MINING FOR SUSTAINABLE DEVELOPMENT

CORRUPTION RISKS IN MINING APPROVALS

A GLOBAL SNAPSHOT

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

This global snapshot explores where and how corruption can get a foothold in mining approvals processes – before ground is even broken.

Transparency International has assessed the risks that can lead to corruption in 18 resource-rich countries to identify the warning signals as early as possible. Our research found that vulnerabilities to corruption exist in the mining approval regimes of jurisdictions across the world, irrespective of their stage of economic development, political context, geographic region or the size and maturity of their mining sectors.

Based on our Global Report, *Combatting corruption in mining approvals: assessing the risks in 18 resource-rich countries*, this snapshot highlights some lessons from our research on corruption risks in mining approvals and illustrates what the government, mining industry and public can do to address these risks.

What are *mining approvals*? Government decisions about when, where and under what circumstances mining can occur, including awarding licenses, permits and contracts.

PARTICIPATING NATIONAL CHAPTERS

Armenia, Australia, Cambodia, Canada, Chile, Colombia, Democratic Republic of the Congo, Guatemala, Indonesia, Kenya, Liberia, Mongolia, Papua New Guinea, Peru, Sierra Leone, South Africa, Zambia and Zimbabwe.

UNDERSTANDING CORRUPTION RISKS

1. WHO BENEFITS FROM MINING APPROVAL DECISIONS?

Decisions about whether to approve a particular mining project must put the public interest first, and conflicts of interest need to be declared and addressed.

Corruption is more likely to arise when:

> Controls on revolving doors are inadequate

> Regulations on political donations and lobbying are weak

> The real owners or beneficiaries of licence applicants are not disclosed

Measures to address these risks are required to ensure that mining approval decisions benefit the public.

Case Study 1: Revolving doors highlights an example from Peru.

2. HOW ETHICAL AND FAIR IS THE PROCESS FOR OPENING LAND TO MINING?

Decisions about which land is opened to mining and under what conditions have flow-on effects for the integrity of licencing decisions and other mining-related approvals.

Corruption is more likely to arise when:

> Land rights are poorly protected and not properly registered

> Rules and criteria for opening land to mining are not clear or transparent

Measures to address these risks are required to ensure that land is opened to mining in a transparent and ethical way.

Case Study 2: Rules and criteria for opening land to mining highlights an example from Indonesia.

3. HOW FAIR AND TRANSPARENT IS THE LICENCING PROCESS?

A fair and transparent licencing process has clear rules and effective institutions, with a complete and accurate register of licences (mining cadastre). If information in the mining cadastre is incomplete, officials can manipulate applications and breach the "first come, first served" principle for granting licences.

Corruption is more likely to arise when:

> Steps and decision-making criteria in the licencing process are unclear

> Information in the licence register is missing or not publicly available

> The licencing authority is under-resourced

Measures to address these risks are required to ensure that licence applications are handled fairly and transparently.

Case Study 3: Weaknesses in the licencing process highlights an example from Zimbabwe.

To understand the corruption risks identified and assessed in the 18 countries, Transparency International has framed a series of six questions that help identify *where* and *how* an approvals regime is vulnerable to corruption. The answers to these questions can help target the underlying causes of corruption, informing key players on how to take effective preventative action *before* corruption occurs.

Transparency International's Global Report, *Combatting corruption in mining approvals: assessing the risks in 18 resource-rich countries*, and our series of case studies dive deeper into answering these six key questions.

Change starts by answering these questions.

4. WHO GETS THE RIGHT TO MINE?

Governments need to conduct effective due diligence on the past conduct and compliance, financial resources, beneficial owners, and technical capacity of licence applicants and their principals. Otherwise, companies can deliberately provide misleading information, and mining rights can fall into the wrong hands.

Corruption is more likely to arise when:

Due diligence on licence applicants is inadequate

Controls on licence stockpiling are weak

Regulation and disclosure of licence transfers is ineffective

Measures to address these risks are required to ensure that only genuine, qualified and compliant applicants are awarded mineral rights.

Case Study 4: Due diligence highlights an example from Australia.

5. HOW ACCOUNTABLE ARE COMPANIES FOR THEIR ENVIRONMENTAL AND SOCIAL IMPACTS?

Effective verification of environmental and social impact assessments (ESIAs) is needed to guard against the risk of licence applicants knowingly providing incorrect information about the potential impacts of their projects.

Corruption is more likely to arise when:

Verification of ESIAs is inadequate

Accountability of approval decisions is low

Enforcement of licence conditions is weak

Measures to address these risks are required to ensure that companies are accountable for their environmental and social impacts.

Case Study 5: Capacity to verify ESIAs highlights an example from South Africa.

6. HOW MEANINGFUL IS COMMUNITY CONSULTATION?

Ensuring genuine consultation and negotiations with communities is critical to securing the legitimacy of mining approvals. If there are no clear or binding requirements for consultation, it is more likely that the duty to consult will be ignored or carried out superficially.

Corruption is more likely to arise when:

Rules for consultation are not clear

Consultation only occurs with local elites

Agreements are not publicly available

Measures to address these risks are required to ensure that consultation with communities is meaningful.

Case Study 6: Requirements for consultation highlights an example from Cambodia.

ADDRESSING CORRUPTION RISKS

Measures to address corruption risks must be tailored to the relevant context – there are no one-size-fits-all solutions. All mining sector stakeholders have a clear role to play in enhancing transparency and accountability to combat corruption in mining approvals.

GOVERNMENT

Lawmakers, senior government officials, and licencing authority officials – have a critical role in:

- **Setting clear, transparent, and effective rules and criteria** for mining approvals processes
- **Ensuring public access to information** about mining approval processes and decisions
- **Establishing meaningful opportunities** for affected communities and civil society **to participate** in the aspects of mining approvals that directly affect them
- **Making sure that agencies** tasked with administering mining approvals **have the necessary institutional capacity** to effectively perform their functions
- **Conducting due diligence** on licence applicants and their beneficial owners
- **Implementing effective mechanisms to** identify, manage and **reduce conflicts of interest**

MINING INDUSTRY

Companies and industry associations – have a significant role in ensuring cleaner practices in their own operations and championing good practice by:

- **Being transparent about their operations**, including their subsidiaries, joint venture partners and where they operate

- **Disclosing their project rights and obligations**, including contracts, licences, and environmental and social impact management plans
- **Committing to and conducting meaningful community consultation**
- **Going "beyond compliance"** where a country's licencing standards or disclosure requirements are lax and below best practice
- **Understanding corruption risk** in mining approvals in the countries where they operate and introducing internal integrity systems to prevent and detect corruption in their operations

THE PUBLIC

Civil society, the media, and mining-affected communities – have an important role as accountability actors by:

- **Observing the process** to understand how the mining approval process is undertaken and where the process is vulnerable to corruption risk
- **Scrutinising approvals outcomes and decisions** so they can hold government and the mining industry to account
- **Taking up meaningful opportunities to participate** in aspects of mining approvals that directly affect them

Change must happen where mining approvals take place – at the national and sub-national levels – and with support from global and regional initiatives. Transparency International will continue to work with key stakeholders to control corruption risks in different contexts. This will provide evidence about what works, what doesn't work and why, and in doing so paint a more complete picture of what's needed to make the mining approvals process corruption-free.