

## ACCOUNTABLE MINING

### HOW FAIR AND TRANSPARENT IS THE LICENCING PROCESS?

# CASE STUDY 3: WEAKNESSES IN THE LICENCING PROCESS

A fair and transparent licencing process has clear rules and an effective licencing authority with a complete and accurate register of licences. This avoids conflicts between competing licence applicants and existing licence holders and reduces the possibility that investors will resort to corrupt conduct to have conflicts resolved in their favour.

#### RISKS

Corruption is more likely to arise when:

- **Steps in the application and evaluation process are not clear or transparent** > opening doors for investors to offer and licencing staff to solicit bribes or other inducements to speed up the licencing process or to get a favourable outcome
- **Decisions of licencing staff are not regulated by clear evaluation criteria or are vulnerable to ministerial interference** > allowing for approval to be given for political or personal reasons
- **The licencing authority is inadequately funded and has low human and technical capacity** > increasing the likelihood of bottlenecks and delays in processing, creating an incentive for applicants to offer bribes or facilitation payments
- **The mining licence register has information gaps and is not transparent** > enabling manipulation of applications, breach of the “first come first served” principle, and reducing scrutiny

As is common practice in mining, all countries in this study grant licences on a “first come, first served” basis, although many also have provisions for competitive tender when geological potential is known. A complete, accurate

and public register of licences and the areas to which they apply is important to ensure that the “first come, first served” rule is respected.

**Zimbabwe's** mining licence register is paper-based which limits public access and makes it vulnerable to tampering. The Minister of Mines has acknowledged that poor management of the current licence register has led to many conflicts because overlapping mining licences have been granted. According to one licencing official, the duration and timing of each step of the licencing process is at the discretion of licencing staff, enabling them to manipulate the timing of applications received to preference certain applicants.



## Weaknesses in the licencing process were identified in most of the countries in this study

This vulnerability leads to legal disputes about the true “first applicant”, particularly arising after existing licence-holders discover high-grade ore deposits within their licence area. In an attempt to mitigate this risk, **Zimbabwe** is moving to adopt an online licencing portal.

Weaknesses in the licencing process were identified in most of the countries in this study. Capacity gaps and lack of effective processes for handling licence information create a high risk that corruption will undermine the fair and transparent processing of licence applications.



## MITIGATING THESE RISKS

### Measures to ensure mining licence applications are handled fairly and transparently:

- Clear and transparent licencing rules and evaluation criteria
- A well-resourced, competent and independent licencing authority
- An effective system for managing cadastral and licence application data
- Publication of licences and licence details
- Transparency in the negotiation process, where agreements or contracts are used

**Chapter 3 of Transparency International's Global Report *Combating corruption in mining approvals: assessing the risks in 18 resource-rich countries* provides further details about the corruption risks and accountability measures associated with handling and approving licence applications.**

## ACCOUNTABLE MINING

Transparent and accountable mining can contribute to sustainable development. This begins with corruption-free approvals – the very first link in the mining value chain.

As part of Transparency International's Accountable Mining Programme, national chapters – from Africa, Latin America, Central Asia, the Asia Pacific, and North America – have identified and assessed corruption risks in mining approvals.

The six case studies in this series highlight some of the most common and serious corruption risks. These are the key questions to ask *before* corruption gets a foothold in mining approvals processes.



### POLITICAL & ADMINISTRATIVE CONTEXT

Who benefits from mining approval decisions?



### LAND ALLOCATION

How ethical and fair is the process for opening land to mining?



### LICENCING

How fair and transparent is the licencing process?



### LICENCING

Who gets the right to mine?



### ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT

How accountable are companies for their environmental and social impacts?



### COMMUNITY CONSULTATION

How meaningful is community consultation?