be the result of the prospecting and research license (Decree 31/2015, Article 45, No. 1). The request for an emerging mining concession enjoys the pre-emptive right, provided that the respective party has fulfilled its obligations under the prospecting and research activity (Law 20/2014, Article 42, No. 4).

The applicant must submit the completed licensing form at the place where the application was submitted and the relevant supporting documentation, including:

- **Availability of technical and financial resources, as well as their experience in the management and conduction of the intended operations;**
- **Statutes published in the Official Gazette or a certified copy of the company’s certificate of incorporation, including the identification of the shareholders and their subscribed capital and eventual changes in the application;**
- **Final geological report;**
- **Technical and economic feasibility study;**
- **Proof of payment of the processing fee;**
- **Applicant’s unique tax identification number (NUIT);**
- **Certificate of Tax clearance (certidão de quitação fiscal).**

Table 6: Licensing process according to the mining legislation

Type of Mining License	Employee of the mining cadastre at central or province level	National Institute of Mining	Minister of Mineral Resources and Energy
Prospecting and research Applicant - Fill out the application form and attach supporting documents	Checks the availability of the requested area; Request payment of the processing fee; Accept the request; Print two copies and sign along with the applicant; Issue a receipt	Notify the applicant of any errors or omissions or the provision of any additional information; Verify the data provided in the application, as well as the background and reference to the applicant; Make inquiries or request opinions from other institutions; Make recommendations and / or propose changes to the application	Decision to issue the license within 90 days
Mining Concession	Checks the availability of the requested area; Request payment of the processing fee; Accept the request; Print two copies and sign along with the applicant; Issue a receipt	Notify the applicant of any errors or omissions or the provision of any additional information; Verify the data provided in the application, as well as the background and reference to the applicant; Make inquiries or request opinions from other institutions; Make recommendations and / or propose changes	Decision of the issue of the license within 180 days after the submission of the request

Figure 1: Flowchart for prospecting and research licencing award (actual practice)

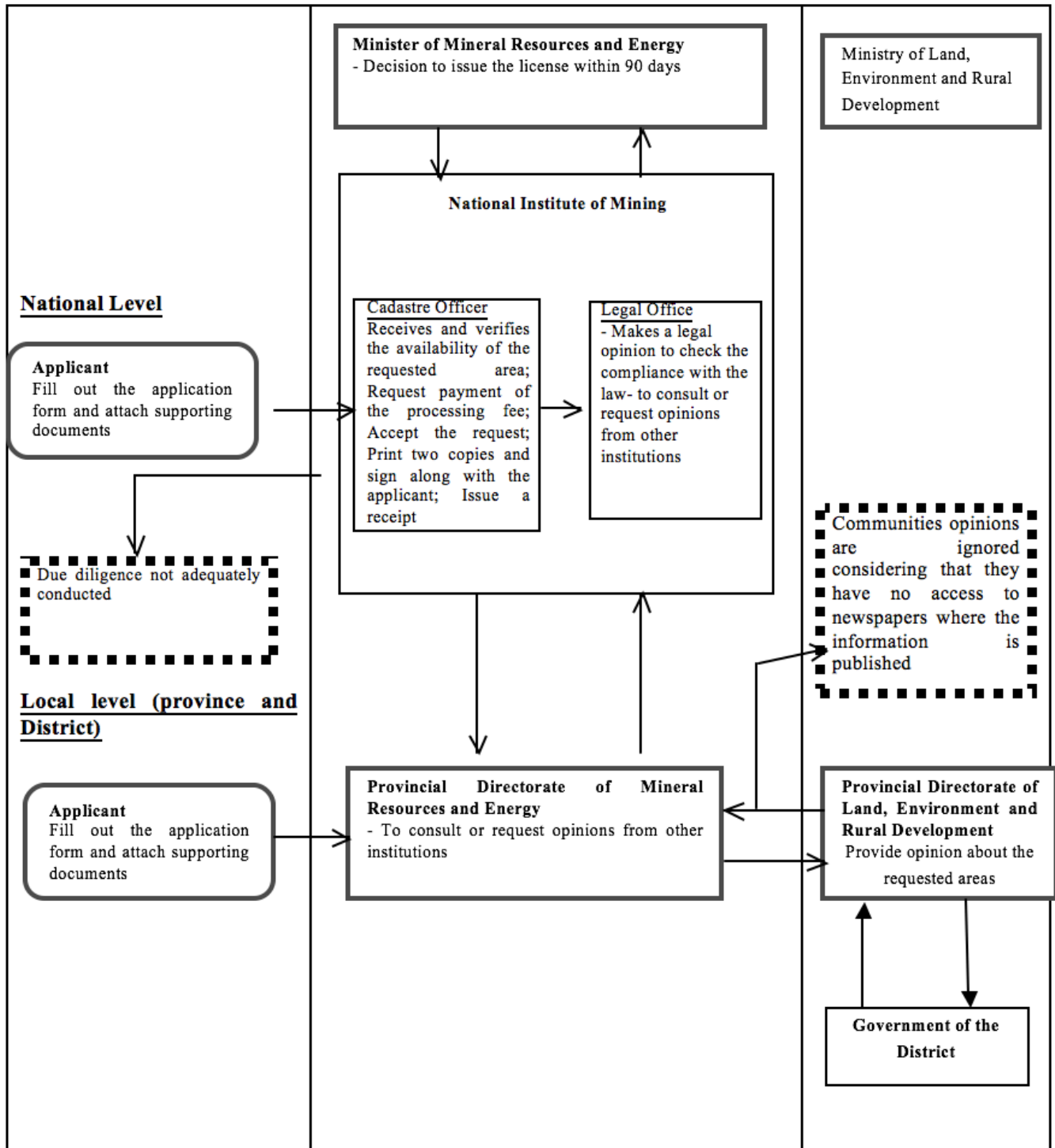
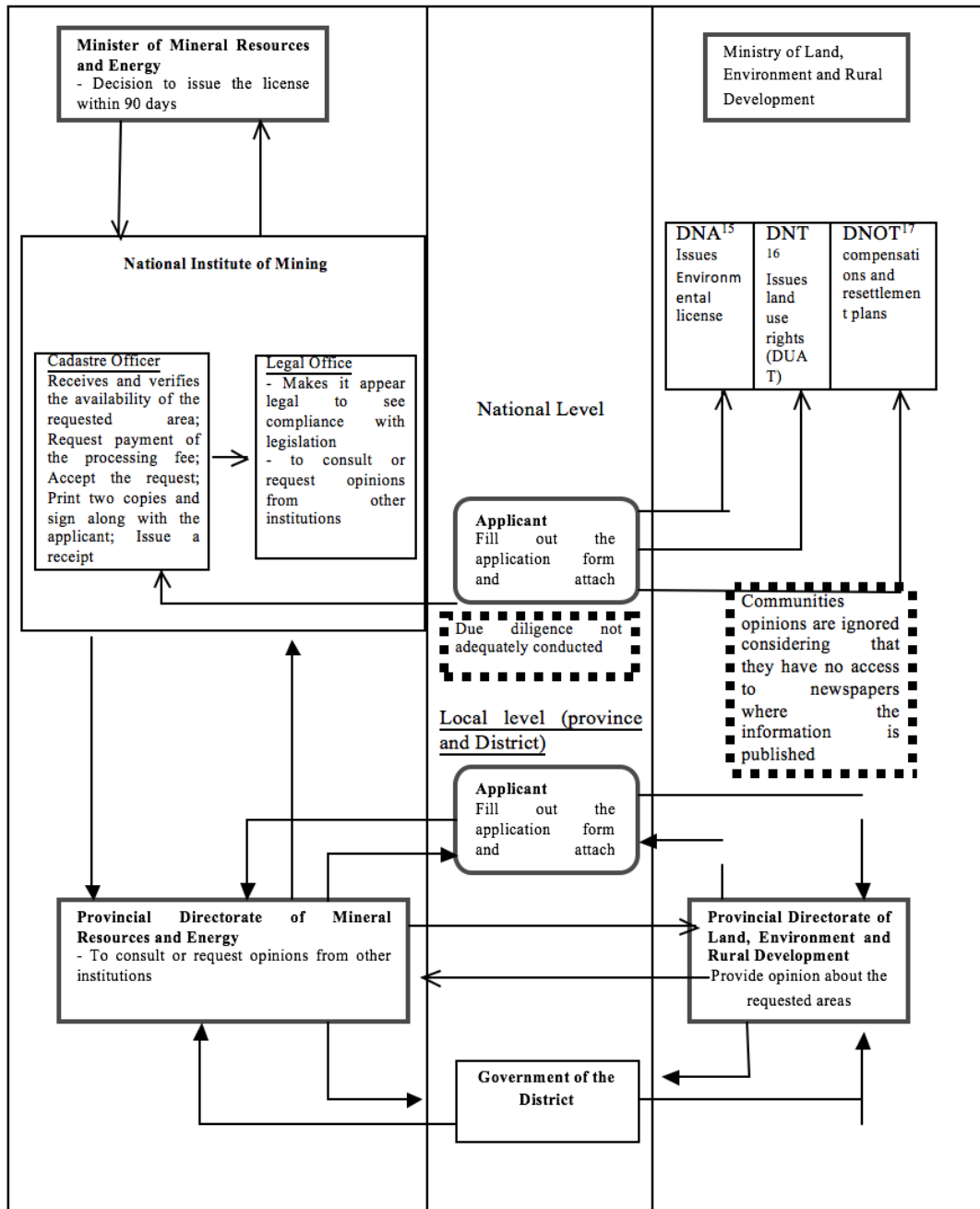


Figure 2: Flowchart for mining concession licences awards (actual practice)



As it has been illustrated in the two flowcharts, in practice, the request for prospecting and research licenses, as well as for mining concessions, is made by applicants through the submission of license applications according to the requirements. The application is accepted if everything is in order, including the proof of the payment of the processing fee. Once this is done, the applicant waits for the approval of the license within 90 days (prospecting and research license) and 180 days (mining concession). During the period mentioned above the processing of requests goes through several stages, one of which concerns the request for opinions at the local level. However, as some officials interviewed pointed out, a certain delay exists in receiving the opinions from other institutions and levels of government, which often contributes to delays in the issuance of licenses. When the licenses are approved, the applicants are notified to collect them, at which time they must pay the fees due.

It seems that the main vulnerability in issuing mining licenses is related to the failure to meet the deadlines, which creates an opportunity for applicants to find ways to speed up the approval of their applications. In the table below, the risks of corruption are assessed in detail, both in the legislation and practice.

8. Application, processing and awarding of licenses

With regard to the application, processing and awarding of licenses, there is a mixture of high and moderate risks impacts. But, the risk of external interference in cadastre agency's awarding licence, the risk of manipulation of the duration and timing of each step of the awards process and the risk of confused or misled about what stage their application process have a score of 25 points and represent high-risk situations, with a Likelihood of occurrence and a catastrophic Impact.

The fact that the mining legislation centralizes the entire process of awarding and monitoring of all licenses in the hands of the Minister of Mineral Resources and Energy creates strong possibilities for political interference in the licensing process, particularly because the Minister's appointment depends on political trust. Considering the entrenched promiscuity between politics and economics in Mozambique, there are reasons to believe that there has been some political influence for a large number of licences awarded to the political elite.

According to a study conducted by CIP in 2012, it was found that the local political elite held business interests in almost all the 589 companies studied where the Mozambican Government had shares. 15

There have been systematic delays in complying with the duration and timing of each step of the licensing process. We accessed the mining cadastre to check how long it takes for a mining licence to be awarded, and we found great disparities. Some licences were awarded in a record time of fewer than eight weeks, but others were still being processed even after one or more years.

According to some interviewees, the delays in the processing of mining applications were related to the need for the cadastre staff at the central level to consult with other institutions (at the central and provincial levels) as well as updating the information of the applicants, depending on the cases. The way the licence awarding process is designed requires an exchange of information between central and local level cadastre offices and between various institutions

This situation is a direct result of a lack of reconciliation between the land cadastre (which is neither public nor electronic) and the mining cadastre (which is public and electronic), which forces the mining cadastre staff to request opinions on the land occupation situation to land cadastre staff, whose management is under the Ministry of Land, Environment and Rural Development (MITADER). In a sense, there has been a problem of institutional coordination between the Ministry of Mineral Resources and Energy (MIREME) and the Ministry of Land, Environment and Rural Development (MITADER).

Other interviewees, in particular those from the cadastre agency, argued that the delays could be attributed to the applicants themselves for providing insufficient or inaccurate information without which the applications cannot be processed. With regard to the non-compliant applicants, it appears that most of the cases included those who lacked the technical and financial capacity to carry out mining activities.

Moreover, the discretion enjoyed by the mining cadastre staff does not allow verification and /or control of the status of applications, making it difficult to hold them accountable for the reported delays. In any case, delays create opportunities for companies to offer bribes or gifts to cadastre staff in exchange for speeding up their applications.

Risk: What is the risk of external interference in the cadastre agency's awarding of licences etc.?) addresses external interference in the mining licensing process.

Risks: What is the risk that the duration and timing of each step of the awards process can be manipulated?) and 14: What is the risk that companies will be confused or misled about what stage their application is at in the awards process?).

15 Nádía Issufo. 13.06.2012. Business elite of Mozambique are linked to political power -. DW. Available at <http://www.dw.com/en/-002/business-elite-is-connected-to-power-to-power-to-16019516>).

In general, the awarding of licenses follows the 'first come, first served' system. However, exceptionally, it may happen that the cadastre services may award a license to another applicant evoking the best conditions and benefits for the Government, but there are no indications that what constitutes "the best conditions and benefits for the Government" has ever been publicly explained.

Although the licensing agency ensures that the 'first come, first served' system is applied, there is no guarantee that this actually occurs, since there is no mechanism to verify who submitted an application first, coupled with the excessive discretion of the cadastre officials and of the Minister of Minerals Resources and Energy. The regulator (INAMI) is already in possession of new software that is in the installation and testing phase to better manage the information of the cadastre, but it is not known if this software includes an automation of the order of applications.

Additionally, the law might be contradictory by stating that the applications are awarded based on the 'first come, first served' system when at the same time there is a possibility to award a licence to an applicant who offers better conditions, advantages and gains for the Government, without, however, presenting the criteria for such consideration.

9. Environmental and social impact studies

The risks that there is no verification of the accuracy or truthfulness of social impact assessment is possible to occur and the impact is moderate and that EIA and SIA reports will not be publicly available once finalised is possible to occur and the impact is catastrophic

Inadequate checking of social impact and environmental impact assessments (SIA/ EIAs) contributes to the neglect of the effects of mining activities on the social and economic life of the local population as well as on their health, due to the negative environmental impact of mines. As noted by Mimbire (2016a), "the environmental impacts resulting from the exploitation of coal are known, but there is no record that Mozambique is monitoring these impacts, even if it has the necessary technology to monitor pollution levels as set out in the environmental management plans".

In the interviews, MITADER staff acknowledged their limitations in verifying the environmental and social assessment reports, which are closely linked to the small number of qualified staff to respond to the workflow and requirements of environmental and social impact assessments. Due to this situation, many reports are approved without any verification of their accuracy and / or authenticity.

Although the law establishes that Environmental Impact Assessments (EIAs) and Social Impact Assessment (SIA) reports must be made public (Decree 54/2015, Article 15, No. 12), in actual fact not all are publicly available. As a result, it is impossible to make the mining companies accountable for the negative social and environment impact. The inconsistent publication of EIA and SIA reports can, on the one hand, create incentives for mining companies to hide the negative practices and impact of their work and, on the other hand, bring uncertainty about the future of communities, since vital aspects of the local ecosystem and livelihoods are affected by the mining projects.

Risk: If a 'first come first served' system is in place what is the risk that the first applicant will not be awarded the licence or permit?.

Risk: What is the risk when there is no verification of the accuracy or truthfulness of social impact assessment (SIA) reports?; and What is the risk when there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports?

Risk: What is the risk that EIA reports will not be publicly available once finalised?; and Assuming SIAs are required what is the risk that SIA reports will not be publicly available once finalised?

10. Institutional capacity

10.1. Institutional Capacity of the cadastre

The risks that cadastre staff and managers will be unable to cope with the workload of the agency and that mining companies can stockpile licences or permits without actually doing any work is almost certain to occur and the impact is catastrophic. But, the risk that there will be inadequate monitoring of licence- and permit-holders and their obligations is possible to occur and the impact is moderate.

According to several interviewees, the reduced number of staff involved in the processing of mining licenses applications and monitoring of mining projects (at the central and provincial levels) is reflected in delays in the awarding of licenses. There has been increasing pressure on the cadastre staff to process a growing number of mining applicants. This creates incentives for cadastre staff to work on selected applications whose applicants are available to pay bribes to expedite their applications. As long as the cadastre sector is not equipped with sufficient staff, technology and adequate incentives, the risks of corruption will tend to persist.

The stockpiling licences is a fact in the Mozambican mining cadastre, and such a situation is possible because of the deficiency in the monitoring of the activities, of whether the companies are fulfilling their obligations or not, as well as the inability of the cadastre system to eliminate expired and idle licenses.

The Mozambican legislation is clear in relation to the deadlines and the strictness in carrying out mining activities. Companies that do not comply with their work plan will face a sanction of the revocation of their license. But it is known publicly that there are many licence holders who do not have the technical and/or financial capacity to develop mining activities. The proliferation of licenses gives an impression that there is no room for the entry of new applicants (investors) and creates opportunities for the cadastre staff to use this information to solicit bribes from prospective new applicants. This situation hinders the development of the sector by alienating potential investors.

There has been poor monitoring of mining projects owing to staff shortages as compared to the territorial extension of the country and the number of licenses already awarded. The technical capacity of the employees to monitor mining activity is also limited. The lack of adequate monitoring creates an opportunity for companies to bribe the cadastre staff to present information about the companies' work.

10.2. Contracts and agreements

The risk that the roles and responsibilities of the government negotiating team will not be clear prior to negotiation is almost certain to occur and the impact is catastrophic.

The strength of the mining companies in terms of their technical capacity in the different aspects of contracts, together with their ease to get available specialised legal expertise, is known. Considering the weak technical capacity of public officials on the specifics of mining sector contracts, the knowledge of the negotiating teams might be reduced. This is made worse by the fact that the roles and responsibilities of the negotiating team are not made public. The contracts negotiation process is closed and in the end, there is no detailed report about the conditions and the agreed terms, nor about the assumptions that underpin the decisions of the government team. However, there is a perception that the negotiating teams are there to make business as easy as possible for the companies, even to the detriment of the interests of the Government, because of vested interests.

Risk: What is the risk that cadastre staff and managers will be unable to cope with the workload of the agency?

Risk: What is the risk that mining companies can stockpile licences or permits without actually doing any work?

Risk: What is the risk that there will be inadequate monitoring of licence and permit holders and their obligations?

Risk: Assuming contract negotiations are required what is the risk that the roles and responsibilities of the government negotiating team will not be clear prior to negotiation?

11. Transparency and Verification of information

11.1. Beneficial Ownership

The risk that applicants for licences will be controlled by undeclared beneficial owners is almost certain to occur and the impact is catastrophic, but the risk that senior public officials or politicians will not declare their assets, shares or income related to mining interests is possible to occur and the impact is catastrophic. Also, there is a risk that in practice there is no due diligence on applicants' claims regarding their capacity and financial resources and on applicants' integrity such as past lawful conduct and compliance that is possible to occur (Likelihood) but the impact is moderate.

"The significant exploitation of mineral resources in Mozambique is carried out by subsidiaries of large multinationals, many of which are located in tax havens", which makes it difficult to obtain information about its true owners, since in non-transparent jurisdictions companies enjoy the privilege of secrecy" (Mimbire 2016b, 4).

In Mozambique, there are no laws or practices on how to identify beneficial owners. Although any company that wants to operate in Mozambique is obliged, for registration purposes, to identify the beneficiary owners, access to this information is not necessarily public. These circumstances may be creating unfair competition by favouring powerful entities potentially in situations of conflict of interest, particularly in those cases where there are alliances between foreign companies and some very well selected / chosen nationals.

CIP's investigations into conflicts of interest, involving visiting the business registration office, have revealed that national political elites have been creating companies in which they place their minor children and / or other people as partners, as a way of camouflaging the true identity of the beneficiary owners.

Similarly, foreign companies may legally be represented in the mining licenses applications by intermediaries, which allow owners and / or investors to have their identity undeclared, hiding possible conflicts of interest behind this opacity.

The Public Probity Law provides for the declaration of assets by the holders of public office, although not to public officials in general. According to the Law on Public Probity, only the part of the identity of the holders is publicly available, while the substantive part, related to the assets, is not public. For this reason, to date, the declarations of assets have not been made public, which does not allow assessing if there are conflicts of interests or not.

There has been limited enforcement of laws if we consider that the Annual Report of the Attorney General of the Republic on the State of Justice in Mozambique in 2015 and 2016, addressed to Parliament, states that a large number of public office holders, including ministers and national and provincial directors, have been shy about making their asset statements.

This attitude contributes to the increase in the non-declaration of assets. It is a fact that in the Mozambican mining cadastre it is possible to find names of both senior civil servants (e.g. Minister of Mineral Resources and Energy) and politicians who are shareholders of mining companies. There are also cases of "senior officials of the institutions that regulate the Mozambican mining sector who are also executives of private companies in the same sector, making them both regulators and business persons" (Gerety, 15 May 2013).

Risk: What is the risk that applicants for licences etc. will be controlled by undeclared beneficial owners?

Risk: What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?

In both situations, senior public officials and politicians have the possibility of influencing decisions about mining licenses and other aspects related to the sector.

The verification of applicants' claims regarding their capacity and financial resources and their integrity are essential aspects in selecting capable and serious mining licence holders. Although some verification is usually undertaken through the request of proof of financial and technical capacity, this has not been enough to exclude incapable applicants who currently abound in the Mozambican mining cadastre. Similarly, there is an inadequate due diligence regarding the market value of some mineral resources by the Government. According to an interviewee, the license applications are based on the information provided by the companies, who may omit information about the true value of the resources. This has an impact on taxes and royalties due to the state.

11.2. Partnerships between domestic and foreign companies

The risk that details of the partnership between domestic and foreign companies will not be known publicly is almost certain to occur and the impact is catastrophic.

The details of the partnerships between foreign companies and a state-owned or private domestic company are not in the public domain, which creates opportunities for the manipulation of the partnership process for private benefits. Such situations may cover up possibilities of conflicts of interest and influence the decision-making process in the cadastre sector.

12. Community consultations and resettlements

The assessment showed that the risks of lack of knowledge of the legal framework for consultation, the manipulation of the negotiations for landholder or community agreements and the community leaders negotiating with a mining company will not represent community members' interests is almost certain to occur and the impact is catastrophic.

In general, communities have little knowledge of the legal framework on participation in the process. Mozambique has a significant record of poorly conducted public consultations, where communities were unprepared for the process, as they did not even know the basic right to have prior access to information on the process to better position themselves for the consultations. As a result, there have been manipulations of communities' consultations to benefit the companies. One of the negative impacts of such an approach has been the recurrent social instability and conflicts between communities and companies in mining regions where the consultation processes have been problematic.

There are cases of mining activity that started without the necessary public consultations and where the communities did not even know that they should be consulted. A case in point is the exploration of heavy sands by the Chinese company Haiyu Mining in Sangage, Angoche District.

The three risks have in common the poor consultations and agreements with communities in the context of mining activities. Communities' lack of knowledge about the impact of mining activities, their poor level of organisation to participate in the consultations, and companies' rush to speed consultations in order to guarantee mining licenses (and start with their activities soon afterward) results in the lack of consideration of the concerns and positions, as well as the demands of the

Risk: What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity and financial resources?; and What is the risk that there is no due diligence on applicants' integrity such as past lawful conduct and compliance?

Risk: When foreign companies are legally required to partner with local companies or a local SOE for mining activities what is the risk that details of these partnerships will not be known publicly?

Risk: Assuming consultation with communities or landholders is required what is the risk that the legal framework for consultation is not known publicly?).

communities. This contributed to the shrinking of communities' livelihoods options as well as triggering conflicts in the communities between local leaders and their own constituencies, as well as between the communities and the companies.

Generally, communities are represented by community leaders in discussions with companies, but often times community leaders who have an obligation to defend them, do not do so. In most of the resettlement processes related to the mining sector that occurred in the country, communities felt betrayed by those who did not defend their interests. One emblematic example is the resettlement of communities in Cateme who were affected by the coal project owned by the multinational mining company Vale in Moatize, Tete province.

Most mining contracts and concessions include a clause requiring companies to negotiate with the communities a memorandum of understanding that sets out all of the company's responsibilities for community development. However, there are reports in Mozambique of payments that companies have made to the Government for community development, which never benefited the communities. For example, the Chinese company Haiyu Mining signed a memorandum of understanding with the Mozambican Government in 2012 to implement social responsibility activities in Sangage, and has disbursed 3 million US dollars. This amount never came to benefit the communities, and they only became aware of the existence of the funds when they complained about the negative impact of the heavy sand exploration project.

Risk: Assuming consultation with communities or landholders is required, what is the risk that negotiations for landholder or community agreements can be manipulated?; Assuming consultation with affected communities is required, what is the risk that their free, prior, informed consent will be ignored as a result of corrupt practices?; and What is the risk that community leaders negotiating with a mining company will not represent community members' interests?).



13. Recommendations

Proposals of recommendations to mitigate the corruption risks

Application, processing and awarding of licenses

- 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 that are not provided for in the current legislation.
- In a similar vein, there should be a consideration about the establishment of an independent external review of the award as a measure to make cadastre staff accountable for their decisions.

Environmental and social impact studies

- Improve the Government's technical capacity to monitor projects through the adoption of appropriate technologies and staff training or hiring trained staff to evaluate reports and monitor the implementation of environmental management plans.
- Enforce the verification of SIA and EIA reports by improving the Government's technical capacity to monitor environmental and social impacts through the adoption of appropriate technology and staff empowerment.

Institutional capacity of the cadastre

- It is recommended that the Government develop a policy of attracting and retaining staff in the cadastre sector. In addition, it is necessary to invest in the automation of the various stages of mining licensing, including clear obligations and responsibilities set for the staff. This should link the national cadastre office with those in the provinces by using information technologies.
- 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. The monitoring of the activities in the field should be ensured in order to detect licenses that are not being implemented and to cancel them.
- Establishment of a digital (online) system for the submission of license applications that can be publicly monitored; this may eliminate the possibility of bribes for cadastre staff to speed up the processing of certain companies' and / or individuals' applications. Additionally, it may enforce the compliance with the 'first come, first served' system.

Contracts and agreements

- Increase public officials' technical capacity through training and experience, and exchange of experiences with other mining jurisdictions that are more advanced than Mozambique. Prior to the start of any negotiation, the Government should make public its assumptions, and the role and responsibility of its negotiating team should be declared.

Transparency and Verification of information

- The Government should adopt relevant legislation and introduce the mandatory declaration beneficiary owners in mining license applications and make them public, without exception.
- Extend the scope of the obligation to declare assets, to include employees who can influence processes in their sectors and legally guarantee the full publication of such statements.
- Enforce the application of penalties provided for in the Public Probity Law and ensure its proper implementation against people in addition to those in companies who do not declare conflicts of interest.
- Establishment of a system (e.g. database) that enables detailed verification of information in addition to the declarations of applicants.

Partnerships between domestic and foreign companies

- Establishment of clear and publicly accessible criteria for partnerships between foreign and domestic companies (e.g. public tender), in which it is clear that publicly exposed persons (clearly identified and appropriate categorization of this type of situation) should be excluded from these partnerships, under risk of conflict of interest. For example, establish partnerships by means of a public tender.

Community consultations and resettlements

- The Government must ensure the proper preparation of communities prior to the start of negotiations through the provision of information and knowledge about mining activity in their area of jurisdiction.
- The full implementation of consultation legislation should be closely monitored.
- Impose severe penalties for the violation of the consultation legislation.
- Make public, on a regular basis, the minutes of public consultations and all agreements and / or memorandums signed between the company, the Government, and communities.

14. Conclusions

This assessment is part of the Mining for Sustainable Development (M4SD) project, which is being implemented in 20 countries with the coordination of Transparency International (TI) Australia. 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”.

Mozambique’s great potential of mineral resources and hydrocarbons has been contributing to an inflow of investments for the development of megaprojects in the extractive industry sector. However, the regulatory institutions of the mining sector still do not have the full capacity, in terms of sufficient and qualified human resources as well as adequate technology that is needed to manage the fast growing mining sector in an efficient manner.

Natural resource development expands and multiplies opportunities for rent seeking, as officials are tasked with allocating the distribution of enormously valuable extraction rights. For instance, “the discoveries of coal deposits in the northern province of Tete, gas in Inhambane province and petroleum offshore have not only attracted international mineral resources companies but have also linked the interests of business, the Party and Government much more tightly together (BTI 2016, p.3).

This report analysed the licensing process for mining activity in Mozambique, based on the legislation and actual practices by the applicants. Of the five mining titles and authorizations (Prospecting and research license, Mining concession, Mining certificate, Mining password, Mining license and Marketing license for Mineral Products) provided for in the law for the mining activity, two (Prospecting licenses and Research and mining concession licenses) were selected. The choice of these two types of licenses is based on recognition of the large volume of financial resources they mobilize and the socio-economic and environmental changes they produce.

The methodology used in this evaluation was eminently qualitative and included a review of documents, identification of various stakeholders and interviews. Data collection followed the MACRA tool, which was used as a reference for questions, categorization and information analysis suggestions. Interviews were conducted with about 28 people representing various stakeholders.

We have identified 23 corruption risks that range from insignificant (blue), moderate (yellow and amber) to catastrophic (red colour) impact. All the risks with moderate and catastrophic have a likelihood of occurring, while others are almost certain that they will occur. The analysis presented covered all the risks with a catastrophic impact (13), because of their high impact and high likelihood of occurring.

In general, the critical issues of the mining licensing process in Mozambique can be summarized, but do not exhaust, as having the following characteristics:

In the case of Mozambique, mining legislation centralises the awarding process and monitoring of all licenses, except the 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.

By accessing the mining cadastre it was noticed that there is a great disparity in the time interval for approval of licenses. Some licences were awarded in record time (less than eight weeks) while others suffered huge delays (more than a year). This disparity in the processing of applications is indicative of a problem in the sector. It does not mean that the delays in the approval of licences can be solely attributed to the high discretion of the cadastre staff. There are other aspects that are contributing to the delays. For instance, the human and technical capacity of the cadastre sector is reduced as compared to the volume and complexity of mining projects’ licensing and monitoring (at central and provincial level), resulting in the delay in the awarding of licenses. The applicant’s delay in fixing irregularities in their applications is also associated with the delays in the awarding process. Therefore, this puts more pressure on the understaffed cadastre agency.

Mozambique has just over 350 geologists and mining engineers trained locally and abroad, a number considered to be very small for the needs of the extractive industry in the context of rapid growth (Notícias 10 September 2014). Suffice to state that at the moment the cadastre has thousands of approved licenses, which poses a challenge to the sector in terms of monitoring the activities of the mining permit holders. The sector also lacks skilled people in terms of negotiations of contracts, which is another critical area in the mining sector’s value chain.

It also seems that external interference might be affecting the performance of the sector. Judging by the number of companies in which the political elite have shares, individually or on behalf of the Government, some of which lacking financial and

technical capacity, it can be concluded that the cadastre agency may be subject to outside interference to respond to the various requests of this group and other investors. The fact that there are many licenses approved, but only few companies in the production phase, can be a sign that there has been some external interference leading to a massive approval of licenses, even in the context of no guarantees of the applicant's technical and financial capacity to develop the mining activity.

The strong presence of the political elite and public officials in the mining sector and the fact that declarations of assets have not been made public suggest that there may exist many situations of conflict of interests. 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 gap in the public probity law that does not make it mandatory for public officials that are not office holders to declare their assets. Again, there have been reports of high public officials involved in situations of conflict of interests in the extractive industry and beyond. Some of these officials are linked to foreign companies that remain undeclared, because information about beneficiary owners 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 (EMEM) performs multiple roles in the sector, such as exploration and production, and also is involved in awarding licences. It appears that EMEM has privileged access to mining information due to the structure of the mining award process. One of EMEM's three shareholders is INAMI, which is the mining sector regulator and is in charge of awarding mining licences. This suggests that EMEM, through INAMI, is simultaneously a regulator and a mining permit holder.

Conflict 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. In a way, it can be said that there is unfair competition in the Mozambican mining 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 issue appears to be the lack of enforcement of laws. Both the consultations and EIA/SIA process have not been properly conducted, whether due to the lack of knowledge/ technical capacity by the stakeholders or allegation of manipulation.

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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16. Annexes

Annex 1. Risk Assessment tables

Risk 1. What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?		Code CF10
<i>When governments require declarations of wealth and business interests it creates a psychological deterrent to corruption by requiring public officials and politicians to lie if they want to hide mining interests.</i>		
Likelihood Score 3 / 5	Evidence to support assessed likelihood 1. Politically powerful individuals linked to Frelimo (the party in power) including current and former ministers of mining have shares in mining companies. Source: - CIP database on political elite business interests; - CIP analysed 589 companies owned by leaders of the Mozambican state and found that the local political elite holds business interests in almost all business areas (http://www.dw.com/pt-002/elite-empresarial-de-mo%C3%A7ambique-est%C3%A1-ligada-ao-poder-pol%C3%ADtico/a-16019516). Elite empresarial de Moçambique está ligada ao poder político - Nádía Issufo. 13.06.2012. DW). - Media reports (e.g. AVerdade 18 Outubro 2016 among others); - Official Gazette.	
2. There are also some concerns regarding the role of former President Guebuza in the awarding of oil and gas exploration blocks in Mozambique. Source: - Mail & Guardian 22 May 2017 (https://mg.co.za/article/2012-01-06-mozambiques-mr-guebusiness); - Freedom House.2015. Mozambique. (available at https://freedomhouse.org/report/freedom-world/2015/mozambique).		
3. The current minister of mineral resources and energy is a shareholder in mining companies (e.g. company + 258, Limitada) with the children of the former Presidents of Mozambique (Joaquim Chissano e Armando Guebuza). Source: - http://www.cip.org.mz/historico/cipsrddb/prtco.asp?id=616 - http://www.verdade.co.mz/destaques/democracia/40146-a-heranca-e-os-pecados-do-glorioso-presidente-guebuza		
Impact Score 5 / 5	Evidence to support assessed impact 1. Politicians and officials have significant private interests that might influence decisions in the mining sector (conflict of interests). Source: - Mining Cadastre http://portals.flexicadastre.com/mozambique/en/ - CIP database on political elite business interests .	
2. Many high-ranking officials in the agencies regulating Mozambique’s mining industry are also executives of private companies within the same sector, making them both regulators and businessmen. Source: - Mozambique’s Mining Boomtown – a report by Rowan Moore Gerety, 15 May 2013. Available at https://www.guernicamag.com/mozambiques-mining-boomtown/ - AVerdade. 21 Março 2017. Apetite de elites políticas e falta de transparência mancham negócio do gás natural em Moçambique.. Available at - http://www.verdade.co.mz/destaques/democracia/61528-apetite-de-elites-politicas-e-falta-de-transparencia-mancham-negocio-do-gas-natural-em-mocambique .		
Description of impact Considering their interests in mining, it is likely that political and economic elite is influencing decisions in the sector. This has a potentially severe impact in that awards will be made in return for bribes or gifts, regardless of national laws, regulations or the technical merit of applications (Nest 2016, p. 64).		

Likelihood x Impact = 3 x 5	<i>Assessment</i>	Total score: 15
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Risk 2. What is the risk that decentralisation of agencies will create uncertainty in the awards process? <i>Decentralisation can create confusion and inefficiencies around communicating information and authorising licences, which create opportunities for corruption.</i>	Code CF5
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Likelihood <i>Score</i> 5/5	<p style="text-align: center;">Evidence to support assessed likelihood</p> <p>1. Mining Cadastre at the local level services (provincial directorates of Mineral Resources and Energy) has some capacity, but still insufficient to ensure transparency and flexibility in the processing mining licences (e.g. limited use of ICTs as well as limited technical capacity). The constant changes in mining legislation create confusion over procedures for both cadastre staff and applicants as they have limited time to assimilate and implement them.</p> <p>Two cases were reported by two interviewees (different interviews) where the applicant company had obtained approval of a request at the central level, but at the local level, a new approval was required.</p> <p>Source:</p> <ul style="list-style-type: none"> - Interview with two representatives of mining company 1 (23/03/2017). - Interview with two representatives of mining company 3 (28/03/2017). - Interview with public two officials (30/03/2017). <p>“There is a problem of coordination between the institutions involved in mining licencing both at the national and local levels” (MIREME, DIREME, MITADER, DITADER) (MITADER staff. Validation Workshop, 25 May 2017).</p> <p>“The government has limited capacity to train its employees on the legislation which keeps on changing every two years” (Mining Operator. Validation Workshop, 25 May 2017).</p>
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<p>2. Little information on what is happening at the local level is an indication of problems of institutional coordination between central and provincial level. For example, applicants claim that there are other costs at the local level related to the processing of the licenses.</p> <p>Source:</p> <ul style="list-style-type: none"> - Interview with one public official (23.03.2017). - Interview with eight representatives of an economic association (28/03/2017). 	
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Impact <i>Score</i> 3/5	<p style="text-align: center;">Evidence to support assessed impact</p> <p>1. The decentralization of some tasks has resulted in systematic delays in the processing of licenses</p> <p>Source:</p> <ul style="list-style-type: none"> - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017). - Interviews with two public officials (30.03.2017).
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<p>2. Foreign investors withdrawing due to delays in the awarding mining licenses.</p> <p>Source:</p> <ul style="list-style-type: none"> - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017). 	
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<p>Description of impact</p> <p>The lack of coordination between the central and local level creates uncertainty and confusion in the mining licence holders.</p>	
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Likelihood x Impact = 5 x 3	<i>Assessment</i>	Total score: 15
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<p>Risk 3. What is the risk that a proposed project is critical for the survival of the applicant? <i>If the company has all its funds invested in a single project (this is known as ‘asset specificity’), this creates incentives for the company do whatever it takes to ensure the project is approved. This is a particular problem with junior mining companies.</i></p>	Code CF8
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Likelihood Score 5/ 5	Evidence to support assessed likelihood The sector is dominated by asset-backed companies with no financial capacity. Many applicants have acquired licences in order to find partners or sell them to investors. Source: - Mining Cadastre (http://portals.flexicadastre.com/mozambique/en/). - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017). - Interviews with two public officials (30.03.2017).
Impact Score 3/ 5	Evidence to support assessed impact There might be attempts to corruptly obtain some projects, but this is not a problem across the whole sector The proliferation of asset-backed companies has led to speculation through the sale of licenses. For example, of the 200 prospecting licenses issued in 2012 for Mozambicans and foreigners, it is estimated that half were sold (Hanlon 2013, p.8). “The sale of licenses has become a pattern of easy accumulation of wealth within the nomenclature. The mining cadastre of the Republic of Mozambique shows millions of hectares of land processed in favour of the political elite, without the knowledge of the communities, in all districts of the country “(O Pais 08 Março 2013. Available at http://opais.sapo.mz/index.php/economia/38-economia/24488-empresa-e-membros-da-frelimo-controlam-titulos-mineiros.html).
Description of impact The sale of licenses has become a pattern of easy accumulation of wealth. Competition for the sale of licenses may be creating corruption opportunities to ensure the advantages over other competitors at all costs	
Likelihood x Impact = 5x 3 <i>Assessment</i> Total score: 15	

Risk 4. What is the risk that salaries of cadastre (or equivalent) agency staff are less than a living wage? <i>Low salaries may be an incentive to demand bribes, speed money or gifts, especially if salaries of their private sector mining counterparts are far higher. Importantly, mining companies will be aware of any differences in pay and may target officials' grievances around salary.</i>	Code PD5
Likelihood Score 5/ 5	Evidence to support assessed likelihood The salaries of the mining cadastre staff are low as those of other public officials. In general, private mining companies pay salaries well above those paid in the civil service. Low wages paid by government make public officials vulnerable to bribes and other corrupt practices. Source: - Ministerial Diploma 70/2015 of 20 May 2015 repealed Ministerial the Diploma 79/2014 of 18 June establishing the minimum wage in Sector 3 (Mining) in 2014. For example, Vale was paying a salary equivalent to \$ 400 per month for machine operators, which represented four times the minimum wage. Source Murphy, Annie. 27 April 2011. Mozambique Coal Mine Brings Jobs Concerns. Available at http://www.npr.org / 2011/04/27/135629821 / mozambique-coal-mine-brings-jobs-concerns . “It is worrying that public officials leave the public sector to work for private companies, maintaining links with their previous institutions as well as getting access to inside information” Source: - Interview with three public officials (05/04/17). “There are great risks of corruption associated with low salaries and this affects the entire public sector, including mining. There is a need for the Mozambican society at large to reflect on new values that condemn corruption in the public and private sector” Source: - Advisor to the Minister of Mineral Resources and Energy. Validation Workshop 25 May 2017).

Impact Score 3 / 5	Evidence to support assessed impact There is a minimal impact on cadastre (or equivalent) agency staff, e.g., because license awards decisions are centralised in the minister. However, there has been a tendency for officials to be available to monitor activities in major projects (they avoid the small projects) because of the allowances and other benefits offered by mining companies Source: - Interview with one public official (23.03.2017). Allafrica. 11 May 2015. Mozambique: Fighting Corruption in Mozambique’s Extractive Sector - Can Foreign Laws Work Where Mozambique’s Laws Fail? Available at http://allafrica.com/stories/201505111163.html . “Cadastre staff always want to take advantage especially in the mining awarding process” Source: Interview with eight representatives of an economic association (28/03/2017).
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Description of impact

Low salaries are an incentive to demand bribes, speed money or gifts, especially if salaries of their private sector mining counterparts are far higher – mining companies will be aware of differences.

Likelihood x Impact = 5 x 3	Assessment	Total score: 15
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Risk 5. What is the risk that terms and conditions for upfront bonus or ‘signature’ payments (i.e., to pay for resources that may otherwise take several years to generate income via royalties or other forms of taxation) will not be publicly knowable?	Code PD7
<i>If the public does not know the technical and financial details of bonus or signature payments, it means government officials can lie about how much money was received, creating opportunities for theft and misuse.</i>	

Likelihood Score 3 / 5	Evidence to support assessed likelihood Mozambique is compliant with the EITI and it must publish a report on payments and receipts annually. Despite this, there is some reluctance on the part of the government to disclose information about the assumptions for the receipt of revenues paid by companies. This, in itself, can create opportunities for the misappropriation or misuse of funds and prevent the scrutiny of public accounts. Source: EITI reports. “There is no public information on the collection of capital gains tax on some transactions between government and large corporations” Source: -Averdade 25 Maio 2014. Os ganhos e as perdas na tributação das mais-valias do sector extractivo em Moçambique. Available at http://www.verdade.co.mz/economia/46404-os-ganhos-e-as-perdas-na-tributacao-das-mais-valias-do-sector-extractivo-em-mocambique).
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Impact Score 5 / 5	Evidence to support assessed impact There are major concerns about what happens to upfront bonus or ‘signature’ payments Source: Radio Moçambique. Indústria extractiva: contas não batem certo. Available at http://www.rm.co.mz/index.php/programacao/88-arquivo/1246-industria-extractiva-contas-nao-batem-certo .
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Description of impact

The government non-disclosure of information about the assumptions for the receipt of revenues paid by companies creates opportunities for the misappropriation or misuse of funds and prevents the scrutiny of public accounts.

Likelihood x Impact = 3 x 5	Assessment	Total score: 15
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Risk 6. Assuming consultation with communities or landholders is required, what is the risk that the legal framework for consultation is not publicly knowable?	Code PD8
<i>If the legal framework for consultation cannot be accurately identified and understood, this creates opportunities for corruption around the obtaining of consent.</i>	

Likelihood <i>Score</i> 3/ 5	<p style="text-align: center;">Evidence to support assessed likelihood</p> <p>In general, there is a poor understanding of the legal framework on community consultations which affects their effective participation in the process. Moreover, the capacity of local governments to engage effectively with civil society is weak, partly because of lack of knowledge and information.</p> <p>Source: Lillywhite, S., Kemp, D. and Sturman, K., .2015. Mining, Resettlement and Lost Livelihoods: Listening to the Voices of Resettled Communities in Mualadzi, Mozambique. Oxfam: Melbourne.</p> <p>Kabemba Claude. 27 January 2012. “Community complaints about the resettlement programme”. . Available at http://sarwatch.org/resource-insights/mozambique/coal-versus-communities-mozambique-exposing-poor-practices-vale-and-rio.</p> <p>Bihale, D. 2016, Indústria Extractiva em Moçambique - Perspectivas para o desenvolvimento do país. Maputo: Friedrich Ebert Stiftung. P. 37).</p> <p>Human Rights Watch. 23 May 2013. What is a House Without Food? Mozambique’s Coal Mining Boom and Resettlement. Available at http://www.hrw.org/reports/2013/05/23/what-house-without-food.</p>
Impact <i>Score</i> 5/ 5	<p style="text-align: center;">Evidence to support assessed impact</p> <p>A number of research and press reports have shown that there has been manipulation (including payment of bribes and gift giving) for community approval of mining projects. The process of resettlement of communities withdrawn from mining areas remains conflictive.</p> <p>Source: Bihale, D. 2016, Indústria Extractiva em Moçambique - Perspectivas para o desenvolvimento do país. Maputo: Friedrich Ebert Stiftung. P. 34.</p> <p>Human Rights Watch. 23 May 2013. What is a House Without Food? Mozambique’s Coal Mining Boom and Resettlement. Available at http://www.hrw.org/reports/2013/05/23/what-house-without-food.</p> <p>Lillywhite, S., Kemp, D. and Sturman, K., 2015. Mining, Resettlement and Lost Livelihoods: Listening to the Voices of Resettled Communities in Mualadzi, Mozambique. Oxfam: Melbourne.</p>
<p>Description of impact</p> <p>The manipulation of community consultations by companies and public officials affects negatively the benefits of communities living in mining regions resulting in conflicts between companies the local population.</p>	
Likelihood x Impact = 3 x 5 <i>Assessment</i> Total score: 15	

<p>7. What is the risk that applicants for licences etc. will be controlled by undeclared beneficial owners? <i>Undeclared beneficial ownership creates the possibility of unmanageable conflicts of interest, favouritism and entry into the sector of criminal or inexperienced actors.</i></p>		Code PD9
Likelihood <i>Score</i> 5/ 5	<p style="text-align: center;">Evidence to support assessed likelihood</p> <p>Beneficial owners are common in the Mozambican mining sector and there are no laws or practices around to identify them.</p> <p>Source: Mimbire, F.2016. Quem está por detrás das empresas que exploram recursos minerais: Desafios para Moçambique na divulgação do Beneficial Ownership. Maputo: CIP. Available at: http://cipmoz.org/images/Documentos/Industria_Extraativa/CIPPIERN.pdf.</p> <p>- Savana. 20.Janeiro.2017. Over the next three months, Mozambique will undergo a new evaluation by the EITI which, will include the obligation to publish, in the mining cadastre, the list of shareholders names (individuals or collectives). P.16.</p>	

Impact Score 5 / 5	Evidence to support assessed impact
	<p>At this moment it is impossible to say who are the true owners of some of the projects in the mining sector.</p> <p>“The publication of the true licensees (the ones behind the companies and / or people who exploit resources) is currently recommended”</p> <p>Source:</p> <p>CIP.2015. 5º Relatório de EITI: Avanços na disponibilização de informação, mas insuficientes para transparência. Maputo. P. 2. Available at http://www.cip.org.mz/historico/cipdoc/360_CIP-spinformacao_2015_05_pt.pdf.</p>
Description of impact	
The inability to scrutinise who are the true owners of some of the projects in the mining sector might be creating unfair competition since some of the companies or investors are backed by powerful interests who enjoy an access to privileged information.	
Likelihood x Impact = 5 x 5 <i>Assessment</i> Total score: 25	

Risk 8. What is the risk that a SOE with mining interests will be directly involved in awards, e.g., because of the structure of the government’s mining portfolio and organisations?	Code PD14
<i>If mining-related SOEs perform multiple roles in the sector, such as exploration, production and also have involvement in the awarding licences etc., this can result in inadequate segregation of duties reducing competition and creating opportunities for favouring SOE interests and staff. The performance of multiple roles has to be balanced with good segregation of responsibilities.</i>	

Likelihood Score 5 / 5	Evidence to support assessed likelihood
	<p>EMEM is a state-owned company that also supports the processing of for mining licenses applications for new areas. One of the three EMEM shareholders is the National Mining Institute (INAMI), in replacement of the Geology and Mining Institute (<i>Instituto Geológico-Mineiro - IGM</i>) which was extinguished in 2015(. Thus, INAMI appears as a regulator and operator simultaneously, which reduces competition and increases the opportunity to favour public companies interests (e.g. EMEM) and those of their employees.</p> <p>Source:</p> <p>EMEM web page: http://www.emem.co.mz/indexen.php e no facebook: https://www.facebook.com/EMEM-Empresa-Mo%C3%A7ambicana-de-Explora%C3%A7%C3%A3o-Mineira-SA-537735119698047/.</p> <p>“The establishment of EMEM was a wrong approach to stimulate national business in mining. The only way to include the national business in the mining sector should be through the stock exchange”</p> <p>Source:</p> <p>- Interview with eight representatives of an economic association (28/03/2017).</p>

Impact Score 3 / 5	Evidence to support assessed impact
	<p>EMEM has access to privileged information about new projects and their needs in terms of services, which in turn can be used by the other shareholders causing unequal competition.</p> <p>Source:</p> <p>CIP.2015. 5º Relatório de EITI: Avanços na disponibilização de informação, mas insuficientes para transparência. Maputo. P.4. Available at Available at http://www.cip.org.mz/historico/cipdoc/360_CIP-spinformacao_2015_05_pt.pdf.</p> <p>“In the current design it is not clear if the government is a facilitator, regulator or investor”</p> <p>Source:</p> <p>- Interview with eight representatives of an economic association (28/03/2017).</p>

Description of impact	
There is an unfair competition because state-owned companies have an access to privileged information due to inadequate segregation of duties. They are at the same time regulators and mining operators.	
Likelihood x Impact = 5 x 3 <i>Assessment</i> Total score: 15	

<p>Risk 9. Assuming consultation with communities or landholders is required, what is the risk that negotiations for landholder or community agreements can be manipulated?</p> <p><i>Having laws that guarantee and standardise terms and conditions for conducting negotiations reduces the risk of corrupt behaviour, such as the marginalisation of certain landholders, unauthorised contact in breach of terms, or the giving of bribes, gifts and benefits.</i></p>		<p>Code</p> <p>PD16 PP6 PP7</p>
<p>Likelihood</p> <p>Score 5/5</p>	<p>Evidence to support assessed likelihood</p> <p>There have been reports of co-optation of some community leaders and local state officials to skip steps in the consultation process in exchange for individual benefits (e.g. employment, transportation, and money just to give some examples).</p> <p>Source: - Mosca, J & Selemane, T. 2011. El Dorado Tete: os mega projectos de mineração. Maputo: Centro de Integridade Pública (CIP).</p> <p>“Individuals resettled by Vale, Riversdale, and Rio Tinto told Human Rights Watch that they had a very limited role in negotiating compensation and compensation terms offered by companies and government-reviewed, including key decisions such as choosing the location for Their new homes and camps”</p> <p>Source: - Human Rights Watch 23 May 2013. What is a House Without Food? Mozambique’s Coal Mining Boom and Resettlement. Available at http://www.hrw.org/reports/2013/05/23/what-house-without-food.</p> <p>“The community consultation of Haiyu Mining Company in Sangage was nothing more than a simulation”</p> <p>Source: -Averdade 15 Outubro 2015. <i>Multinacional chinesa em Angoche não paga impostos há anos</i> - Chinese Multinational company in Angoche has not paid taxes for years). p.2.</p>	
<p>Impact</p> <p>Score 5/5</p>	<p>Evidence to support assessed impact</p> <p>There has been a systematic violation of community rights.</p> <p>“Community leaders often obey the command of administrative structures and establish suspicious links with business management to manipulate public consultations”</p> <p>Source: Bihale, D. 2016, Indústria Extractiva em Moçambique - Perspectivas para o desenvolvimento do país. Maputo: Friedrich Ebert Stiftung. P. 37.</p> <p>“The links of the companies to the country’s high public officials weaken the position of the local governments. In turn, links between local governments and communities weaken the position of the communities. This observation is still valid because in Tete the communities accused the administrative authorities and the company’s management of refusing to dialogue with the communities. Government decisions often favour companies “</p> <p>Source: - Bihale, D. 2016, Indústria Extractiva em Moçambique - Perspectivas para o desenvolvimento do país. Maputo: Friedrich Ebert Stiftung. P. 37.</p> <p>“There are different powers within the communities. The consultations must take into account the different interests in the communities such as the traditional leader, the government and social groups”</p> <p>Source: -Member of an Economic Association. Validation Workshop, 25 May 2017.</p>	
<p>Description of impact</p> <p>Manipulated consultations lead to the poor involvement or exclusion of local communities in local development processes, which is a source of recurrent conflicts between companies and local communities and between the communities and their leaders.</p>		
<p>Assessment</p>		

Likelihood x Impact = 5 x 5

Total score: 25

Risk 10. Assuming contract negotiations are required, what is the risk that the roles and responsibilities of the government negotiating team will not be clear prior to negotiation?		Code PD18
<i>Opportunities for corruption in contract negotiations are reduced when roles and responsibilities are announced prior to negotiations to ensure there is transparency about who is making decisions.</i>		
Likelihood Score 5/5	Evidence to support assessed likelihood The country continues to have numerous weaknesses and a shortage of qualified technicians to negotiate contracts with the transnationals operating in Mozambique in the gas and mining sector. Source: DN. 22 Maio 2017. Banco africano forma Moçambique na negociação de contractos de gás African bank trains Mozambique to negotiate gas contracts. Available at www.dn.pt	
Impact Score 5/5	Evidence to support assessed impact Governments' inadequate capacity for the expertise of the subject, time and money required for effective negotiation certainly causes inequalities and asymmetries in the bargaining power of business and government; Resulting in sub-optimal contracts. Source: - Dengo, Maria. 11 April 2013. Indústria Extractiva: Podemos ter uma melhor negociação? Available at http://www.speed-program.com/blogs/by-author/maria-nita-dengo/industria-extractiva-podemos-ter-uma-mar-negociacao .	
Description of impact Poor technical skills and preparation cause inequalities and asymmetries in the bargaining power between companies and the government negotiating teams. This might also lead to the government negotiating team to make deals that favour the companies.		
Likelihood x Impact = 5 x 5		Assessment Total score: 25

Risk 11. When foreign companies are legally required to partner with local companies or a local SOE for mining activities, what is the risk that details of these partnerships will not be publicly knowable?		Code PD21
<i>Obligatory local content ownership creates opportunities for local elites to demand bribes or favours (such as staff positions) from foreign companies, in return for partnering. Companies also have an incentive to offer gifts and benefits to obtain local partnerships. Partnerships involving political elites can create unmanageable conflicts of interest.</i>		
Likelihood Score 5/5	Evidence to support assessed likelihood The details of partnerships between foreign companies and a state-owned or private national company are not in the public domain.	
Impact Score 5/5	Evidence to support assessed impact "The Government has been imposing, in the contracts, that the companies reserve a participation for the national business, but it has never made it clear how the access to this participation will occur, that is, the terms for that purpose" Source: Mimbire, Fátima. 2016a. Desafios de um país potencialmente rico em recursos minerais: Estabelecendo as bases para evitar a "maldição dos recursos" em Moçambique no novo "superciclo" dos preços das matérias-primas. Maputo: CIP. P. 7. In the shareholder structure of the consortium that operates the Moatize mine in the province of Tete, Vale Moçambique currently has a majority stake of 85%, the Mozambican state (5%) and other local investors (10%) (RDP Africa. 05.12, 2014). ⁴ However, the other local investor is not known so is the process that led to its partnership with Vale company.	
Description of impact The local elite might be blocking the entrance of other persons in the industry thanks to their position in the sector		
Likelihood x Impact = 5 x 5		Assessment Total score: 25

Risk 12. What is the risk of external interference in the cadastre agency's awarding of licences etc?		Code PD22
<i>External interference, such as by politicians, is sometimes built into the design of a process, e.g., when ministers are given rights to veto or to 'act in the interests of the state' on certain matters. However, unless such interference is guided by known criteria it creates opportunities for bias, undermines officials' decisions and may be motivated by bribery. Can create unmanageable conflicts of interest.</i>		
Likelihood Score 5/5	Evidence to support assessed likelihood The mining legislation centralizes the entire process of awarding and monitoring all licenses, in the hands of the Minister of Mineral Resources and Energy. The fact that the position of minister is based on the Political trust of the president results in the interference of politicians and senior public officials in the awarding of licenses. "Concerns have been raised regarding former President Armando Guebuza's personal discretion over the awarding of certain resource rights. He is reported to have used his influence to secure a major government contract for the Pemba Logistics Base to Orlean Invest" Source: Mimbire, Fátima e Nhamire, Borges. 2015. Importante projecto logístico para a viabilização de liquefacção de gás natural em Cabo Delgado concessionado sem transparência. Maputo: CIP. Available at http://www.cip.org.mz/cipdoc/301_CIP_A_Transparencia_n%C2%BA03_2014.pdf . "The former president of the Republic of Mozambique, Armando Guebuza, inaugurated a mining concession in the Cassoca community in Tete three years ago without the respective mining licence" Source: Bantu (national tabloid newspaper) (5.4.2017).	
Impact Score 5/5	Evidence to support assessed impact Since Frelimo members control many mining titles, the likelihood of external interference is very high. O Pais. 08 Marco 2013. <i>Companhias e membros da Frelimo controlam licenças mineiras/ Companies and Frelimo members control mining licenses.</i> Available at http://opais.sapo.mz/index.php/economia/38-economia/24488-empresa-e-member-de-frelimo-controlam-military.html .	
Description of impact There is an unfair competition since politicians might be using their easy access to the cadastre to influence the awarding process.		
Likelihood x Impact = 5 x 5		Assessment Total score: 25

Risk 13. What is the risk that the duration and timing of each step of the awards process can be manipulated?		Code PD28
<i>Unless the cadastre agency has automated control of duration and timing of each step of the awards process, deadlines for payments or renewals of licences can be manipulated for corrupt purposes</i>		
Likelihood Score 5/5	Evidence to support assessed likelihood 1. Officials have full discretion over the duration and timing of steps, and their discretion is never checked or controlled; Source: - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017). - Interview with two representatives of mining company 3 (28/03/2017). "Officials tasked with issuing licenses, permits and other formal approvals for doing business enjoy leverage over companies, and a combination of individual discretion and lack of direct oversight enables officials to use the regulatory burden to extract rent" Source: - Jensen, Søren and Adalima, José. 2016. Corruption in Mozambique. Governance Brief. MASC/CIP, Maputo. p. 10.	

Impact Score 5/5	<p>There are systematic delays in the duration and steps of the licensing process, mainly because of the need to consult with other institutions (at central and provincial level) and to update information of applicants depending on the cases</p> <p>Source:</p> <ul style="list-style-type: none"> - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two public officials (30.03.2017). <p>“Delays in the awarding of licences and constant changes in legislation are penalising mining operators. How to harmonise delays and constant changes in the legislation without affecting the interests of the companies and individuals involved in mining?”</p> <p>Source:</p> <ul style="list-style-type: none"> - Mining Operator. Validation Workshop 25 May 2017.
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Description of impact

If there is corruption by licence-holders or cadastre officials, this will cause instability in the sector. E.g. withdrawal of the contest by the competing companies. Long delays have been reported, which led to some investors have given up moving to other destinations

Likelihood x Impact = 5 x 5	<i>Assessment</i>	Total score: 25
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Risk 14. What is the risk that companies will be confused or misled about the stage their application is at in the awards process? <i>If information about the stage an application is at is not easily available (e.g., published online) it creates opportunities for officials to withhold the information for corrupt purposes, e.g., to obtain bribes.</i>	Code PD32
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Likelihood Score 5/5	Evidence to support assessed likelihood
	<p>Many interviewees mentioned that there have been significant delays in the awarding of mining licenses because requests must go through various stages and levels for technical advice and opinions that are difficult to track down.</p> <p>Source:</p> <ul style="list-style-type: none"> - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017). - Interview with two representatives of mining company 3 (28/03/2017).

Impact Score 5/5	Evidence to support assessed impact
	<p>There are systematic delays in the approval of licenses and many of them are associated with delays in receiving opinions and additional information from applicants. In any case, the applicants have no information on the stage of the application.</p> <p>Source:</p> <ul style="list-style-type: none"> - Interviews with two public officials (30.03.2017).

Description of impact

The high discretion of cadastre staff and systematic delays might be forcing the mining applicants to pay bribes in order to speed their process.

Likelihood x Impact = 5x5	<i>Assessment</i>	Total score: 25
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Risk 15. What is the risk that cadastre staff and managers will be unable to cope with the workload of the agency? <i>Overwork and insufficient resources slow down the awards process, creating incentives for ‘speed money’ and for officials to manipulate the process by working on selected applications.</i>	Code PP1
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Likelihood Score 5/5	Evidence to support assessed likelihood “The first report of the Extractive Industry Transparency Initiative (EITI) produced in 2011 by the Ghanaian consultant Boas & Associates questioned the lack of qualified staff in ministries dealing directly with the extractive industry (licensing, research, production, marketing and export). As a result, according to the report, the Mozambican state does not have a reliable system for the exploitation of mineral resources, much less an autonomous system for verifying the quantities and qualities exploited and exported by companies, depending on the information provided by the companies themselves” Source: - CIP e AWEPA. 2013. Boletim sobre o processo político em Moçambique, Número 53. 15 de Fevereiro de 2013. Available at https://www.open.ac.uk/technology/mozambique/sites/www.open.ac.uk.technology.mozambique/files/files/Mo%C3%A7ambique_Boletim_53_carv%C3%A3o-gas.pdf .
Impact Score 5/5	Evidence to support assessed impact There is a lot of pressure to process and monitor the various ongoing projects and there are systematic delays in the approval of licenses. Source: - Interview public two officials (30/03/2017). - Interview with one public official (23.03.2017).
Description of impact Limited staff and qualifications for existing workload and complexity of projects result in delays in the processing of applications.	
Likelihood x Impact = 5x5 <i>Assessment</i> Total score: 25	

Risk 16. What is the risk that mining companies can stockpile licences or permits, without actually doing any work?	Code PP4
<i>Sometimes stockpiling licences is not officially permitted but is possible in practice because the cadastre agency has no effective system to track licence use, including no monitoring of exploration investment benchmarks or no rescinding of areas on which work has not been done. Such practices permit a corrupt accumulation of licences etc.</i>	
Likelihood Score 5/5	Evidence to support assessed likelihood “Tal como fazem várias multinacionais, algumas empresas nacionais vendem licenças, parcial ou totalmente, com o intuito de financiar o projecto, adicionando-lhe sócios com mais dinheiro e conhecimento, outras o fazem apenas para cumprir com o seu objectivo de “conseguir uma licença, esperar por um potencial investidor interessado nela e vendê-la” Source: - CIP e AWEPA. 2013. Boletim sobre o processo político em Moçambique, Número 53 – 15 de Fevereiro de 2013. P.9; Disponível em https://www.open.ac.uk/technology/mozambique/sites/www.open.ac.uk.technology.mozambique/files/files/Mo%C3%A7ambique_Boletim_53_carv%C3%A3o-gas.pdf . “There are several mining areas for the same few people” Source: - One of member of the Economic Business of Mozambique. Validation Workshop, 25 May 2017).
Impact Score 5/5	Evidence to support assessed impact The stockpiling licences is a direct result of a deficiency in the monitoring of mining projects, to check if the companies are fulfilling their obligations or not, as well as the cadastre system inability to eliminate expired and idle licenses. Source: - Interview public two officials (30/03/2017). - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017).

Description of impact
Stockpiling of licences creates the impression that there is no space for new entrants in the sector but also it may result in the speculative sale of licences.
Likelihood x Impact = 5x5 <i>Assessment</i> Total score: 25

Risk 17. What is the risk there is no verification of the accuracy or truthfulness of social impact assessment (SIA) and environment impact assessment (EIA) reports?	Code PP8 PP9
<i>If SIA and EIA reports are not verified it allows stakeholders to be misled about the social impact of a mine. Companies can corruptly manipulate social impact data, including falsifying impacts, creating false baselines for social indicators and omitting certain groups from any programmes.</i>	

Likelihood Score 3/5	Evidence to support assessed likelihood
	The verification of reports of social and environmental impact happens sometimes. Source: - Interview with one public official (23.03.2017).

Impact Score 5/5	Evidence to support assessed impact
	There is a systemic misrepresentation of serious social impacts across the mining sector. For instance, the former president of the Republic of Mozambique, Armando Guebuza, inaugurated a mining concession in the Cassoca community in Tete four years ago without the respective EIA (environmental impact assessment) Source: Bantu (5.4.2017) - Our own search on the internet showed that not all the reports are available.

Description of impact
If the social impact assessment (AIA) and environmental impact assessment (EIA) reports are not verified by the government, this allows stakeholders to be misled about the social and environmental impact of a particular mine. Applicant companies can corrupt social and environmental impact data, including their falsification as well as the exclusion of certain social groups that inhabit the area.

Likelihood x Impact = 3x5 <i>Assessment</i> Total score: 15

Risk 18. What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity and financial resources as well as their integrity?	Code PP10 PP11
<i>A cadastre agency may have no system to do due diligence on applicants, or it may have a system but in practice, no checks are actually done. If companies' proof of capacity and financial resources, as well as their integrity, is not checked, it creates an opportunity to falsify details or to bribe officials to accept their bona fides at face value.</i>	

Likelihood Score 5/5	Evidence to support assessed likelihood
	There is no system in the mining cadastre for a detailed / detailed verification of the technical and financial capacity of the companies. Some verification is usually done, but some aspects of the license application are not checked. Source: - Interview with one public official (23.03.2017). - Interview public two officials (30/03/2017).

Impact Score 3/5	Evidence to support assessed impact
	There are some mining owners without proven technical and financial capacity. Source: - Interview public two officials (30/03/2017). - Interview with eight representatives of an economic association (28/03/2017). - Interviews with two representatives of mining company 1 (23/03/2017).

Description of impact	
The sector is plenty of licence holders that have no financial capacity to develop the mining activity. This might be blocking the entrance of new applicants and probably being used by cadastre staff to provide privileged information in exchange with bribes.	
Likelihood x Impact = 5 x 3 <i>Assessment</i> Total score: 15	
Risk 19. If a ‘first come, first served’ system is in place, what is the risk that the first applicant will not be awarded the licence or permit?	
<i>Unless there an automated system that records the time and order of an application submission, it may be possible for officials to corruptly manipulate which applicant is announced as first.</i>	
Code	
PP13	
Likelihood	Evidence to support assessed likelihood
<i>Score</i> 3/5	Although the law establishes the awarding of licenses on a ‘first come, first served’ basis, the state gives itself the right to choose the project that offer the best conditions, advantages and gains to the State. Source: - Mining Cadastre (http://portals.flexicadastre.com/mozambique/en/). Interviews with representatives of companies and Mining Cadastre staff.
Impact	Evidence to support assessed impact
<i>Score</i> 5/5	There is no guarantee of licence rights even when an applicant is acknowledged as being first because the state can award a licence to an applicant who presents the best conditions and benefits for the state. Source: - Article 9 of the Law 20/2014 (Mining law) - Article 8; 21 of the Decree 31/2015 (Mining law and regulation). - Interview with eight representatives of an economic association (28/03/2017).
Description of impact	
The fact that in a ‘first come, first served’ system, the first applicant will not be awarded the licence or permit, it creates an incentive for he/she to get involved in corruption to secure the licence.	
Likelihood x Impact = 3 x 5 <i>Assessment</i> Total score: 15	
Risk 20. What is the risk that EIA and SIA reports will not be publicly available once finalised?	
<i>Uncertainty around the content of EIAs and SIAs can facilitate corruption if communities and other stakeholders do not know what issues have been raised or ignored.</i>	
Code	
RA7 RA9	
Likelihood	Evidence to support assessed likelihood
<i>Score</i> 3/5	Reports of some projects are available on the internet; In institutional capacity-building efforts, care should be taken to allocate qualified cadres to the provinces and districts, because that is where the activities are carried out, and above all, there is a need for regular monitoring of impacts, which can only be achieved If there is sound knowledge and necessary technology Source: Mimbire, Fátima.2016a. Desafios de um país potencialmente rico em recursos minerais: Estabelecendo as bases para evitar a “maldição dos recursos” em Moçambique novo “superciclo” dos preços das matérias-primas. Maputo: CIP. P.4... Increase the recruitment and retention of staff from the Ministry of Environmental Action Coordination (now Ministry of Land, Environment and Rural Development - MITADER) to review environmental impact assessments (including resettlement action plans), monitoring reports and Compliance and inspection teams to verify that companies are fully adhering to their commitments. Source: - Human Rights Watch. 23. Maio 2013. What is a House Without Food? Mozambique’s Coal Mining Boom and Resettlement. Washington DC: Human Rights Watch. Disponível em: http://www.hrw.org/reports/2013/05/23/what-house-without-food . P. 27. The government should “oblige companies that carry out environmental impact studies, environmental monitoring reports and resettlement plans to ensure that these documents are accessible and available to the public, to include the provision of short summaries in non-technical language, to translate summaries And complete reports to local languages, to publish these documents on the Internet and to provide copies of public buildings such as local schools in the communities directly affected “ Source: - Human Rights Watch. 23. Maio 2013. What is a House Without Food? Mozambique’s Coal Mining Boom and Resettlement. Washington DC: Human Rights Watch. Disponível em: http://www.hrw.org/reports/2013/05/23/what-house-without-food . P. 27.

Impact Score 5 / 5	Evidence to support assessed impact The implementation of EIA and AIS recommendations appears to be inconsistent; therefore, it becomes difficult to hold mining companies accountable for mitigating environmental and social impacts. Source: The former president of the Republic of Mozambique, Armando Guebuza, inaugurated a mining concession in the Cassoca community in Tete three years ago without the respective mining licence (Bantu 5.4.2017). Nádia Issufo. 22 Janeiro 2013. “Poluição do carvão em Moçambique não se resolve apenas com mais árvores”/ Pollution of coal in Mozambique can not be solved only with more trees. DW. Available at http://www.dw.com/pt-002/polui%C3%A7%C3%A3o-do-carv%C3%A3o-em-mo%C3%A7ambique-n%C3%A3o-se-resolve- apenas-com-mais-%C3%A1rvores/a-16540625 . The absence of a detailed report on the environment does not allow an examination of the impact of Kenmare mining operation in Moma. It should be noted that these documents are not accessible to the public concerned Source: - ROSC (Fórum da Sociedade Civil para os Direitos da Criança.2014.Efeitos da exploração de recursos minerais para a criança em áreas de risco: o caso das areias pesadas de Moma. Available at Available at http://www.rosoc.org.mz/index.php/component/docman/doc_view/222-efeitos-da-exploracao-de-recursos-minerais-para-a-crianca-em-areas-de-risco . - Interview with 13 public officials (27.03.2017).
Description of impact The inconsistency in the publication of EIA and AIS reports might give companies incentives to hide negative practices and impact of their work.	
Likelihood x Impact = 3 x 5 Assessment Total score: 15	

Risk 21. What is the risk that the content of final agreements between mining companies and communities or landholders will not be publicly knowable?	Code RA12
<i>Unless there is full transparency about the content of landholder agreements, there is uncertainty around what rights community members have to protections, compensation or other benefits, allowing these rights to be manipulated by companies, community leaders or officials. For example, compensation packages might be stolen by leaders, or companies can pay bribes to officials and leaders to reduce what is actually delivered in practice.</i>	
Likelihood Score 3 / 5	Evidence to support assessed likelihood Agreements between communities and businesses are in the public domain. Some consultation process reports are available on the internet. However, the development plans emerging from the agreements between communities and business have not been made public in many cases. “Community consultations remain a big problem and local communities need to be cherished. There is a need for clear guidelines and responsibilities about the consultation process. Most of the times, communities approve a mining project through consultation without knowing that they are giving up the land definitively considering the duration of a mining exploration licence and the environmental impact associated with mining activity” (Staff of one Environment Company. Validation Workshop, 25 May 2017).
Impact Score 5 / 5	Evidence to support assessed impact There is marginalization or neglect of some problems affecting local communities owing to the inadequate implementation of community development plans.
Description of impact Failure to disclose plans makes it impossible to scrutinize what community rights and benefits are protected.	
Likelihood x Impact = 3 x 5 Assessment Total score: 15	

(Footnotes)

1 National Directorate of Environment.

2 National Directorate of Land.

3 National Directorate of Territorial Planning and Resettlements.

4 Available at http://www.rtp.pt/rdpafrica/noticias-africa/japonesa-mitsui-vai-comprar-15-da-vale-em-mocambique_3576.

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