

Cost of Fiscal Benefits Exceeded the Tax Contribution of Megaprojects by 72 billion meticaís between 2010 and 2019:

- Review of Specific Tax Regimes and Tax Benefits for Petroleum and Mining Operations is Urgent

By: Inocência Mapisse*

1. Context

In 2019, the Government, through the State Budget (SB) has expressed its intention to review the Specific Regimes of Taxation and Tax Benefits for Petroleum Operations and Mining Activities as a way to consolidate the reforms now underway and boost the capture of tax revenues.¹

Two years later, the same fiscal benefits regime of 2017, Laws 14 and 15/2017 of December 28, remains in force, in a context in which tax benefits reached 24.9 billion meticaís in 2019, which corresponds to about 3% of GDP in the same year and a growth in 34.6% compared to the previous year.

In both 2020 and 2021 there was no mention of revising the tax benefits code in the State Budget or in any other publicly shared document. Reviewing the tax benefits is fundamental to mobilizing resources for the State Budget. Note that the value of fiscal benefits granted in 2019 would be enough to cover more than half of the budget deficit before grants (5% of GDP) and cover the entire budget deficit after grants (2.1% of GDP).

In this context, CIP urgently recommends the review of the Specific Regimes of Taxation and Fiscal Benefits of Petroleum Operations and Mining Activity, with emphasis on the production tax and on keeping the project functional after the end of the phase of enjoyment of tax benefits granted. This exercise would be fundamental in a scenario where it is necessary to mobilize resources to deal with: (i) the natural disasters arising mainly from cyclones affecting the central and northern areas of the country; (ii) the challenges imposed by the covid-19 pandemic and: (iii) the challenges imposed by the armed conflict in Cabo Delgado since 2017, which has already caused more than 500,000 displaced persons facing all kinds of difficulties.

2. Analysis

On September 28, 2017, the Portuguese Parliament approved, through Laws no. 14 and 15/2017, the amendments to the specific regime of the taxation code and tax benefits for oil and mining operations. The amendments focused on non-deductible charges, taxation of capital gains, fiscal stability and certification of accounts. Box1: Revision of the Specific Regimes of Taxation and Tax Benefits of Petroleum Operations and Mining Activity - Laws no. 14 and 15/2017 of 28 December. (see box 1)

¹ https://www.mef.gov.mz/index.php/documentos/instrumentos-de-gestao/orcamento-de-estado/oe-2019/557--60/file?force_download=1

Law no. 14/2017 of September 28 - concerning petroleum operations

The reduction of the Petroleum Production tax rate by 50%, intended for local industry development activities, has been revoked;

- The costs or losses resulting from the tax arising from the onerous transfer, or not, of participation in the petroleum sector will no longer be deductible;
- The capital gains resulting from the onerous or gratuitous alienation, directly or indirectly, of petroleum rights located in Mozambican territory will now be taxed autonomously at a rate of 32%;
- The fiscal stability is now granted and not negotiated, as previously foreseen, and becomes effective to projects that prove an investment equivalent to USD 100,000,000 (one hundred million U.S. dollars);
- The entities that develop petroleum operations under a concession contract may, with the approval of the Minister of Finance, adopt the US dollar as the currency for the presentation of accounts, as long as they have made an investment equal or superior to USD 500,000,000 (five hundred million US dollars), and that more than 90% of their transactions are in dollars. This authorization must not be changed during the life of the project.

Law no. 15/2017 of 28 September - concerning mining activities

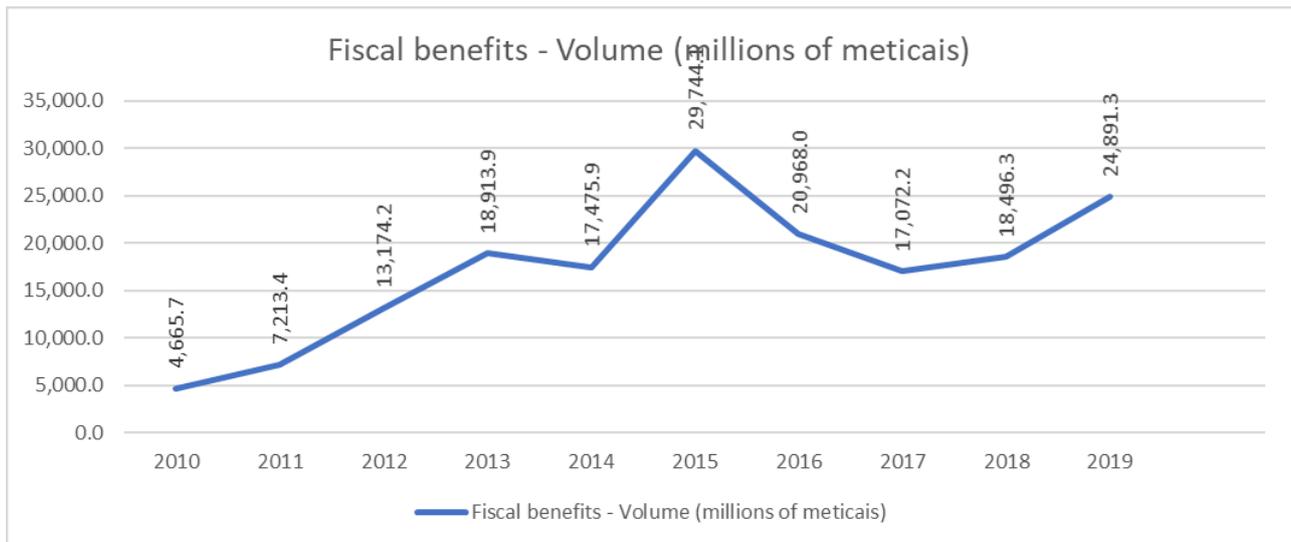
The reduction of the Mining Production Tax rate by 50% for mineral products intended for the development of local industry - provided for in the 2014 law - has been repealed;

- The Surface Tax rate for obtaining mining concession for mineral water is increased from 85,000MT/ha to 85,000MT/Mining Certificate;
- The Surface Tax rate for obtaining the Mining Certificate has changed as follows:
 - From year 1 to 5 from 17,500MT/ha to 30MT/ha; and
 - From year 6 onwards, from 25,000MT/ha to 50MT/ha.
- Costs or losses resulting from the tax arising from the onerous transfer, or not, of stakes in the mining sector will now not be deductible;
- Capital gains, when obtained by resident and non-resident entities in Mozambican territory, will now be taxed autonomously at a rate of 32%;
 - Tax stability is now granted and not negotiated as previously foreseen, and becomes effective to projects that prove an investment equivalent to USD 5,000,000 (five million U.S. dollars);
- The entities that develop mining operations under a concession contract may, with the approval of the Minister of Finance, adopt the US dollar as the currency for the presentation of accounts, as long as they have made an investment equal to or greater than USD 500,000,000 (five hundred million US dollars), and that more than 90% of their transactions are in dollars. This authorization must not be changed during the life of the project.

Source : www.bdo.co.mz)

However, the value of tax benefits has been growing at a significant rate. (See graph below)

Chart 1: Evolution of the value of tax benefits (millions of meticaais)



Source: General State Account (several years)

Tax benefits in 2019 totaled 24.9 million meticaais, which corresponds to a growth of 34.6% compared to 2018. It should be noted that the volume of tax benefits in this year covers about 3 times the value of donations in the same year and just over half of the resources needed to cover the budget deficit in the same year.

Also, in 2019, the tax policy was expected to continue based on the consolidation of the reforms underway, continuing with actions aimed at boosting revenue capture, of which, as a measure to improve the sources of domestic revenue collection, the review of the Specific Regimes of Taxation and Tax Benefits of Petroleum Operations and Mining Activity stood out.

It turned out that the measure was nothing more than a pretension, and two years later there was not even any mention of revising this regime.

2. Cost-Benefit Analysis

2.1 Assumptions

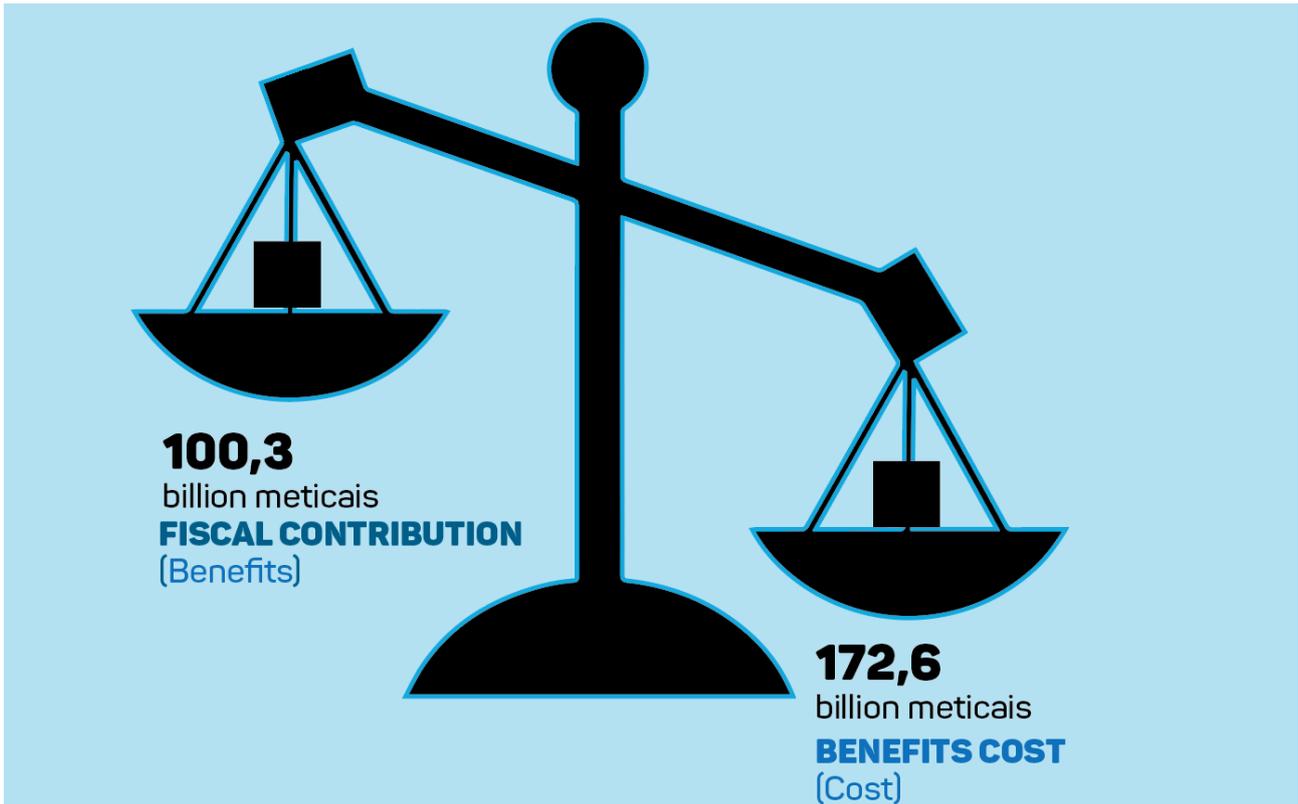
For cost-benefit analysis of the tax benefits granted in Mozambique, the following assumptions were made:

1. Fiscal benefits to the extractive sector are a cost to the country;
2. The direct fiscal contribution from extractive sector projects is a benefit to the country. There are other benefits such as employment, investment and others, which are not considered in this analysis;
3. Assuming as fiscal benefits presented in the General State Account, they refer to the benefits granted to the megaprojects.

Since a large part of the fiscal benefits are granted to mega-projects, it makes sense that the cost-benefit analysis be done with mega-projects in mind.

In the period from 2010 to 2019, fiscal benefits cost the country 172.6 billion meticaais. This value corresponds to 11.4% of all revenue collected in that period. In this period, the fiscal contribution of mega-projects was 100.3 billion meticaais, which allows us to conclude that the cost of fiscal benefits in this period was 72.3 billion meticaais.

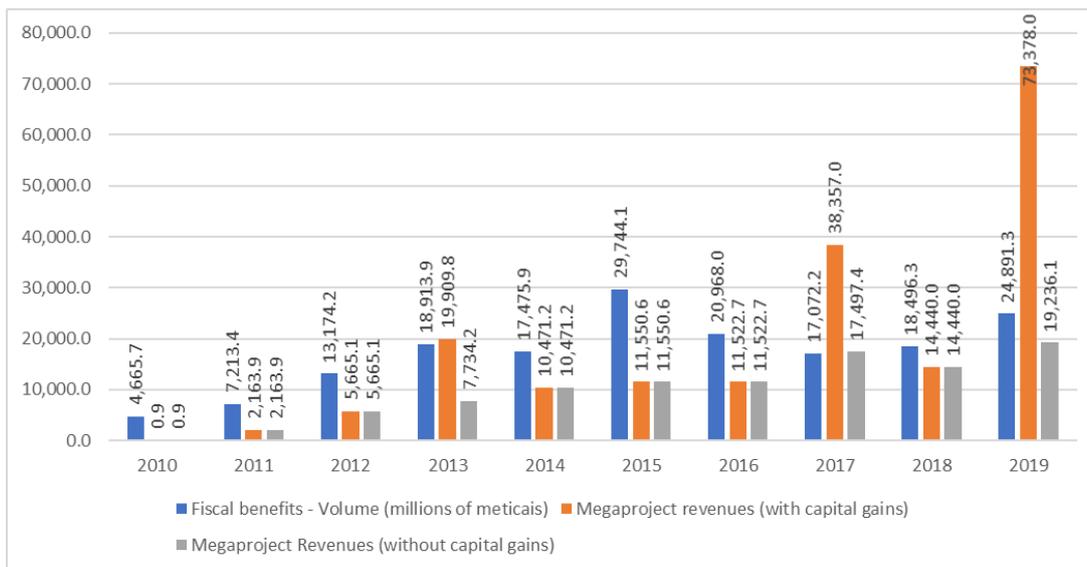
COST-BENEFIT OF TAX EXEMPTIONS TO MEGAPROJECTS



Source: Prepared by the author

In this sense, and according to the data, the policy of fiscal benefits has generated more costs than benefits. Between 2010 and 2016, the value of the total benefits was greater than the total revenue collected from mega-project taxation, as shown in graph 2 below. While the average value of the contribution in these years was 8.75 billion meticaais, the fiscal benefits were twice this amount, 16.02 billion meticaais.

Chart 2: Evolution of fiscal benefits versus fiscal contribution of mega-projects (millions of meticaais)



Source: Data from the General State Account and EITI Mozambique Report (several years)

In the following years (2017 to 2019), the situation apparently improved with the average fiscal contribution of the megaprojects standing at 42.06 million meticaais and the tax benefits at 20.15 million meticaais. However, it is important to note that the value of tax contributions in 2017 and 2019 were significantly influenced by revenues from capital gains taxation, extraordinary revenues, resulting from the indirect transfer of 25% of the participatory interest in area 4 of the Rovuma Basin by Eni East SPA, to EXMOBIL Africa Development, amounting to 20.9 billion Meticaais and the indirect transfer of 26.5% by Anadarko in the liquefied natural gas project in area 1 of the Rovuma Basin, amounting to 54.14 billion Meticaais.

Therefore, the fiscal contribution of megaprojects without capital gains revenue reduces significantly, to an average of 17.06 billion meticaais between 2017 and 2019, which is 3.09 billion meticaais less than the tax benefits over the same period. This leads to the conclusion that the policy of fiscal benefits has generated more costs than tax benefits for the country.

It is important to emphasize in this analysis that, although the information about tax benefits is presented in the State General Account by category, it is in aggregate form, not allowing the perception of benefits by sector (oil, mining, energy, and others). In this sense, for the sake of transparency, it is suggested that the information should also be detailed by sector.

2.2 What Should be Reviewed?

Of the various aspects that constitute tax benefits in the oil and mining sectors, production tax, customs duties and VAT stand out as those that deserve special attention in this regard:

- a. **There is a need to standardize the rules of the mining production tax in the different existing projects** – some mining exploration and exploitation contracts mention that the tax on mining production should fall on the value of the product extracted while others mention that it should fall on the value of the product sold.

Other contracts, mention insurance and other costs incurred before the sale of the product as elements to be subtracted from the taxable base, and for other cases the value should be net only of transportation costs, according to point 5 of Article 11 of Law no. 28/2014 of September 23, Specific Regime of Taxation and Tax Benefits of Mining Activity (amended by Law no. 15/2017 of December 28). This is the case of the contract with the Vale Mozambique company that by excluding the cost of insurance in determining the taxable base of the production tax generated losses of about 4.6 million for the state coffers; and

- b. **Reduction or elimination of VAT fiscal benefits on the import of capital goods and Customs Duties** – According to articles 35 and 53 of Laws no. 27 and 28/2014, both of September 23 (amended by Laws n°. 14 and 15/2017 of December 28), developments under the Mining and Petroleum Law benefit, for five years from the date of commencement of operation, from exemption from Customs Duties on the import of equipment classified in class K of the Customs Tariff.

As shown in the table below, Customs Duties and VAT are the categories with the greatest weight in total fiscal benefits, having set at 22.4% and 51.2% in 2019. In the same year, Customs Duties and VAT increased by 26.2% and 67.9% over the previous year, thus contributing to an upward trajectory of tax benefits since 2017.

Table 1: Evolution of Fiscal Benefits Granted (millions of meticais)²

Tax	2015	Var(%)	2016	Var(%)	2017	Var(%)	2018	Var(%)	2019	Var(%)	Peso (%)
Corporate Income Tax (IRPC)	6041	43.1	5217	-13.6	7137	36.79	6235	-12.6	4655.8	-25.3	18.7
Individual Income Tax (IRPS)	3	55	2	-41.9	1	-66.7	2	266.7	0.8		
Customs Duties	6436	80.4	4655	-27.7	3524	-24.3	4415	25.3	5570.5	26.2	22.4
Excise Taxes - Imported Products	188	-6.8	242	28.3	384	59	259	-32.5	1931	645	7.8
Value Added Tax (VAT) in Imports	17076	80.1	10852	-36.4	6027	-44.46	7585	25.9	12733.2	67.9	51.2
Total	29744	70.2	20968	-29.5	17072	-18.6	18496	8.3	24890.5	34.6	
Gross Domestic Product	589294		689213		804464		859019		965382		100
Fiscal Benefits/GDP (%)	5		3		2.1		2.2		2.6		

Source: Fiscal Benefits of the Government Report on the Budget Execution Results of the State General Accounts (2015-2019)

3. Closing Remarks

From the above, and in order to make room for greater mobilization of domestic resources, it appears that there is room for the review of the Specific Regimes for Taxation and Tax Benefits for Petroleum and Mining Operations, as planned in 2019. This conclusion is based on the fact that the cost of granting tax benefits exceeds the tax contribution in the period 2010 to 2019, as well as the fact that in recent years the volume of tax benefits has been on an upward trajectory.

Thus, CIP recommends the following:

- Urgency in reviewing the Specific Tax Regimes and Tax Benefits for Petroleum Operations and Mining Activity with emphasis on production tax, VAT and Customs Duties;
- Presentation of fiscal benefits by sectors, in the General State Account, for a better perception of their cost, by sectors; and
- Constant monitoring of the benefits to be generated under the concession of fiscal benefits, mainly in the extractive sector, since currently the fiscal costs outweigh the benefits.

Documents consulted

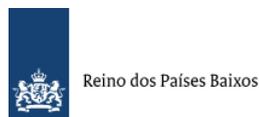
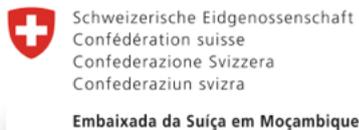
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² <https://www.ta.gov.mz/Relatrios%20e%20Pareceres%20CGE/Relat%C3%B3rio%20e%20Parecer%20CGE%202019/Cap%C3%ADtulo%2004%20-%20Execu%C3%A7%C3%A3o%20do%20Or%C3%A7amento%20da%20Receita.pdf>



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Rua Fernão Melo e Castro,
Bairro da Sommerschild, nº 124
Tel: (+258) 21 499916 | Fax: (+258) 21 499917
Cel: (+258) 82 3016391
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