

# CORRUPTION

## RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



◀ Mining for Sustainable Development (M4SD) ▶

**TRANSPARENCY  
INTERNATIONAL  
ZIMBABWE**

the coalition against corruption







### **ACKNOWLEDGEMENTS.**

The Zimbabwe Mining Award Corruption Risk Assessment was made possible due to the support of our funders and we are particularly grateful for the support we received from Transparency International Australia. Their expertise and interest culminated in the production of this final report.

TI Z is also indebted to the support it received from the project stakeholders, namely, artisanal and small scale miners from Mutare (Penhalonga) and Bulawayo, as well as Civil Society organizations in mining. This report acts as a voice communicating various narratives on how the system of issuing mining claims is ridden with corruption vulnerabilities and risks.

We also want to extend our heartfelt gratitude to the following individuals; Mukasiri Sibanda, Hon Dr Shumba, Mr Gilbert Makore, Mr Farai Maguwu, Dr Hadebe, and Mr Wellington Takavarasha. Their views and input added value to the report by focusing it on current contextual issues and realities.

Lastly TI Z appreciates and acknowledges Mr Norman Mukwakwami through whose effort and expertise this final report was produced.

Published by Transparency International Zimbabwe

ISBN 978-0-7974-8299-9

Copy edited by Brawnate Investments

Cover by Light-House Print

Book Layout and Print by LighthWouse Print

The research, language, views, conclusions and strategies outlined in this document have been created by the Transparency International National Chapter in Zimbabwe and are not [endorsed by Transparency International, Transparency International Australia, BHP Billiton Foundation or the Australian Department of Foreign Affairs and Trade.

The material set out in this publication is intended for general information only. To the extent permitted by local laws, Transparency International, Transparency International Australia, BHP Billiton Foundation and the Australian Department of Foreign Affairs and Trade exclude liability for and are not liable to any person with respect to the accuracy or completeness of the information set out in the publication.



### ACRONYMS

AfDB	-	African Development Bank
AP	-	Approved Prospector
CBOs	-	Community Based Organisations
CEO	-	Chief Executive Officer
CIO	-	Central Intelligence Organisation
CNRG	-	Centre for Natural Resource Governance
CPI	-	Corruption Perceptions Index
EMA	-	Environmental Management Agency
GDP	-	Gross Domestic Product
GoZ	-	Government of Zimbabwe
JVs	-	Joint Ventures
M4SD	-	Mining for Sustainable Development
MAB	-	Mining Affairs Board
MACRA	-	Mining Awards Corruption Risk Assessment
MAO	-	Mining Affairs Officer
MDC	-	Movement for a Democratic Change
MDC-T	-	Movement for a Democratic Change - Tsvangirai
MMAB	-	Mines and Minerals Bill
MoFED	-	Ministry of Finance and Economic Development
MoMMD	-	Ministry of Mines and Mining Development
OAG	-	Office of the Auditor General
OPC	-	Office of the President and Cabinet
PAC	-	Public Accounts Committee
PL	-	Prospecting License
PMD	-	Provincial Mining Director
POSA	-	Public Order and Security Act
PS	-	Permanent Secretary
SADC	-	Southern African Development Community
SERA	-	State Enterprises Reform Agency
SOE	-	State Owned Enterprise
SPB	-	State Procurement Board
TI Z	-	Transparency International Zimbabwe
WB	-	World Bank
ZANU-PF	-	Zimbabwe African National Union - Patriotic Front
ZCDC	-	Zimbabwe Consolidated Diamond Company
ZELA	-	Zimbabwe Environmental Lawyers Association
ZMDC	-	Zimbabwe Mining Development Corporation



## TABLE OF CONTENTS

Abbreviations .....	2
Table of Figures .....	4
Table of Tables.....	4
Executive Summary .....	5
Overview of TI Zimbabwe .....	6
1. Introduction.....	6
2. Background .....	6
2.1. Corruption in Zimbabwe .....	8
3. Methodology.....	9
3.1. The Mining Awards Corruption Risk Assessment (MACRA) Tool.....	9
3.2. Data collection and research methods.....	10
3.3. Scoring risks.....	10
3.4. Validation and review process.....	10
3.5. Limitations .....	10
4. Description and Analysis of Licensing Process, Practice and Context .....	11
4.1. Context Analysis.....	11
4.1.1. Political Factors.....	11
4.1.2. Regulatory Factors .....	14
4.1.3. Economic Factors .....	16
4.1.4. Social & Environmental Factors.....	18
4.1.5. Technological Factors.....	19
4.2. Mapping the Process and Practice of Issuing Claims.....	19
4.2.1. The Award Process in Law.....	20
4.2.2. The Actual Awards Process.....	22
4.3. Vulnerabilities and Corruption Risks.....	24
5. Results.....	32
5.1. Likelihood of Risks.....	35
5.2. Impact of Risks.....	35
6. Discussion of Results .....	35
a. Major risks with almost certain likelihood and catastrophic impact.....	35
b. Major risks with almost certain likelihood and major/moderate impact OR with catastrophic impact and are likely .....	36
7. Recommendations.....	37
8. Conclusions .....	49
Annexes .....	50
Annex 1 – Detailed PEST Analysis Questionnaire.....	50
Annex 2: Risk Assessment.....	55
Annex 3: Corruption Risk Assessments by Focus Groups.....	77

## TABLE OF FIGURES

Figure 1: Share of total mineral output by value .....	5
Figure 2: Illustration of award process as per the Mines and Minerals Act .....	20
Figure 3: Map of the actual award process.....	22
Figure 4: Vulnerabilities in the actual awards process .....	24
Figure 5: Matrix of scoring risks. Source: MACRA Tool .....	30

## TABLE OF TABLES

Table 1: Vulnerabilities in the awards process .....	29
Table 2: Summary of Assessment scores for identified risks .....	32
Table 3: Analysis to prioritize risks.....	47



### EXECUTIVE SUMMARY

Transparency International Zimbabwe (TI Z) is one of 20 national chapters participating in Transparency International's global Mining for Sustainable Development (M4SD) Programme. Phase One of the Programme (2016-2017) focuses on understanding the problem by identifying and assessing the corruption risks in the process and practice of awarding mining licenses, permits and contracts. This report presents the main findings from the corruption risk assessment in Zimbabwe, which was conducted with the participation of more than 100 stakeholders.

While Zimbabwe is endowed with deposits of an estimated 40 minerals, only gold, diamonds, platinum group elements and nickel make a significant contribution to the economy. This study focuses on the award process for a type of mining license used for mining precious metals such as gold and platinum group metals.

Zimbabwe's mining sector is plagued by corruption, despite the passing of some 'best practice' legislation and policies to combat corruption. However, this has had limited results and of late, anticorruption efforts tend to focus on the political opposition. A Mines and Minerals Amendment Bill (MMAB) is currently before Parliament of Zimbabwe. The Bill has received mixed reviews from key stakeholders who generally feel it is an improvement from the current Mines and Minerals Act (Chapter 21:05 of 1961), but falls short of 'best practice'.

Zimbabwe is perceived to have high levels of corruption. Public funds are sometimes diverted to unintended uses by high-level officials. In addition, the country is a deeply-divided, fragile state where factionalism in the ruling party, ZANU-PF, directly affects state institutions including the military. The checks and balances on executive power that exist in law are only used when the executive permits it, while external accountability mechanisms have inadequate resources and authority. In the mining sector, tax avoidance and transfer pricing is a key issue. Further, the poor governance of state-owned enterprises (SOEs) in the mining sector compounds corruption.

The research revealed 19 vulnerabilities in the process and practice of awarding blocks of claims for precious metals which lead to 22 corruption risks. Two-thirds of these corruption risks are almost certain to happen. A quarter of them have a catastrophic impact when they do occur. A total of 16 corruption risks were assessed to be major: having either of, or both, a near certainty of occurring and a catastrophic impact. It is important to note that two government departments are central to the evolution of vulnerabilities and corruption risks. These are the Office of the President and Cabinet (OPC) and the Ministry of Mines and Mining Development (MoMMD) (hereinafter referred to as Ministry of Mines).

The major corruption risks that have evolved from the inactions and actions of the OPC have been assessed to have almost certain likelihood and catastrophic impacts. Such risks can be summed up as being due to willful negligence by the highest office in the country and lead to grand corruption. In comparison, the major corruption risks that have evolved from the inactions and actions of the Ministry of Mines have been assessed to have almost certain likelihood and major impacts. Again, this shows willful negligence. However, the Ministry of Mines is constrained with regards to power and the corruption risks linked to it, leading to petty corruption.



## OVERVIEW OF TI ZIMBABWE

Transparency International Zimbabwe (TI Z) is one of 20 national chapters participating in Transparency International's global Mining for Sustainable Development (M4SD) Programme. The programme is coordinated by Transparency International Australia. The M4SD programme complements existing efforts to improve transparency and accountability in extractive industries by focusing specifically on the start of the mining decision chain: the point at which governments grant and award mining permits and licenses, negotiate contracts and make agreements.

The first phase of the programme - running from 2016 through 2017, focuses on understanding the challenge by identifying and assessing the corruption risks as well as the process of awarding mining licenses, permits and contracts. In this report, TI Z presents the major findings and highlights from the corruption risk assessment in Zimbabwe.

With an understanding of the nature and causes of corruption risk, national chapters will develop and implement solutions to tackle priority corruption risks in Phase Two of the Programme (2018-2020). They will work with key stakeholders from government, the mining industry, civil society and affected communities to improve transparency, accountability and integrity on the decisions about approving mining projects.

The participation of TI Z in Phase One of the Programme is supported by the BHP Billiton Foundation. Globally, the M4SD Programme is also funded by the Australian Department of Foreign Affairs and Trade.

## 1. INTRODUCTION

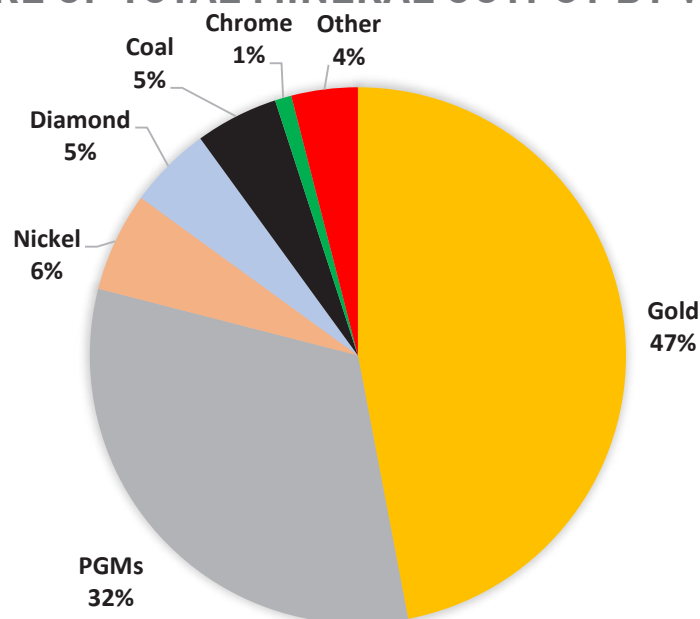
This corruption risk assessment was conducted as part of Transparency International's Mining for Sustainable Development (M4SD) Programme. The aim of this study is to identify the systemic, regulatory and institutional vulnerabilities to corruption in awarding mining and mining-related licences, permits and contracts and to assess the specific corruption risks created by these vulnerabilities. This report presents the main findings from the study and the results of the corruption risk assessment.

## 2. BACKGROUND

Zimbabwe is endowed with deposits of an estimated 40 minerals, approximately half of which are actively produced. Only a handful of minerals however, make a significant contribution to the economy. These are gold, diamonds, platinum group elements, coal and nickel as shown in the Figure 1 below:

Figure 1: Share of total mineral output by value

### SHARE OF TOTAL MINERAL OUTPUT BY VALUE





## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

Zimbabwe's mining sector is regulated under the Mines and Minerals Act (Chapter 21:05 of 1961). The Act's provisions include the awarding of the following mining awards:

### For exploration:

- Prospecting License - granted to Zimbabwean nationals who want to conduct exploration for themselves or on behalf of a domestic or foreign entity.
- Exclusive Prospecting Order - granted to anyone who wants exclusive rights to explore for a particular mineral or minerals over a large area.

### For extraction:

- Claim (Block of claims) - the basic right to mine granted over one hectare (ha). A block of claims for precious metals contains 10 claims i.e. 10 ha, while that for base metals contains 25 claims i.e. 25 ha.
- Mining Lease - the mining right granted to the owner of several adjacent blocks of claims for ease of administration.
- Special Mining Lease - the mining right granted to an applicant for a mining lease who intends to invest over US\$100 million. This right usually conveys benefits such as tax breaks.
- Special Grant - the right granted to allow exploration or extraction in an area that has been demarcated as being off limits for either.
- Special Grant for coal, mineral oils and natural gases - they are considered strategic energy minerals

This assessment focuses primarily on the one award process – the claim (block of claims)<sup>1</sup> for precious metals. Due to the inherent and unintended interlinkages of the different awards, the assessment also touches on the prospecting license and special grant. The claim has been chosen because among all the licenses, it has the largest impact on mining in Zimbabwe. It is a primary license given to miners who produce precious metals which make the largest contribution to the economy among all other minerals.<sup>2</sup> Further, the claim also has the highest frequency of issuance among all licenses due to the high level of precious metal mining activity and many active operators, particularly in gold mining. The table below shows the number of licenses of each type granted in 2016:

The mining of precious metals also has significant negative social and environmental impacts such as acute deforestation, generation of community disaffection and creation of socio-environmental conflicts. The strategic value of selecting the claim is that there is a known history of corruption in the awarding of claims which has made it a public concern. Tackling corruption in the claim award process will have a positive flow-on effect on transparency and accountability in other areas of the mining value chain.

## 2.1. Corruption in Zimbabwe

Corruption is often defined as the abuse of entrusted power for private gain.<sup>3</sup> In the framework of this report, corruption is a deals-based way to sustain agreements among certain individuals or groups. These agreements are based on the country's legislation and structured around social practices and cemented by cooperation and trust among the individuals or groups engaged in corruption.<sup>4</sup> While it has been argued that in the short- term, corruption can “grease the wheels of the economy,” in the long- term, it negatively affects economic growth by diverting resources from more productive uses and negatively affects equity by disproportionately benefiting those in power. Moreover, it undermines legitimacy because it affects public perceptions of the fairness of the decision-making process.<sup>5</sup>

Zimbabwe has passed some 'best practice' legislation and policies to combat corruption. The government has established the Zimbabwe Anti-Corruption Commission (ZACC), empowered as an independent body by the Constitution of Zimbabwe and passed legislation contained in:

- The Prevention of Corruption Act (1983),
- Public Service Act (1995),
- The Ombudsperson Amendment Act (1997),
- Anti-Corruption Commission Bill (2004),
- The Criminal law (Codification and Reform) Act (2004),
- Bank Use Promotion and Suppression of Money Laundering Act (2004),
- Criminal Procedure and Evidence Amendment Act (2004) and,
- Criminal Law (Codification and Reform) Act of 2006.

Anti-corruption laws, policies and institutions have had limited results. Zimbabwe is ranked 154<sup>th</sup> out of 176 countries in the latest Transparency International Corruption Perception Index (CPI) of 2016. It has been argued that 'best prac-

<sup>1</sup> a single claim for precious metals measures 10 ha and a block of claims is a set of up to 10 adjacent claims. however, for simplicity, throughout this report a claim and a block of claims will be referred to as claim(s).

<sup>2</sup> Gold and platinum group elements (PGEs)

<sup>3</sup> Transparency International Plain Language Guide (2009)

<sup>4</sup> Robbins, P. (2000) 'The rotten institution: corruption in natural resource management', Political Geography, no. 19, pp. 423-443.

<sup>5</sup> Rose-Ackerman, S. R. 2016. Corruption and Government. Cambridge, U.K.: Cambridge University Press.



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



‘tice’ anti-corruption reforms often prove ineffective as they do not tackle the underlying reason for their failure, i.e. ensuring the credible commitment of those in power not to abuse that power for private gain.<sup>6</sup>

In Zimbabwe, corruption is a pillar of the patronage networks that have kept the ruling ZANU-PF party in power. Consequently, corruption is less about individual transactions and more about networks of actors. As a result, anti-corruption efforts are likely to be effectively enforced only when they are aligned with the interests of powerful actors in the country.

### 3. METHODOLOGY

#### 3.1. The Mining Awards Corruption Risk Assessment (MACRA) Tool

The analysis in this report uses the research method contained in the Mining Awards Corruption Risk Assessment (MACRA) Tool (Nest 2016). The MACRA Tool was created by an independent expert engaged by Transparency International to provide a consistent, clear and robust methodology for identifying and assessing corruption risks in the 20 countries participating in the M4SD Programme.

The first part of the risk assessment involves data collection and analysis. The MACRA Tool guides users to create a map of the awards process as set out in law, official guidelines and policy. It also directs users to collect information about the practices in implementing the process and about relevant contextual factors. Users then analyse these three aspects of mining awards the process, practice and context to identify vulnerabilities to corruption.

Vulnerabilities are systemic, regulatory, institutional and other weaknesses that create risks of corruption. They create opportunities for corrupt conduct to occur or to pass undetected, thereby undermining the lawful, compliant and ethical awarding of licenses, permits and contracts. The second part of the tool instructs users to identify and assess the specific corruption risks created by these vulnerabilities. The tool contains a list of 89 common risks relating to five different risk factor categories – corruption risks originating in:

1. Process design,
2. Process practice,
3. Contextual factors,
4. Accountability mechanisms, and
5. Legal and judicial responses to corruption.

Users can adopt or modify the common risks, or create a new risk that suits their circumstances. Users then assess each corruption risk by analysing evidence of the likelihood of its occurrence and potential impact. The final stage is risk prioritisation. The chapter’s priority risks are those corruption risks the chapter will seek to mitigate or manage. The results of the risk assessment are the primary input into this determination, but other matters such as the national chapter’s capacity to take action, the resources required and potential for stakeholder collaboration are also important considerations.

The MACRA Tool builds on Transparency International’s experience with corruption risk assessment in other fields such as National Integrity Systems and other mining and extractive sector instruments, indices and resources. Experts from multilateral institutions, major international non-governmental organisations and industry bodies provided valuable feedback in the development of the MACRA Tool.

#### 3.2. Data collection and research methods

The assessment utilised qualitative data collection methods – key informant interviews, focus group discussions and desk study. A total of 15 interviews and two focus group discussions were conducted in 4 of the country’s 10 provinces, representing half of the country’s eight mining provinces. The locations were the key mining districts and licensing offices that include Ministry of Mines offices in Bulawayo, Mutare, Bindura and Gweru. The types and numbers of sources are listed below (number of women in brackets):

- |   |   |       |
|---|---|-------|
| • Ministry of Mines officials                         | - | 7 (1) |
| • Former Ministry of Mines officials                  | - | 1 (0) |
| • Miners (of all scales)                              | - | 5 (1) |
| • Mining association officials                        | - | 2 (1) |
| • Independent service providers in the awards process | - | 2 (0) |
| • Non-governmental organisations                      | - | 2 (0) |

<sup>6</sup> Schmidt, M. 2016. Background note on corruption, WDR 2017, World Bank, Washington, DC.



### 3.3. Scoring risks

The scoring of risks was conducted through two focus group discussions held in the provinces of Manicaland and Bulawayo Metropolitan. The Mutare focus group discussion was comprised of 28 people (14 women) including small-scale miners, government officials, mining association leaders and media practitioners. The Bulawayo focus group had 48 people (15 women) including Ministry of Mines officials, students, researchers, mining service providers, small-scale miners, representatives of mining companies and staff from NGOs. The two groups focused on different risks for two reasons:

- (i) the groups were demographically different and therefore, each focused on risks most relevant to them; and
- (ii) the process of scoring risks was time-consuming and it was not feasible for one group to score all the risks in one sitting.

### 3.4. Validation and review process

The validation of the identified vulnerabilities, risks and their scoring was conducted through peer review by the chair of the Parliamentary Portfolio on Mines and Energy, as well as two other mineral resource governance experts from the Zimbabwe Environment Lawyers Association (ZELA) and the Zimbabwe Artisanal and Small Scale Mining Association. In addition, the findings were also reviewed and validated by the TI Zimbabwe staff.

### 3.5. Limitations

The Ministry of Mines did not respond officially to a request for an interview with its Permanent Secretary.

## 4. DESCRIPTION AND ANALYSIS OF LICENSING PROCESS, PRACTICE AND CONTEXT

### 4.1. Context Analysis

A context analysis of the Zimbabwean mining sector is critical to understanding the history and political economy of the sector. The MACRA tool provided guidance on key issues to consider in the context analysis. The desk study provided the bulk of the data for this section as the mining sector has been widely studied and analysed. A diverse range of sources were utilised, ranging from academic and media articles, key informant interviews and publications to international resources on good governance in mining.

#### 4.1.1. Political Factors

Zimbabwe is a deeply-divided, fragile state. The country has been presided over by one person, President Robert Mugabe and one party, ZANU-PF, since independence from white minority rule in 1980. The style of governance employed is characterised by patron-client relationships and state capture. I.e. formal institutions are kept purposefully weak and private and public spheres are not easily separable. President Mugabe purposefully fans factionalism. The President plays several political groups (factions) against each other to keep himself on top. The factions are increasingly coalescing around ethnic lines.<sup>7</sup>

Party factionalism directly affects state institutions including the military. Party factions frustrate and sabotage the efforts of the other, both within and between ministries. An example is the sabotage of the Vice President Emmerson Mnangagwa -backed investment agreements with Aliko Dangote, in cement manufacturing, coal mining and power generation.

Traditional governance institutions such as chiefs have also become politicised and factionalised. The military leadership supports the ZANU-PF party in contravention of the Constitution of Zimbabwe. For example, Zimbabwe Defense Forces Major-General Martin Chedondo in an address to 3,000 soldiers stated, "As soldiers, we will never be apologetic for supporting ZANU-PF"<sup>8</sup>. The Commander of the Zimbabwe Defense Forces, General Constatine Chiwenga is said to belong to the 'Lacoste' faction while the Commissioner General of the Zimbabwe Republic Police, Augustine Chihuri, Air Marshal, Perence Shiri and head of the Central Intelligence Organisation (CIO), Happyton Bonyongwe, are/were reported to belong to the expelled former Vice President Joice Mujuru faction.<sup>9</sup>

<sup>7</sup> The ZANU-PF party currently has two main factions: (i) the "G-40" faction centered around the First Family and composed of the President's relatives, politicians from his Zezuru ethnic group and some sections of the Ndebele ethnic group; and (ii) the "Lacoste" faction centered around Vice-President Emmerson Mnangagwa and composed mainly of senior government officials and politicians from the Karanga ethnic group who are aggrieved at what they view to be the Zezuru's continued dominance over national politics and economics since independence in 1980. A third faction, the "Mujuru" faction was expelled from the party in late 2014 after it had positioned itself to oust Mugabe. It has morphed into an opposition party.

<sup>8</sup> John Mazongo, "Army part of politics: Chedundo", The Herald, 8 May 2012. Available at: <http://www.herald.co.zw/army-part-of-politics-chedondo/>

<sup>9</sup> Elias Mambo and Richard Chidza, "Mugabe Tells Off Security Chiefs", The Newsday, 12 December 2015, <https://www.newsday.co.zw/2015/12/12/mugabe-tells-off-security-chiefs/>

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



Checks and balances on executive power exist in law but are only used when the executive permits it. The new Zimbabwe Constitution of 2013 provides for the separation of powers and includes some checks and balances on executive power. It also limits presidents to two terms of office (though this clause only becomes effective in 2023). The Parliament of Zimbabwe serves as a check which often holds the executive accountable for its decisions, particularly ministers, department directors and heads of State Owned Enterprises (SOEs).

For example, the Parliamentary Public Accounts Committee (PAC) is now presenting timely reports to parliament, having failed to do so between 2010 and 2014, while the Parliamentary Legal Committee rejected the proposed Criminal Procedure and Evidence Amendment Bill in March 2015, arguing that it retains provisions that violate the Constitution.

External accountability mechanisms exist but they have inadequate resources and authority. External accountability mechanisms such as inspector-general, ombudsman, and independent audit have existed before and after independence. The Office of the Auditor General (OAG) in particular, has demonstrated impressive initiative and independence. Its audit of the Zimbabwe Revenue Authority (ZIMRA) in 2016, revealed irregular payments and activities (including tax evasion) which have led to the suspension of the Commissioner-General, Gershem Pasi and five other executive managers.<sup>10</sup>

The World Justice Project's Rule of Law Index score for 'Government Powers are effectively limited by independent auditing and review' has increased from 0.22 in 2013 to 0.31 in 2016 (on a scale of 0 to 1).

Regulation of political financing is poorly enforced to the benefit of incumbents. Political financing is regulated through the Political Parties Act Chapter 2:11. In a corruption case against the Minister of Higher and Tertiary Education, Professor Jonathan Moyo, his defense was that he diverted money from the Zimbabwe Development and Education Fund (ZIMDEF) to buy bicycles for chiefs in his Tsholotsho North constituency on behalf of the ZANU-PF party.

Of late, anticorruption efforts tend to focus on the political opposition. The Zimbabwe Anti-Corruption Commission (ZACC) has become more active than it was between 2013 and 2015. This is mainly because since 2013, ZACC was not constituted due to changes in the new Constitution. It was only constituted in late 2015. ZACC was established in 2005 and is covered by Section 254 of the 2013 Constitution of Zimbabwe. It is governed by the United Nations (UN) and Africa Union (AU) Conventions against Corruption and the Southern Africa Development Community (SADC) Protocol against Corruption, which Zimbabwe has ratified.

Between 2006 and 2012, ZAAC presented 143 cases for prosecution of which 69 (48%) were finalised in court.<sup>11</sup> Between 2013 and 2015 when ZACC was not constituted, only two cases were presented for prosecution. Five cases were presented for prosecution in 2016, and none of these have been finalised, while several more are under investigation. One high profile investigation has been that of the Minister of Higher and Tertiary Education, Professor Jonathan Moyo (a member of the G-40 faction within ZANU-PF) and his deputy, Dr. Godfrey Gandawa. While having merit, the case has been pushed for by the opposing Lacoste faction in the ruling party, ZANU-PF. ZACC has also been embroiled in cases of corruption, with its Chief Executive Officer (CEO), Ngonidzashe Gumbo, receiving a 10-year jail sentence in 2015 for defrauding the Commission of US\$435,000.<sup>12</sup>

International ratings score Zimbabwe very low in accountability. The 2016 Mo Ibrahim Index of African Governance (IIAG) gives Zimbabwe an accountability ranking of 40th out of 53, up from 43rd out of 52 countries with the score rising from 21.6/100 to 24.2/100. The Transparency International Corruption Perception Index (CPI) ranks Zimbabwe 150th out of 166 countries with a score of 21/100 up from 156th out of 174 with an unchanged score. In the Africa Integrity Indicators (AII), Zimbabwe has a score of 56/100 for Accountability.

In the World Governance Indicators, Zimbabwe's percentile rank for Control of Corruption has improved from 4.33 in 2014 to 7.21 in 2015. The percentile rank for Voice and Accountability has improved from 12.32 in 2014 to 15.27 in 2015.

Significant parts of the media operate outside the influence of the government or powerful business interests, and media publicity provides some deterrent against unethical behaviour. Significant parts of the print and online media operate outside the influence of government or powerful business interests. However, the Government of Zimbabwe (GoZ) dominates the television and radio media through the state broadcaster, Zimbabwe Broadcasting Corporation (ZBC). Citizens in rural areas therefore have limited access to diverse information. Although the new Constitution has expanded on the protection of freedom of expression to include freedom of the media, the restrictive Access to Information and Protection of Privacy Act (AIPPA), announced to be under review by the Government in April 2014 to comply with the new constitution, has not yet been revised. AIPPA was enforced in 2002 and governs the operation and general conduct of the media.

ty-chiefs/

10 Lloyd Gumbo, "Audit sniffs out Zimra scandals", The Herald, 4 October 2016. Available at: <http://www.herald.co.zw/audit-sniffs-out-zimra-scandals/>

11 Unpublished ZACC statistics seen by the author

12 David Nemukuyu, "Anti-Corruption Commission boss jailed", The Herald, 3 March 2015. Available at: <http://www.herald.co.zw/anti-corruption-commission-boss-jailedhttp://www.herald.co.zw/anti-corruption-commission-boss-jailed>



The Public Order and Security Act (POSA), also enacted in 2002, severely limits what journalists may publish and mandate harsh penalties, including prison sentences. POSA was meant to repeal the Law and Order Maintenance Act (LOMA).

It is generally believed that access to information and the protection of citizens' rights will only be guaranteed if both AIPPA and POSA are amended. The 2016 Freedom House 'Freedom of the Press' report assessed Zimbabwe to be 'Not Free'. The 2016 Reporters without Borders "Press Freedom Index" sees as improvement in the country's ranking from 131/180 in 2015 to 124/180 in 2016.

Public funds are sometimes diverted to unintended uses by high-level officials, but the prospect of sanctions has some deterrent effect. The management of public assets is less transparent than the management of budgetary flows. Information on the budget and budget execution is published monthly. The President and other top government officials have been vocal about their displeasure with corruption. The State has prosecuted some officials, the highest profile being two top Air Zimbabwe executives (the CEO and Company Secretary) for defrauding the state airline of over US\$10 million in an aviation insurance scam.<sup>13</sup>

Bribery was reportedly common in public procurement but is being addressed. Bribery and collusion between bidders are common in public contracting, and value for money is often a minor consideration in contract awards. The State Procurement Board (SPB) is also highly susceptible to political manipulation and consequent corruption.<sup>14</sup> The Executive has however worked on reforms in public procurement together with the World Bank. A new Public Procurement Code has been enacted, while the head of the State Procurement Board was fired and indicted in March 2017 for corruption. However, he committed suicide in April 2017.<sup>15</sup>

Politicians, the security sector and government officials have private business interests including in mining. ZANU-PF as a party and the politicians in their personal capacity have vast business interests<sup>16</sup> in the banking, airline catering, mining, agriculture and manufacturing sectors.<sup>17</sup> The most high profile case has been the exploitation of the Marange diamond fields in Manicaland province by top politicians and security sector officials.<sup>18</sup> While the Prevention of Corruption Act of 1985 exists and requires Ministers, Members of Parliament (MPs), their spouses and children to declare conflicts of interests and their assets, there is no political will to implement it.

In 2008, an election year, Anglo American (which owns a platinum mine in Zimbabwe) forfeited 30% of its blocks of precious metal claims to the government which granted it to Central Africa Mining and Exploration Company (CAMEC) Plc in return for a US\$100 million loan.<sup>19</sup>

Urban informal economic activities are key for patronage, with party loyalists being accorded control over public transport networks, public markets and housing co-operatives.<sup>20</sup> In rural areas, access to mining claims and smallholder farms are obtained through patronage.

### 4.1.2. Regulatory Factors

Zimbabwe has a long history of corruption which is currently rife in the country as evidenced by three recent surveys. Zimbabwe acquired independence in 1980 and only two years later the first corruption scandal came to light.<sup>21</sup> This was followed in 1983 by demonstrations by students' and women's groups against corruption and in 1989, by the 'Willowgate' scandal<sup>22</sup>. The President pardoned political allies involved in 'Willowgate', an early sign that the regime was ready to turn a blind eye to corruption in order to consolidate power.<sup>23</sup> According to TI, 86% of Zimbabweans believe the police are corrupt.

<sup>13</sup> New Zimbabwe, Former Air Zimbabwe bosses convicted for fraud, 9 April 2015. Available online: [http://www.newzimbabwe.com/news-21774-Air+Zim+duo+convicted+for+\\$10m+fraud/news.aspx](http://www.newzimbabwe.com/news-21774-Air+Zim+duo+convicted+for+$10m+fraud/news.aspx)

<sup>14</sup> Dzuke, A. & Naude, M.J.A., 2015, 'Procurement challenges in the Zimbabwean public sector: A preliminary study', *Journal of Transport and Supply Chain Management* 9(1), Art. #166, 9 pages. <http://dx.doi.org/10.4102/jtscm.v9i1.166>

<sup>15</sup> NewsDay Reporter, "Ex-SPB boss Kuwaza commits suicide", *The NewsDay*, 19 April 2017. Available online: <https://www.newsday.co.zw/2017/04/19/ex-spb-boss-kuwaza-commits-suicide/>

<sup>16</sup> Tinashé Nyamunda, The state and black business development: The Small Enterprises Development Corporation and the politics of indigenisation and economic empowerment in Zimbabwe, *Historia* Volume 61, Issue 1: 2016.

<sup>17</sup> T. Chitagu, 'Minister taken to court over salary arrears', *Newsday*, 11 October 2016 (online)

<sup>18</sup> Parliamentary Portfolio Committee report [First Report of the Portfolio Committee on Mines And Energy on Diamond Mining (with special reference to Marange Diamond Fields)(2013)]

<sup>19</sup> [https://wikileaks.org/plusd/cables/O8HARARE459\\_a.html](https://wikileaks.org/plusd/cables/O8HARARE459_a.html)

<sup>20</sup> Jocelyn Alexander & JoAnn McGregor, Introduction: Politics, Patronage and Violence in Zimbabwe, *Journal of Southern African Studies* Volume 39, Issue 4: 2013.

<sup>21</sup> Businessman Samson Paweni was arrested for cheating the government of some Z\$5million in foreign-sourced famine relief during the 1982-4 drought. Though Paweni was convicted and jailed for the offence, most of the high-ranking government officials implicated in the fraud (including a Minister, Kumbirai Kangai) escaped the net.

<sup>22</sup> A corruption racket where Ministers and other government officials bought cars at subsidized prices from the state-owned Willowvale Assembly plant and sold them at market prices.

<sup>23</sup> Michael Bratton and Eldred Masunungure. 2011. *The Anatomy of Political Predation: Leaders, Elites and Coalitions in Zimbabwe, 1980-2010*. Development Leadership Program

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



The mining sector is also plagued by corruption. The country has a supreme audit institution, the Office of the Auditor General (OAG), which oversees the government's management of financial flows including the Ministry of Mines and state-owned enterprises (SOEs) in the mining sector. The President revealed in 2016 that up to US\$15 billion dollars had been lost due to illicit financial flows in the mining of diamonds.<sup>24</sup> The OAG has uncovered corruption in the Ministry of Mines,<sup>25</sup> where five officials from the state-owned Zimbabwe Mining Development Corporation (ZMDC) purported to Government that they had formed a joint venture between ZMDC and a South African firm, BSGR, to mine diamonds. In reality, they had formed a private joint venture with a South African company, Canadile Miners to mine diamonds in Marange district, Manicaland province.<sup>26</sup> It is believed they siphoned off US\$6 million before the scandal was unearthed.<sup>27</sup> A former senior official of the Ministry of Mines also revealed corrupt practices within the ministry.<sup>28</sup>

Zimbabwe, like most developing countries, has sought to replicate anticorruption strategies of Organisation for Economic Co-operation and Development (OECD) countries with limited results. It has been noted that OECD countries have achieved significant control of corruption through development processes and institutional reforms such as improving enforcement of the rule of law, changing the expected returns of corruption (for example, through bureaucratic pay increases, greater transparency, or harsher punishments), and simplifying procedures to reduce the opportunities for corruption.<sup>29</sup> Zimbabwe established ZACC in 2005<sup>30</sup> and is currently running the Against Corruption Together (ACT) campaign spearheaded by the judiciary.<sup>31</sup> These efforts have, however, achieved modest results - Zimbabwe is ranked the 17th most corrupt country in the 2016 Transparency International Corruption Perception Index (CPI). Zimbabwe's socio-political configuration does not support the enforcement of generalised rule-following behaviour.

Property rights are relatively well defined and the law in theory protects property rights.<sup>32</sup> However, the institutions required to secure these rights are captured by the elite and prone to corruption. The mining property rights are no exception. One High Court case shows how Ministry of Mines officials sometimes engage in corruption to erode the protection of property rights.<sup>33</sup> The global perception of property rights in Zimbabwe is shaped by the chaotic Fast Track Land Reform Programme conducted in the early 2000s, where commercial farms were forcibly taken from over 4,000 white commercial farmers and redistributed to over 50,000 black African small holder farmers.

The majority of these farmers are ZANU-PF members (including war veterans) and form an influential constituency of the party. Global rankings by the World Bank and World Economic Forum show that Zimbabwe has relatively weak protection for property rights.<sup>34</sup>

Zimbabwe's mineral regulatory and policy environment is generally unstable. Zimbabwe's principal mining law, the Mines and Minerals Act enacted in 1961 is generally stable and has been amended 37 times (24 times before independence and just 13 times in the past 36 years). The Act states that the state owns the country's resource endowment and vests them in the Presidency. Mineral policies are very unstable as evidenced by the several revisions of royalties, taxes and licenses since 2010. Another example is the multiple revisions of the Indigenisation and Economic Empowerment Act (IEE), which has seen compliance to indigenisation changed from 51% local equity (which mining companies had been working to achieve) to 75% local content in 2017. Mineral policy reflects a poor understanding of the fundamentals of resource wealth and lack of long-term planning. Fraser Institute ranks Zimbabwe 106 out of 109 in its Policy Perceptions Index for mining jurisdictions.<sup>35</sup> The World Bank reports that Zimbabwe has an unstable policy environment and weak investor confidence.<sup>36</sup> This research revealed that there is wide discrepancy between the process of awarding mining licenses detailed in the Mines and Minerals Act and the actual process that the Ministry of Mines follows.

Some aspects of the regulatory regime for mining are ineffective. The key gaps are around the environmental impacts of mining, conflict resolution where disputes between miners and farmers arise, transparency and accountability and volatility of the mineral taxes and fees. Citing these reasons, the Ministry of Mines has commended an on-going

24 Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/>

25 Report of the Auditor-General for the Financial Year Ended December 31, 2011 on Appropriation Accounts, Finance Accounts, Revenue Statements and Fund Accounts 26 Hadebe S, Mandaza I, Moyo G, Mutondoro F, and Ncube M. J. 2014. Annual State of Corruption Report: Focus on State Owned Enterprises. Transparency International: Harare

27 Zimbabwe Independent, 20 September 2014, Zimbabwe Diamond US\$6M bribery scandal deepens

28 The Independent, "Corruption rampant in mines ministry", 19 March 2010, <https://www.theindependent.co.zw/2010/03/19/corruption-rampant-in-mines-ministry/>

29 Khan, Mushtaq H. 2016. Background note on corruption, WDR 2017, World Bank, Washington, DC.

30 ZACC is covered by Section 254 of the 2013 Constitution of Zimbabwe and governed by the UN and AU Conventions against Corruption and the SADC Protocol against Corruption which Zimbabwe has ratified

31 T. Rupapa, 'Govt steps up anti-graft fight', The Herald, 6 February 2016. Available online: <http://www.herald.co.zw/govt-steps-up-anti-graft-fight/>

32 Section 71 of the Constitution of Zimbabwe, 2013

33 Macheza v Chaumbezvo (HC 4157/14) [2015] ZWHHC 259 (18 April 2015)

34 Zimbabwe is rated 2 out of 6 (on a scale where 1 is worst and 6 is best) for Property Rights & Rule-based Governance in the World Bank's 2015 Country Policy and Institutional Analysis (CPIA) and 122 out of 129 countries (26 out of 27 in the region) in the 2015 International Property Rights Index. It is also ranked 137 out of 138 countries for protection of property rights in the World Economic Forum (WEF) Global Competitiveness Index.

35 The index is composed of survey responses to policy factors that affect investment decisions. Policy factors examined include uncertainty concerning the administration of current regulations, environmental regulations, regulatory duplication, the legal system and taxation regime, uncertainty concerning protected areas and disputed land claims, infrastructure, socioeconomic and community development conditions, trade barriers, political stability, labor regulations, quality of the geological database, security, and labor and skills availability

36 The World Bank, "The Zimbabwe Economic Update", 2015



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

review of the Mines and Minerals Act.<sup>37</sup> There is widespread acknowledgement for the need to overhaul the Act, but the current Amendment Bill falls short of what is required.<sup>38</sup> A wide range of stakeholders have been consulted on the Bill by parliament.

There is limited access to government information about mining.<sup>39</sup> Government has not instituted strong access to information and disclosure legislation and has poor information management systems. The country has not joined the Extractive Industries Transparency Initiative (EITI) despite several commitments to join by the Ministry of Finance over the past five years.<sup>40</sup> There is limited information about the one type of mining contract that exists and special mining leases.<sup>41</sup> One Wikileaks article reveals a 2008 deal with strict confidentiality clauses that preclude public scrutiny between government and Anglo American. The company would get a Special Mining Lease with the rights to hold an offshore account in exchange for forfeiting some of its mining claims.<sup>42</sup> Additionally, government has limited information on mining particularly regarding the geology of the country. However, government does provide access to its limited geological information to companies.

The cadastre officials in the Ministry of Mines are generally competent but are underpaid. The cadastre is managed under the ministry. Senior cadastre officials possess the required academic backgrounds and have vast experience. However most junior officials are often under-experienced.<sup>43</sup> While cadastre officials' salaries are above the poverty datum line, they are significantly below salaries in the private sector.

### 4.1.3. Economic Factors

Mining is very important to the economy, particularly with regards to export earnings, employment and taxes. Apart from the 13% Gross Domestic Product (GDP) contribution, mining contributes about 53% to exports, 12% to fiscal revenue, 50% of Foreign Direct Investment (FDI) and provides 35,000 direct formal jobs.<sup>44</sup> Zimbabwe has a GDP of about US\$15 billion and the mining sector generated revenues of US\$10 billion over a five-year period (2010-14).<sup>45</sup>

Zimbabwe's mining fiscal regime is burdensome for the mining industry. The legal framework governing taxation for the sector includes the Mines and Minerals Act for royalties, the Income Tax Act (for corporate income tax, depreciation and withholding taxes), Value Added Tax Act, Capital Gains Tax Act, Customs and Excise Act and the Finance Act, among others. A total of ten different taxes are levied on the mining sector, three of which are unique to mining. The Zimbabwe Institute of Mining Research (IMR) surveyed local stakeholder perceptions of the attractiveness of Zimbabwe's mining sector in January 2014 and found that the mining fiscal regime is a key deterrent to new investment.

The main issues raised were that the royalties are the highest in the region and are unstable and the tax system is fragmented. Ground rentals are high, there are insufficient tax incentives to reduce the risks of exploration. The additional profits tax on special mining leases is burdensome. Finally, there are limitations of carryover of tax losses to a maximum of six years. This militates against big expenditures. The World Bank is providing on-going technical assistance to the government on reforming the mining fiscal regime.

The mining sector is dominated by the private sector. State Owned Enterprises (SOEs) have a small production share but possess a significant portion of the country's known good quality mineral reserves especially diamonds and coal. The SOEs are however notoriously ineffective due to poor financial performance and corporate governance.<sup>46</sup> This is evidenced by the Zimbabwe Mining Development Corporation (ZMDC), the largest mining SOE, which owns 29 mining projects. Only seven of the projects are operational and none are currently generating a profit consistently.<sup>47</sup>

Tax avoidance and transfer pricing is a key issue in the mining sector. The multiplicity of tax collectors, high taxes and lack of transparency around mineral taxation have led to a high level of tax avoidance particularly by multinational companies. ZIMRA, with the support of the OECD and the World Bank, has instituted new regulations on transfer pricing which led to the collection of over US\$100 million more in tax revenues in 2016.

There are a few major new mining projects that are being planned despite barriers to new foreign direct investment. The country's current largest miner by revenue, ZimPlats, has announced that it will soon open a new US\$264 million underground platinum mine.<sup>48</sup> The state media has reported the commissioning of a US\$3 billion platinum mining joint-venture project between Russia and Zimbabwe<sup>49</sup> and a US\$60 million coal bed methane extraction project.<sup>50</sup>

37 Ministry of Finance and Economic Development, "The 2016 National Budget Statement", 2015

38 Veneranda Langa, "Mines Amendment Bill crucial in modernising mining legislation", The NewsDay, 30 September 2016. Available online: <https://www.newsday.co.zw/2016/09/30/mines-amendment-bill-crucial-modernising-mineral-legislation/>

39 Nathan Associates, "Building Trust and Transparency in the Zimbabwe Mining Sector", USAID, 2014

40 World Bank, 2015. A Business Case for a Transparency Initiative in Zimbabwe.

41 Publish What You Pay, "Position Paper on Key Mining Reforms in Zimbabwe", 2015

42 [https://wikileaks.org/plusd/cables/08HARARE459\\_a.html](https://wikileaks.org/plusd/cables/08HARARE459_a.html)

43 Interview with a Ministry of Mines official, Harare

44 Chamber of Mines of Zimbabwe statistics

45 M. Nyoni, "Mining sector rakes in \$10bn", 24 July 2015. Available at: <https://www.newsday.co.zw/2015/07/24/mining-sector-rakes-in-10bn/>

46 Chris Muronzi, "ZMDC teetering on brink of collapse", 11 March 2016; Happiness Zengeni & Tinashe Makichi, "ZMDC fires top management", 7 October 2016

47 ZMDC, "Annual Report 2012", 2012 (online)

48 ZIMPLATS, "Approval of a New Underground Mine", 30 November 2016 (online)

49 Takunda Maodza, "Russians pour US\$53 million into Great Dyke Investments", The Herald, 16 June 2016 (online)

50 Prosper Ndlovu, "\$60 million for Lupane gas project", The Chronicle, 20 December 2016 (online)

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



There are relatively low barriers to entry for domestic new entrants and significant barriers to entry for foreign new entrants. The key hurdle for foreign new entrants is the Indigenisation and Economic Empowerment Act (IEE). The World Bank states “the Indigenisation and Economic Empowerment Act continues to be a challenging hurdle for private foreign investors. Designed to address historic economic marginalization, the IEE mandates that indigenous Zimbabweans hold a minimum 51% percent ownership stake in any business which is undertaking new investments valued at US\$500,000 or more”<sup>51</sup> Some domestic entrants are however taking advantage of limited competition and thriving.<sup>52</sup>

### 4.1.4. Social and Environmental Factors

There is limited community participation in mining. Large-scale mining in Zimbabwe is an enclave economic activity that makes little contribution to eradication of poverty in mining affected communities, but rather compounds poverty through environmental degradation, forced relocations and Dutch disease.<sup>53</sup> The government has recently decreed that mining companies abide to 75% local content requirements which could see an increase in procurement and employment from local communities.<sup>54</sup>

Grievances around natural resources are prevalent and poorly resolved. Land has been the key natural resource around which historical grievances and disputes have led to many conflicts. Land reform is a contentious issue in Zimbabwe. It is steeped in deep-seated ongoing political and economic debates. The state recently established the Lands Commission whose functions include:

- ensuring accountability, fairness and transparency in the administration of agricultural land that is vested in the state;
- conducting periodical audits of agricultural land;
- making recommendations to the government regarding acquisition of land for public purposes; to enforce the law regarding systems of land tenure; and
- investigating complaints and disputes regarding agricultural land.

Mine affected communities are beginning to organise with the support of civil society. Some affected communities are well organised while others are poorly organised. Civil society organisations have provided capacity building to some affected communities, for example, by instituting community monitoring of mining operations.<sup>55</sup> One diamond mining affected community, Tinoengana village in Marange district, successfully sought a High Court order to stop government from relocating them without their free, prior and informed consent (FPIC).<sup>56</sup> However, other communities are still suffering from the ill effects of mining.<sup>57</sup> There are also many impoverished communities and minority ethnic communities that are vulnerable to mining.<sup>58</sup>

There is low participation of women in mining. Only 2% of large- scale mining employees are women while just 11% of artisanal and small- scale miners are women.<sup>59</sup> Prior studies reveal that women are prejudiced by Ministry of Mines officials and approved prospectors when they apply for blocks of claims for precious metals.<sup>60</sup>

The environmental impacts of mining are to some extent, well measured, monitored and mitigated. Zimbabwe has a good legal and policy framework for environmental management whose apex legislation is the Environmental Management Act of 2002. This Act empowers the regulator, the Environmental Management Agency (EMA). The agency notes that the country’s top environmental problems are waste management, illegal trade in wildlife, land degradation, deforestation and veldt fires. Mining contributes to waste management, land degradation and deforestation. Public consultation is conducted with communities affected by mining operations through the environmental impact assessments (EIAs). However, EIAs are not publicly availed. Most findings of EIAs are acted upon and EMA runs a grievance system that comprises of appeals through the agency and a judiciary process.

### 4.1.5. Technological Factors

There is on-going adoption of advanced technologies in regulation of the mining sector. Historically, there has been minimal use of Information and Communication Technologies (ICTs) to manage the awards process. However, the

51 The World Bank, “The Zimbabwe Economic Update”, 2015

52 The Herald, “Makomo now largest coal producer”, 3 July 2014

53 Hoitsimolimo Mutlokwa, 2014, “Zimbabwe’s Approach to Community Participation and Indigenisation in Extractive Activities: Problems and Prospects”, North-West University.

54 Fidelity Mhlanga, Mining sector set to rake in \$3 billion in exports, The Newsday, 20 May 2017. Available online: <https://www.newsday.co.zw/2017/05/20/mining-sector-set-rake-3-billion-exports/>

55 <http://www.zela.org/docs/publications/updateComm.pdf>

56 Case No. HC 12237/16, the High Court of Zimbabwe. Also available at: <https://business-humanrights.org/sites/default/files/documents/Court%20Order-Marange%20Evictions.pdf>

57 Lovemore Zigara, “Mapanzure community bears brunt of mining”, The Chronicle, 25 January 2016

58 Most mines are located in impoverished rural districts such as Mutare Rural, Lupane, Bikita and Mutoko [The World Bank, “Zimbabwe Poverty Atlas 2015”, 2015]

59 Pact, 2015, “A Golden Opportunity”

60 Wadzanai Chimhepo, “Women and Mining: A Case of Golden Crumbs”, BUWA; pgs. 40-46. Available online: [http://www.osisa.org/sites/default/files/women\\_and\\_mining\\_-\\_a\\_case\\_of\\_golden\\_crumbs.pdf](http://www.osisa.org/sites/default/files/women_and_mining_-_a_case_of_golden_crumbs.pdf)



cadastre is currently being digitalised.<sup>61</sup> The country's Auditor General has continuously pointed out that the manual paper-based cadastre was a key corruption risk and advocated for digitalisation.<sup>62</sup> The law does not require the use of technical data in awarding blocks of claims.<sup>63</sup> However, cadastre officials sometimes use technical data in practice.<sup>64</sup> In 2015, an agreement was reached between Japan Oil, Gas and Metals National Corporation (JOGMEC) and GoZ to provide technical transfer of remote sensing and geological information systems to Zimbabwean geologists.<sup>65</sup>

The country has deposits of minerals important to future technologies. These include lithium, tantalite, tungsten and the 17 Rare Earth Elements.<sup>66</sup> One company, Premier African Minerals has initiated projects to exploit Rare Earth Elements, lithium, tantalite and tungsten.<sup>67</sup>

### 4.2. Mapping the Process and Practice of Issuing Claims

The process of issuing claims is laid out in the Mines and Minerals Act. The process is represented in Figure 1. The Act was enacted over half a century ago, in 1961, and in order to keep up with an evolving context, the Ministry of Mines has drafted a Procedure booklet that lays out the current process for obtaining claims. The 37 amendments made to date have made no substantial changes to how claims are issued. The booklet is often amended<sup>68</sup> and the current laid out procedure and actual practice of issuing claims is outlined in Figure 2. The key vulnerabilities of the actual process of issuing claims are outlined in Figure 3.

One overarching vulnerability is that a ministerial procedure booklet has supplanted a law enacted by parliament. It is not a legal document. The fact that the booklet is often amended and its implementation varies from one provincial office to another, is a further vulnerability.

The sources of information for this section include the Mines and Minerals Act, the Ministry of Mines procedure booklet and five separate interviews with seven Ministry of Mines officials.

#### 4.2.1. The Award Process in Law

The Mines and Minerals Act lays out the official award process for claims. All applicants for a claim are required to first obtain the Prospecting License (PL).<sup>69</sup> In law, the issuance of a PL should be a rigorous exercise where the Mining Commissioner and Permanent Secretary consider every application before issuing the license. An applicant has to obtain one PL per each claim they intend to peg.

By law, once an applicant has a PL they hire an Approved Prospector (AP) to prospect and peg a claim on their behalf. An AP is a Zimbabwean individual over the age of 18 who is registered with the Ministry of Mines as per the Mines and Minerals Act. The key issue in the award process is in the applicant's choice of land to peg for a claim. The Act classifies land into two groups: (i) land that is open to prospecting and (ii) land that is closed to prospecting. While some land types such as National Parks, schools and orchards are by default, closed to prospecting, the Ministry of Mines retains the power to classify land as open or closed to prospecting.

By law, if an applicant chooses open land, the AP notifies the owner or occupant of the land of the intention to prospect. It is important to note that mining takes precedence over all other uses of land and therefore the AP only has to notify owners and occupants of the land. Once notification has been made, the AP proceeds to peg one claim per each PL. Upon completion of pegging, the AP submits an application for a registration of the claim.<sup>70</sup> The mining commissioner (MC) then assesses the application as per the criteria laid out in the Act. If the MC approves the application, a registration certificate for the block of claims is then issued. If the MC rejects the application, the applicant can make necessary adjustments and resubmit the application iteratively until the registration certificate is issued.

If the applicant chooses land that is closed to prospecting they have the option of either (i) applying to the Ministry of Mines for the land to be opened to prospecting or (ii) requesting the Mining Affairs Board (MAB) to challenge the closed status of the land in the Administration Court. If the applicant chooses to apply to the Ministry of Mines, the MAB considers the application and upon consultation with the owner or occupant of the land, decide whether to open the land to prospecting or not. If the land is opened to prospecting, the AP proceeds to peg a claim per each PL as outlined in the preceding paragraph. If the applicant chooses to request to challenge the status of the land in court,

61 Bill Feast, "FlexiCadastre selected as Zimbabwe's new Mining Cadastre System", 24 February 2016(online)

62 Report of the Auditor-General for the Financial Year Ended December 31, 2014 on Appropriation Accounts, Finance Accounts, Revenue Statements and Fund Accounts; Report of the Auditor-General for the Financial Year Ended December 31, 2015 on Appropriation Accounts, Finance Accounts, Revenue Statements and Fund Accounts

63 One section of the Mines and Minerals Act that articulates the criteria used to inform the decision to award a block of claims and does not have any technical data in the list

64 Interview with Ministry of Mines official, Mutare

65 JOGMEC, "JOGMEC signs MOU with Zimbabwe", 11 September 2015

66 A.P. Jones, F. Wall, C.T. Williams, "Rare Earth Minerals: Chemistry, Origin and Ore Deposits", 1984

67 <http://www.premierafricanminerals.com/page.php?plD=17&ppID=3>

68 Interview with a Ministry of Mines official, Harare

69 By design, the prospecting license was a prerequisite as all applicants were expected to explore for minerals first before pegging a claim however in reality, applicants often have confirmation of a deposit before they apply for a license and thus this is a formality.

70 Or block of claims if they are up to ten claims, or blocks of claims if there are over ten claims pegged.



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



the MAB first considers the request and either approves it or rejects. If it is approved, the applicant can then make their case before the Administration Court which decides whether to open the land to prospecting or keep it closed. If it is opened to prospecting, the AP proceeds to peg a claim per each PL as outlined in the preceding paragraph.

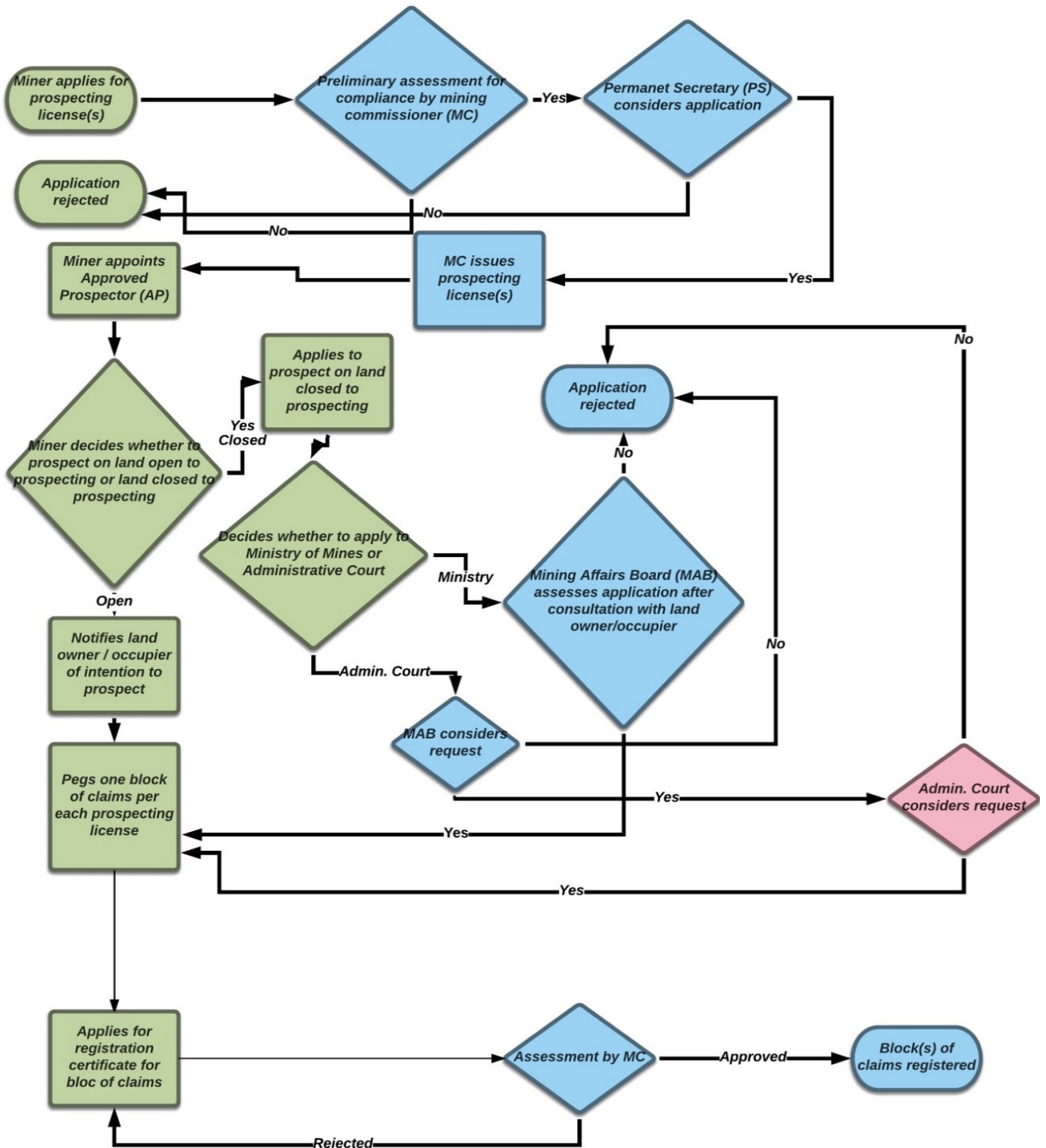
A registration certificate for a block of claims entitles the holder to mine the area for as long as the deposit can be mined, granted the holder pays annual fees for the license, pays royalties and submits the required returns.<sup>71</sup> The state however retains the right to cancel the certificate if the holder fails to honour their obligations.

Figure 2: Illustration of award process as per the Mines and Minerals Act

<sup>71</sup> Records of production, safety and labour statistics



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE





### 4.2.2. The Actual Awards Process

The actual awards process is conducted as per the Ministry of Mines' Procedure Booklet. The procedure booklet, like the Act, requires that a PL be obtained as the first step of obtaining a claim. However, under ministry procedure, this step is simplified when the PL is issued over the counter to any Zimbabwean over the age of 18 or to a registered company which applies for it. However, in some provinces the issuance of the PL may take up to two weeks.<sup>72</sup> In practice, all applicants meeting the preceding criteria are issued with a PL by the Mining Administration Officer, a junior official.

Once an applicant has a PL they hire an Approved Prospector (AP) to prospect and peg a claim on their behalf following the procedure contained in the Act. The divergence from what is in the Act arises when an applicant chooses to prospect on open land. They should first check if the land falls under a farm. If it falls under a farm of more than 100 hectares or any other land open to prospecting, the AP notifies the owner or occupant of the land of the intention to prospect. If the land is part of a farm of less than 100 hectares, the applicant has to negotiate with the farmer for permission to mine. This key difference with the process in the Act is the result of a decision to protect resettled farmers who are the beneficiaries of the land reform programme and a key political constituency of the ruling party, ZANU-PF. A refusal by the farmer cannot be challenged. If notification has been made or negotiations are successful in the case of small farms, the AP proceeds to peg one claim per each PL.

The AP then produces a map which is submitted to a Ministry of Mines surveyor who conducts a site visit to verify the accuracy of the map and verify that the land is open to prospecting. If dissatisfied with the accuracy, the AP is asked to resubmit an amended map. If the surveyor is satisfied with the accuracy, the application is forwarded to the Mining Administration Officer who assesses it and decides to either ask the AP to amend the application or if satisfied, forwards it to the Principal Mining Director<sup>73</sup> for approval of the claim.

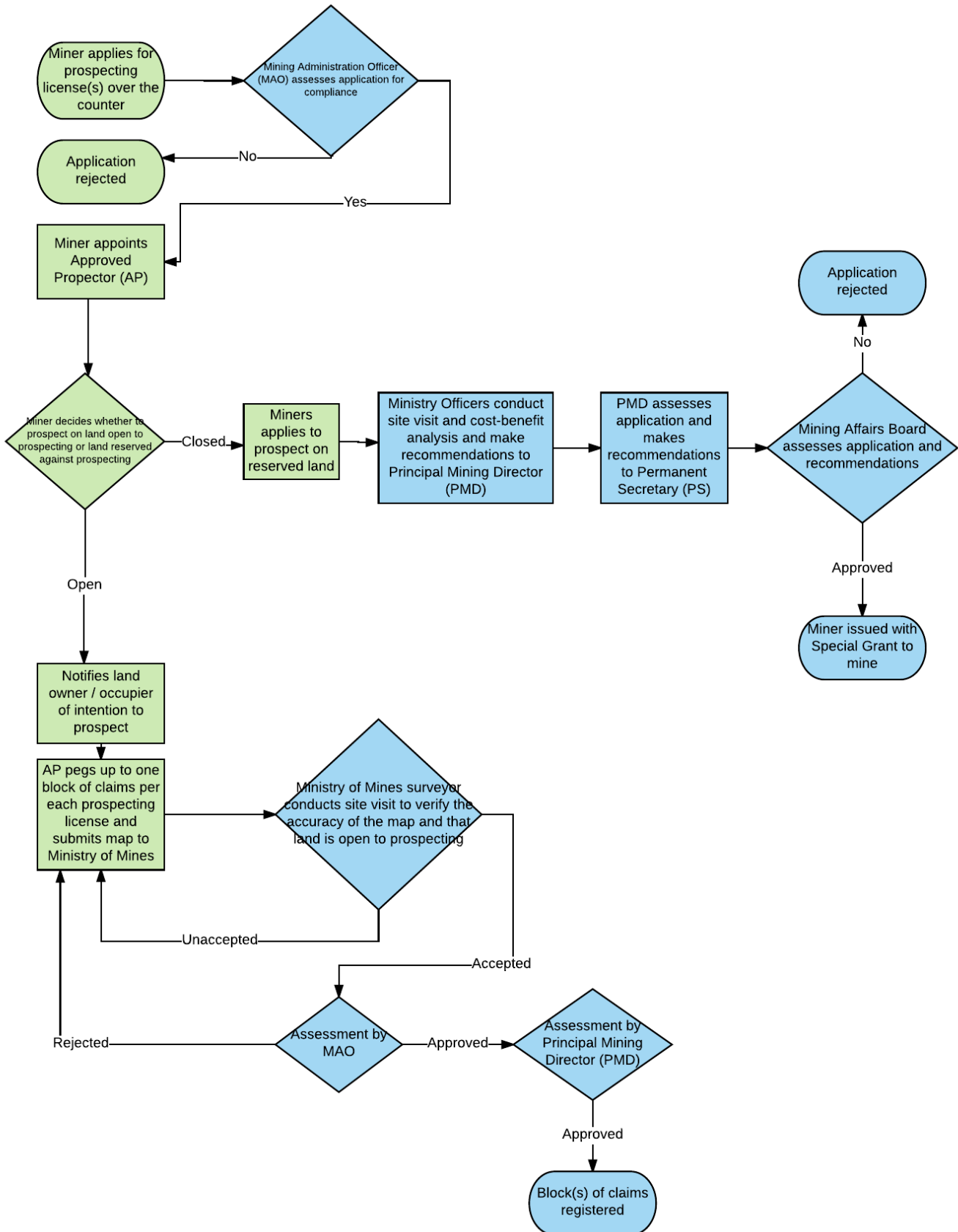
Figure 3: Map of the actual award process

<sup>72</sup> Interview with a small-scale miner, Bulawayo, 14 March 2017

<sup>73</sup> A new position created to take up the powers of the now defunct Mining Commissioner position. It however does not exist in law.



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE





### 4.3. Vulnerabilities and Corruption Risks

The context analysis and analysis of the awards process led to the identification of vulnerabilities. A vulnerability, as outlined in the MACRA tool, is understood to be a weakness in a system or process that provides opportunities for certain events to occur (or not to occur) - or to pass undetected, and that have a corrupt effect on the lawful, ethical and compliant awarding of mining licences (in this case, mining claims).

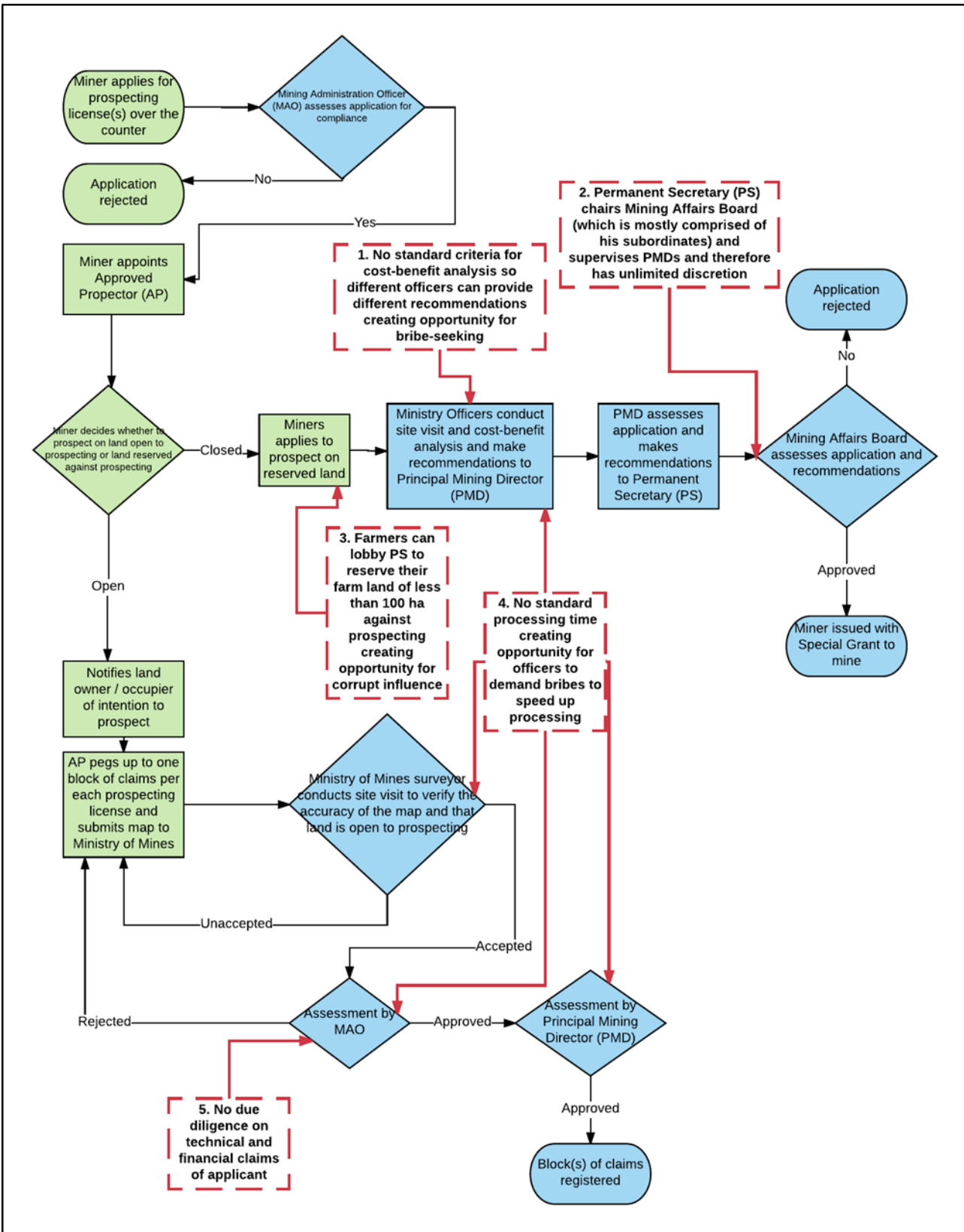
The vulnerabilities can be parts of the awards process where a single authority or individual has broad discretion or decision-making power with little scrutiny and so could corruptly manipulate outcomes; where practice does not follow the official path; where an agency does not require documentation to support decisions; steps that are particularly vulnerable to external influence; inadequate segregation of duties amongst cadastre or other officials; points where nobody is responsible for certain steps; points where more than one person can sign-off on a decision (creating opportunities for 'signature shopping' by applicants or officials); 'work-arounds' (accepted informal processes that depart from formal procedure); points where manual input of information is required (creating an opportunity for corruption, and human error generally); complexity or variations in processes, both of which can create opportunities for corruption; and, potential decision-making bottlenecks that create pressures for facilitation payments, speed-money or bribery.

A total of 19 vulnerabilities in the award process have been identified, 5 of which are illustrated in Figure 4 below. All vulnerabilities are listed in Table 1. The vulnerabilities were analysed to determine the corruption risks they generate and these are also listed in Table 1. The 19 vulnerabilities lead to 22 risks.

Figure 4: Vulnerabilities in the actual awards process



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



Table 1: Lists all the identified vulnerabilities and the corruption risks that result from each vulnerability:

Vulnerabilities	Validation Comments from the Chairperson of the Zimbabwe Parliamentary Portfolio Committee on Mines and Energy, Hon. Dr. Daniel Shumba	Resulting corruption risks
<p>1. There is no standard criteria for the cost-benefit analysis conducted by Ministry of Mines officials in determining whether or not to open land to prospecting.</p>	<p>This is true. The Department of Geological Survey and the Mining Affairs Board has the responsibility to advise the Minister on land that should be open for prospecting.</p>	<p>PD3: What is the risk that the steps taken in conducting the cost-benefit analysis will not be known to the public??</p>
<p>2. The Permanent Secretary (PS) chairs the Mining Affairs Board (which is mostly comprised of his subordinates) and supervises Provincial Mining Directors (PMDs) and therefore has wide discretion over the award process and the appeals process. Additionally, the PS has assumed the powers of the Mining Commissioners</p>	<p>True. During public consultations on the Mines and Minerals Amendment Bill a lot of concern was raised that the Mining Affairs Board had too many officials from the Ministry at the expense of the real players in the industry. The Committee has since made a proposal on the review of the composition of the MAB, particularly on the quorum, so that at any meeting the Board is representative of all the players in the industry. Secondly, the Committee called for balance on the MAB, particularly on gender and on the number of representatives from government and key parties involved and affected by mining operations.</p>	<p>PD22: What is the risk of interference in the awarding officers' decisions to award licenses?</p> <p>PD22: What is the risk of interference in the appeals process?</p> <p>PD29: What is the risk of theft of application fees or other charges?</p>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>3. Farmers with farms smaller than 100 hectares can apply to the PS (who has broad discretionary powers) to reserve/close their farm land against prospecting.</p>	<p>True. Since the land reform process began in 2000, the number of farmers has increased significantly. Some miners are not respecting the new farmers' title documents and this is leading to conflicts between farmers and miners. While a farmer with less than 100 hectares can apply that his or her land be reserved or closed from prospecting, the Ministry of Mines does not have the power to enforce the order. During public consultations on the MMAB, some farmers complained that some miners began prospecting on their farms without their approval or consultations. On the other hand, miners complained that once some farmers realised that there was a possibility of minerals on their land, they would apply that their land be closed for prospecting and later decide to apply for a mining licence...</p>	<p>CF4: What is the risk that there will be corrupt speculation around land subject to a mining permit application, such as by officials working with collaborators to change the status of the land to extract payments out of the licence holder?</p>
<p>4. There are no standard timelines for the different steps of the award process giving wide discretion to officials.</p>	<p>This is true given that the Mining Affairs Board (MAB) does not sit regularly, hence timelines will be difficult to put in place. The Committee has raised concern about the indefinite times on some of the provisions in the bill. For instance the section in the Mines and Minerals Amendment Bill (MMAB) which deals with the 'use it or lose it' policy outlines that operations should begin within a 'reasonable period' if one is not to lose his or her claim. Such time frames are subjective and need to be clearly laid out.</p>	<p>PD28: What is the risk that the duration and timing of each step of the awards process can be manipulated?</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?</p> <p>PP17: What is the risk that confidential information in applications for licences will be leaked?</p> <p>PD31: What is the risk that lodged applications will be deliberately mishandled?</p>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>5. No due diligence is conducted on the claims made by applicants.</p>	<p>This is true. The MMAB seeks to address this by outlining the requirements for a person to get a claim. Under section 14 of the bill, a person has to furnish the MAB with information on his or her financial position, the minerals to be explored, among others. The application will also be published in a local newspaper for any person to lodge objections. This is a progressive development. However, there are certain qualifications that the Committee did not agree with, such as an applicant has to be 'fit and proper' before acquiring a licence. Such a provision is subjective and the Committee called for its removal.</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>PP11: What is the risk that there is no due diligence on applicants' integrity, such as past lawful conduct and compliance?</p>
<p>6. The Mines and Minerals Act is under amendment</p>	<p>As at June 2017, the MMAB is still at the first Reading Stage in Parliament. The Bill is under scrutiny by the Parliamentary Legal Committee (PLC) to ascertain if its provisions are in line with the Constitution. The Bill was first gazetted in August 2016 but it is now over a year without any progress in enacting it into law. The Committee has a number of concerns on the provisions of the Bill and once it is presented during the Second Reading Stage in Parliament, will make them known so that the Executive can take them into consideration.</p>	<p>CF1: What is the risk that mining laws will be written to favour private interests before the public interest?</p> <p>PD2: What is the risk that the award process will not be designed to an acceptable technical standard?</p>
<p>7. The Ministry of Mines is digitalising the cadastre in a non-transparent manner.</p>	<p>It would be too early to conclude that the Ministry of Mines is digitalising the cadastre system in a non-transparent manner. The reality is that the process has not begun because in the 2017 Budget Allocation, the Ministry of Mines did not make a request for the purchase and installation of the system.</p> <p>Author's note: The Ministry of Mines has advised the researchers that it has already started digitalising the cadastre in one province. The fact that this information has not filtered through to Parliament is further evidence of the lack of transparency.</p>	<p>CF2: What is the risk of mining rights being expropriated (confiscated)?</p>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>8. Community consultation is not a requirement in obtaining claims and mining companies often use their discretion in consulting the local leadership.</p>	<p>EIAs entail conducting consultations with the community, in order to obtain a social licence to operate in the area. However, the challenge is that most miners are obtaining EIAs corruptly and in some cases mining operations begin without an EIA. Complaints were raised by some communities that some miners began operating in their areas and desecrated some of their cultural heritage sites, sacred sites, and agricultural land. The community members were threatened that if they resisted, they will be reported to the highest office in the land. Secondly, communities never got sight of mining contracts, in order to hold the mining companies accountable on their social obligations to the communities.</p>	<p>PP7: What is the risk that community leaders negotiating with a mining company will not represent community members' interests?</p>
<p>9. No whistle-blowing mechanism is available in the Ministry of Mines.</p>	<p>As the Committee conducted its enquiry into the gold mining sector, some women miners in Gwanda (Matabeleland South Province) and Shamva (Mashonaland Central) complained that they were being unfairly dispossessed of their claims by their male counterparts. When reports were made to the Ministry of Mines, no action was taken showing the Ministry's insensitivity to the plight of women miners. One of the recommendations by the Committee was that there was need for the Ministry of Mines to set up a gender desk to address gender-related conflicts. The Ministry of Mines never implemented this recommendation. Maybe this was due to capacity constraints, hence it may be difficult for the Ministry to establish a whistle-blowing mechanism.</p>	<p>RL7: What is the risk that whistleblowers will not be legally protected?</p>
<p>10. In practice, the Administrative Court can only be involved in resolving appeals made against decisions by the Ministry of Mines if the ministry itself approves the applicants' request to approach the Administrative Court.</p>	<p>True. The MMAB seeks to address this. The MMAB has a progressive provision where in the event that a party has been aggrieved in the exercise of any mining right, the Administrative Court will determine the compensation to be paid. This is found in sections 85B and 85C. The Ministry will not give authority to approach the court.</p>	<p>PD25: What is the risk that awards decisions cannot be appealed if an application is rejected?</p>
<p>11. An Environmental Impact Assessment (EIA) is not required in obtaining a block of claims.</p>	<p>True. An EIA is only required before a miner begins mining operations.</p>	<p>PP9: What is the risk there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports before a licence is issued?</p>

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>12. The Ministry of Mines is implementing a 'use it or lose it' policy to forfeit claims from miners who are not currently extracting minerals from them in a transparent opaque manner.</p>	<p>This assertion has some element of truth. During Budget Consultations by the Committee on Mines and Energy in 2016 held in Esigodini and Gwanda in Matabeleland South, some small-scale miners complained that their claims were being forfeited by the ministry. The reasons for the forfeiture was based on the fact that the miners had failed to pay their annual mining fees and licences. However, the miners argued that they had sought waivers from the ministry given the financial constraints, which were inhibiting them from operating viably. Instead, the ministry saw it as an opportunity to seize the mines. The miners took the matter up with the ministry in that the expropriations were not done properly in that they were not notified by letter or through adverts in the paper. The miners felt aggrieved by the entire process. The Committee is still to institute a full enquiry on the matter.</p>	<p>CF2: What is the risk of mining rights being expropriated (confiscated)?</p> <p>PD38: What is the risk that a licence will be transferred to another owner without this being publicly knowable?</p> <p>PD39: What is the risk that a licence, permit or contract will be terminated without being publicly explained or justified?</p> <p>PP4: What is the risk that mining companies can stockpile licences or permits, without actually doing any work?</p>
<p>13. State owned mining entities receive preferential regulatory treatment.</p>	<p>True. A recent case in point is Zimbabwe Consolidated Diamond Company (ZCDC) which is planning to control the entire diamond mining concessions in Chiadzwa. The tragedy is that government -owned entities such as ZCDC and ZMDC have a bad record in mining and none of them have given positive contributions to Treasury.</p>	<p>CF6: What is the risk that domestic SOEs will receive preferential treatment compared to other mining companies?</p>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>14. State owned mining entities do not implement any remedial actions recommended by Parliament and independent institutions such as the Zimbabwe Human Rights Commission and or the Office of the Auditor General.</p>	<p>Recommendations by Parliamentary Committees are often directed at the Minister responsible for the state- owned mining entities. Policy direction is given to these entities by the Minister. So, depending on whether the Minister approves or disapproves of the recommendations made by Parliament, the state- owned entity cannot implement them. There is no state -owned mining entity that is completely autonomous. All of them are directly influenced by the Minister of Mines.</p>	<p>CF7: What is the risk that SOEs with interests in mining do not have to publish information about their mining-related activities and investments?</p>
<p>15. Senior public officials and politicians are not required by law to declare assets, shares or income related to mining interests.</p>	<p>True. Declaration of assets and interests by public officials and politicians is critical in promoting transparency. The law prohibits officials from the Ministry of Mines from engaging in mining operations but this is not foolproof, because they can always use inside information to influence the process for the benefit of their cronies.</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>16. As part of their training, many Ministry officials involved in licensing engage in secondary employment with mining companies</p>	<p>-</p>	<p>PD6: What is the risk that cadastre agency officials will engage in secondary employment with mining companies?</p>
<p>17. There is no requirement to declare the beneficial ownership of mining entities</p>		<p>PD9: What is the risk that applicants for licences will be controlled by undeclared beneficial owners?</p>
<p>18. Cadastral information is not publicly available.</p>		<p>PD10: What is the risk that cadastral information about licence areas will not be known publicly?</p> <p>PD31: What is the risk that lodged applications will be deliberately mishandled?</p> <p>PD35: What is the risk that the applicant awarded a license will not be publicly announced?</p>

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>19. The Indigenization law which requires 51% equity of new entrants in the mining sector to be owned locally has been mired in confusion within government with respect to implementation</p>		<p>PD20: When foreign companies are legally required to partner with local companies, including a local SOE, for mining activities, what is the risk that the laws and rules governing local partnerships will not be clear?</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 known publicly?</p>
<p>20. The ministerial procedure booklet (a non-legal document) has supplanted a law enacted by Parliament</p>		<p>PD2: What is the risk that the award process will not be designed to an acceptable technical standard?</p>
<p>21. More specifically, the fact that the booklet is often amended and its implementation varies from one provincial office to another is a further vulnerability.</p>		<p>PD2: What is the risk that the award process will not be designed to an acceptable technical standard?</p> <p>PD28: What is the risk that the duration and timing of each step of the awards process can be manipulated?</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?</p> <p>PP17: What is the risk that confidential information in applications for licenses will be leaked?</p> <p>PD31: What is the risk that lodged applications will be deliberately mishandled?</p>



### 5. RESULTS

A high level of interconnectedness exists between different vulnerabilities and different risks. This is evidenced by the high proportion of vulnerabilities that lead to multiple risks and the high proportion of risks that emanate from multiple vulnerabilities.

**At least 8 of the 21 vulnerabilities lead to multiple risks. These are:**

- a) The Permanent Secretary (PS) chairs the Mining Affairs Board (which is mostly comprised of his subordinates) and supervises Provincial Mining Directors (PMDs) and therefore has wide discretion over the award process and the appeals process. Additionally, the PS has assumed the powers of the Mining Commissioners. This leads to three risks.
- b) There are no standard timelines for the different steps of the award process giving wide discretion to officials. This leads to four risks.
- c) No due diligence is conducted on the claims made by applicants. This leads to two risks.
- d) The Mines and Minerals Act is being amended. This leads to two risks.
- e) The Ministry of Mines and Mining Development is implementing a 'use it or lose it' policy to forfeit claims from miners who are not currently extracting minerals from them in an opaque manner. This leads to four risks.
- f) Cadastral information is not publicly available. This leads to three risks.
- g) The Indigenization law which requires 51% equity of new entrants in the mining sector to be owned locally has been mired in confusion within government on its implementation. This leads to two risks.
- h) The Ministry of Mines procedure booklet is often amended and its implementation varies from one provincial office to another. This leads to five risks.

**In turn, 6 of the 22 risks emanate from multiple vulnerabilities.**

- a) PD28: What is the risk that the duration and timing of each step of the awards process can be manipulated? Emanates from two vulnerabilities
- b) PP13: If a 'first come, first served' system is in place, what is the risk that the first applicant will not be awarded the license? Emanates from two vulnerabilities.
- c) PP17: What is the risk that confidential information in applications for licenses will be leaked? Emanates from two vulnerabilities.
- d) PD31: What is the risk that lodged applications will be deliberately mishandled? Emanates from three vulnerabilities.
- e) PD2: What is the risk that the award process will not be designed to an acceptable technical standard? Emanates from three vulnerabilities.
- f) CF2: What is the risk of mining rights being expropriated (confiscated)? Emanates from two vulnerabilities.

The 22 corruption risks identified in Table 1 were assessed to determine how likely they are to occur and further and what impact they would have if they occurred. This assessment was conducted with a group of 76 stakeholders from government, media, private sector, academia and civil society. Further evidence was gathered through a desktop survey to verify and validate the stakeholders' assessments.

Both likelihood and impact were scored separately out of five using the scales shown in the matrix in Figure 4. The likelihood and impact scores were then multiplied to give an assessment score. The assessment scores were then colour-coded as in Figure 5 below:

# CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



Figure 5: Matrix of scoring risks. Source: MACRA Tool

Likelihood	5 Almost Certain	5	10	15	20	25
	4 Likely	4	8	12	16	20
	3 Possible	3	6	9	12	15
	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					

A summary of the assessment scores for the identified risks is presented in Table 2 (next page). The risks with the highest scores are shown first. Each risk was carefully assessed by the 76 stakeholders and through a desktop study. The individual assessments of each of the risks are in Annex 2. The stakeholders' assessments of the risks are in Annex 3.



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

Table 2: Summary of Assessment scores for identified risks

Resulting corruption risks	Assessment Score
CF6: What is the risk that domestic SOEs will receive preferential treatment compared to other mining companies?	25
PD20: When foreign companies are legally required to partner with local companies, including a local SOE, for mining activities, what is the risk that the laws and rules governing local partnerships will not be clear?	25
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?	25
PP10 and PP11: What is the risk that in practice, there is no due diligence on applicants' claims regarding their capacity, financial resources and integrity (such as past lawful conduct and compliance)?	25
PP9: What is the risk there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports before a licence is issued?	20
CF1: What is the risk that mining laws will be written to favor private interests before the public interests?	20
CF10: What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?	20
RL7: What is the risk that whistleblowers will not be legally protected?	20
PD2: What is the risk that the award process will not be designed to an acceptable technical standard?	20
PD10: What is the risk that cadastral information about licence areas will not be publicly known?	20
PD35, PD38 and PD39: What is the risk that a license can be awarded, transferred or terminated without being publicly announced, explained or justified?	20
PP4: What is the risk that mining companies can stockpile licenses or permits, without actually doing any work?	20
CF4: What is the risk that there will be corrupt speculation around land subject to a mining permit application, such as by officials working with collaborators to change the status of the land to extract payments out of the licence holder?	16
PD22: What is the risk of interference in the appeals process and in the awarding officers' decisions to award licenses?	16
PD28, PD31 and PP17: What is the risk that the duration and timing of each step of the awards process can be manipulated and lodged applications will be deliberately mishandled and confidential information is leaked?	15
CF7: What is the risk that SOEs with interests in mining do not have to publish information about their mining-related activities and investments?	15
PD6: What is the risk that cadastre agency officials will engage in secondary employment with mining companies?	15
PD9: What is the risk that applicants for licences will be controlled by undeclared beneficial owners?	15
CF2: What is the risk of mining rights being expropriated (confiscated)?	12
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?	12
PD29: What is the risk of theft of application fees or other charges?	12
PD3: What is the risk that the steps taken in conducting the cost-benefit analysis will not be known publicly?	9



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



Four fifths of risks that were identified and assessed are major (red), while the other fifth are significant (orange) and moderate (yellow). Of the major risks, four were assessed to have almost certain likelihood and catastrophic results. These are the risks that:

1. Domestic SOEs receive preferential treatment as compared to the private sector.
2. No due diligence on applicants' claims regarding their capacity, financial resources and integrity are conducted.
3. Indigenisation laws are not clear.
4. Indigenisation agreements will not be disclosed to the public.

The other nine risks have EITHER almost certain likelihood OR catastrophic impact – these are the risks that:

1. The Mines and Minerals Act is being amended to favour private interests
2. The amendments to the legislation on the license awards process will not be conducted to an acceptable technical standard
3. There will be corrupt speculation around land status
4. Undeclared beneficial owners control licenses
5. Details of joint ventures between SOEs and private sector are not publicly known
6. The duration and timing of each step of the awards process can be manipulated and lodged applications will be deliberately mishandled and confidential information can be leaked
7. Environmental impact assessments are not conducted before licenses are issued
8. Senior public officials and politicians do not declare their assets, shares or income related to mining
9. Whistleblowers are not protected.

### 5.1. Likelihood of Risks

The stakeholders assessed that two-thirds of the 22 risks are almost certain to happen, a sixth of the risks are likely to occur and another sixth have a reasonable possibility of occurring. Evidence that was gathered in the desktop study supports this assessment. None of the risks identified by this study were assessed as being unlikely to occur or impossible.

### 5.2. Impact of Risks

The stakeholders assessed that a quarter of the 22 are catastrophic when they occur, while half have a major impact and another quarter have a moderate impact. None of the risks identified by this study were assessed to have a minor or an insignificant impact.

## 6. DISCUSSION OF RESULTS

The discussion of results focuses on the twelve major risks as assessed by stakeholders in the mineral awards process. These are the risks with assessment scores of 25 and 20. It is key to note that four of the six risks that emanate from multiple risks are major risks.

These risks can be grouped into two categories:

- a. Major Risks with almost certain likelihood and catastrophic impact (with an assessment score of 25). There are four of these.
- b. Major risks with almost certain likelihood and major/impact OR with catastrophic impact and are likely (with an assessment score of 20). There are eight of these.

### a. Major risks with almost certain likelihood and catastrophic impact

These are the risks that:

1. Domestic SOEs receive preferential treatment as compared to the private sector.
2. No due diligence on applicants' claims regarding their capacity, financial resources and integrity are conducted.
3. Indigenization laws are not clear.
4. Indigenization agreements will not be disclosed to the public.



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

It is key to note all these four risks emanate from vulnerabilities that lead to multiple risks. These risks all emanate from the actions/inactions of the highest power in the country, the Presidency. As noted in the political context, the President thrives on factional balancing and patronage politics which makes SOEs avenues for looting minerals. The Indigenization Act is a tool for forcibly redistributing wealth from the established private sector and new investors to the political elite. To ensure the patronage and political financing networks are shrouded in secrecy, the SOEs often partner unscrupulous investors who facilitate capture of mineral rents for the elite.

### The impacts of these risks are:

- Inhibition of competition due to preferential treatment of SOEs, unclear indigenization laws and lack of transparency in implementation of indigenization laws.
- Poor quality projects implemented by inefficient SOEs and dishonest investors. Poor quality projects realize limited revenues for the State
- Limited innovation by inefficient SOEs with preferential treatment and dishonest investors.
- Limited room to hold public officials to account due to lack of clarity of indigenization laws, lack of transparency in their implementation and lack of due diligence reports to hold public officials accountable for granting licenses to dishonest investors.
- Negative environmental impacts by SOEs and their joint ventures as they get preferential treatment by environmental regulators.
- The country's reputation is negatively impacted as unclear indigenization laws, their unpredictable application and participation of dishonest investors dissuade honest investors from investing in the country.
- There is room for impartiality in decision-making about allocating public resources. There is limited competition as honest investors are discouraged.
- The state is prevented from optimizing mining activity.

### b. Major risks with almost certain likelihood and major/moderate impact OR with catastrophic impact and are likely

There are risks which have a very high likelihood but have less of an impact than those in group (a). These are the risks that:

1. The amendments to the legislation on the license awards process will not be conducted to an acceptable technical standard.
2. The duration and timing of each step of the awards process can be manipulated and lodged applications will be deliberately mishandled and confidential information can be leaked.
3. Environmental impact assessments are not conducted before licenses are issued
4. Senior public officials and politicians do not declare their assets, shares or income related to mining.
5. Whistleblowers are not protected.
6. A license can be awarded, transferred or terminated without being publicly announced, explained or justified.
7. Cadastral information about license areas will not be publicly knowable.
8. Mining companies can stockpile licenses or permits, without actually doing any work.
9. The Mines and Minerals Act is being amended to favour private interests

These risks all emanate from the actions/inactions of the Ministry of Mines. The actions include the Amendment to the Mines and Minerals Act, the lack of transparency around cadastral information, the lack of transparency around issuing or cancellation of licenses and, the discretion that cadastral officials have over the timing and duration of each step of the awards process. The 'inactions' are the lack of a mechanism for whistleblowing, the lack of a requirement for an EIA to be conducted before a license is issued, and the lack of a requirement for senior officials in the Ministry of Mines to declare their mining interests.

This shows that the officials in the Ministry of Mines act with a significant amount of impunity. However, their actions have somewhat limited impact as they only have control over a single department of Government, one economic sector and just two out of ninety-two SOEs. Their actions/inactions do not have the catastrophic impacts that the actions/inactions of the Presidency do.

The impacts of these risks are:

- Opaque involvement by senior public officials in mining leads to impartiality in decision-making about allocation of public resources due to opaque involvement by senior public officials in mining.
- Prevention of optimization of mining activity as competition is constrained due to opaque involvement by senior public officials in mining, stock-piling of claims by mining companies and individuals,
- Lack of fairness to firms which comply with the regulatory framework due to opaque involvement by senior public officials in mining.
- Reduced accountability and transparency due to opaque involvement by senior public officials in mining, lack of public accessibility to cadastral information, lack of public disclosure of applicants who are awarded licenses, lack of a whistle-blower mechanism and lack of a requirement for EIAs to be conducted before licenses are issued.

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



- Reduced quantity and quality of investment due to poorly designed legislation on awarding licenses which dissuades exploration and potential investors.

## 7. RECOMMENDATIONS

This report recommends that Transparency International Zimbabwe prioritises addressing 7 of the 12 major risks discussed above. These 7 priority risks are:

1. CF6: What is the risk that domestic SOEs will receive preferential treatment compared to other mining companies?
2. 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?
3. PP10 and PP11: What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity, financial resources and integrity (such as past lawful conduct and compliance)?
4. CF1: What is the risk that mining laws will be written to favor private interests before the public interests?
5. RL7: What is the risk that whistleblowers will not be legally protected?
6. PD2: What is the risk that the award process will not be designed to an acceptable technical standard?
7. PD35, PD38 and PD39: What is the risk that a license can be awarded, transferred or terminated without being publicly announced, explained or justified?

The major risks identified in the Discussion were further analyzed to determine how impactful addressing them would be, how feasible it would be to address them with regards to stakeholder interest and resource needs. The analysis that determined the priority risks is shown in Table 3 next page:

Table 3: Analysis to prioritize risk



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>What tells me the risk is URGENT?</p> <p>Colour + Score</p> <p>Risk CF6: What is the risk that domestic SOEs will receive preferential treatment compared to other mining companies?</p> <p>Likelihood= 5 Impact= 5 Total score= 25</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>What tells me addressing the risk will have an IMPACT?</p> <p>Impact Score + Context</p> <p>Impact score is 5/5 therefore addressing the risk will also have a big impact.</p> <p>Contextual factors: There is increased public interest and political will in scrutinising the governance of SOEs.</p>	<p>What tells me addressing it is FEASIBLE?</p> <p>Stakeholder Interest + Resources</p> <p>Stakeholders: Government will have varying levels of support for this at different levels. The Office of the President and Cabinet (OPC), the Ministry of Finance and Economic Development (MoFED) and the State Enterprises Reform Agency (SERA) will be interested in resolving the issue. However, the Ministry of Mines SOEs, Zimbabwe Mining Development Corporation (ZMDC) and Zimbabwe Consolidated Diamond Company (ZCDC) will likely resist scrutiny of the SOEs and efforts to reform them.</p> <p>Parliament has for years, called for good SOE governance and will therefore serve as an important champion in addressing this risk.</p> <p>Politically, the Lacoste faction of ZANU-PF may support addressing the risk as they are behind the SOE reform efforts, while the G-40 faction is likely to resist as they have control of the Ministry of Mines, ZMDC and ZCDC. Opposition parties have for a long time, voiced their criticism of the governance of mining SOEs and will be champions of addressing this risk.</p> <p>Among multilateral institutions, the World Bank (WB) and African Development Bank (AfDB) are at an early stage of supporting SERA, MoFED and OPC in reforming governance issues in SOEs. NGOs such as Pact, ZELA and CNRG have been calling for good governance of the SOEs and have published a few reports on the risk.</p>	<p>What tells me addressing it is FEASIBLE?</p> <p>Cost:</p> <p>Likely to be moderate as activities will mostly consist of high-level dialogue meetings.</p>	<p>What tells me addressing it is FEASIBLE?</p> <p>Time required:</p> <p>One to two years.</p>	<p>Is the risk a PRIORITY for action?</p> <p>Yes:</p> <p>This is a risk whose impact is catastrophic to almost all stakeholders. The factional split in ZANU-PF provides an opening for dialogue. While the probability of addressing this risk is moderate, the impact of addressing it is huge.</p>
--	--	---	--	--	---

# CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>Risk PD20: When foreign companies are legally required to partner with local companies, including a local SOE, for mining activities, what is the risk that the laws and rules governing local partnerships will not be clear?</p> <p>Likelihood=5 Impact=5 Total score= 25</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 5/5 therefore addressing the risk will also have a big impact.</p> <p>Contextual factors: There is increased Government realization of this risk and its impact on attracting investment.</p>	<p>Stakeholders:</p> <p>Government has begun reforming the Indigenization laws after realising that investors have shunned the country due to the 51% local equity rules. Earlier in 2017, the Ministry of Mines announced that the 51% rule would only apply to new entities while existing mines would be required to fulfil a 75% local content mandate.</p> <p>Parliament has for years, called for clarity of Indigenization laws. Parliament will therefore serve as an important factor in addressing this risk.</p>	<p>Cost:</p> <p>Likely to be moderate as activities will mostly consist of high-level dialogue meetings.</p>	<p>Time required:</p> <p>One to two years.</p>	<p>No. Government is already working on reforms as it is well aware of the risk. Further, 2018 is an election year where Government would resist dialogue on the ruling party's cornerstone policy</p>
--	--	---	--	--	--



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>Risk 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>Likelihood= 5 Impact= 5 Total score= 25</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 5/5 therefore addressing the risk will also have a big impact.</p> <p>Contextual factors: There is increased public interest in transparency of joint ventures (JVs) that SOEs enter into.</p>	<p>Stakeholders:</p> <p>Government at all levels will have limited interest in improving the transparency of SOEs and their JVs. Parliament has for years, called good SOE governance and will serve as an important champion in addressing this risk.</p> <p>Politically, the Lacoste faction of ZANU-PF may support addressing the risk as they have limited rent seeking opportunities in mining SOEs and their JVs. The G-40 faction with ZANU-PF is likely to resist addressing this, given their control of the Ministry of Mines, ZMDC and ZCDC. Opposition parties have for a long time, voiced their criticism of the governance of mining SOEs and will be champions of addressing this risk.</p> <p>NGOs such as Pact, ZELA and Centre for Natural Resource Governance (CNRG) have been calling for good governance of the SOEs and have published a few reports on the risk. Mining communities and community based organizations (CBOs) will also have very high interest in advocating for transparency.</p>	<p>Cost:</p> <p>Likely to be moderate to high as activities will consist of both high-level dialogue meetings and stimulating demand for transparency at community level.</p>	<p>Time required:</p> <p>One to two years</p>	<p>Yes: This is a risk whose impact is catastrophic to almost all stakeholders. The factional split in ZANU-PF provides an opening for dialogue. While the probability of addressing this risk is low to moderate, the impact of addressing it is huge. More importantly the empowerment of affected communities has residual benefits for long term demands for accountability.</p>
---	---	--	---	---	--

# CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>Risk PP10 and PPT1: What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity, financial resources and integrity (such as past lawful conduct and compliance)?</p> <p>Likelihood=5 Impact=5 Total score= 25</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 5/5 therefore addressing the risk will also have a big impact.</p> <p>Contextual factors: There is increased public interest in attracting honest investors.</p>	<p>Stakeholders:</p> <p>Government will have varying levels of support for this at different levels. The Ministry of Finance and Economic Development (MoFED) is most likely to support addressing this risk as they stand to lose out on revenues if dishonest investors get mining rights. The Ministry of Mines will be a key partner as this risk falls almost entirely within their purview. The on-going amendment to the Mines and Minerals Act is an opportune time for advocating reforms.</p> <p>Parliament has for years, scrutinized investors in the mining sector and will serve as an important champion in addressing this risk.</p> <p>NGOs such as Pact, ZELA and CNRG have been calling for good mineral sector governance and have published a few reports on the risk.</p>	<p>Cost:</p> <p>Likely to be moderate as activities will mostly consist of high-level dialogue meetings.</p>	<p>Time required:</p> <p>Half to One year</p>	<p>Yes:</p> <p>This is a low hanging fruit as there is limited resistance to addressing this risk and plenty of champions.</p>
---	---	---	--	---	--



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>Risk PP9: What is the risk there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports before a license is issued?</p> <p>Likelihood= 5 Impact= 4 Total score= 20</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 4</p> <p>Contextual factors: There are continued calls by the Environmental Management Agency for better environmental protection by mining entities</p>	<p>Stakeholders:</p> <p>The key stakeholders are the Environmental Management Agency (EMA) and the Ministry of Mines. The ministry already believes the mining sector is overregulated by EMA and may likely resist efforts to address this risk while EMA will champion addressing it. Minimal interest is to be expected from other government departments and even Parliament with regards to this risk.</p> <p>ZELA and Pact have been calling for reforms to the EIA process for the mining sector and may be expected to continue leading the work to address this risk. Funds permitting, a coalition may be sought with either one or both of these organizations.</p>	<p>Cost:</p> <p>Minimal. Activities will comprise of a policy brief and a few dialogue meetings</p>	<p>Time required:</p> <p>2-6 months</p>	<p>No:</p> <p>To optimize the efficiency of the advocacy work, it would be best to have either Pact or ZELA lead on this.</p>
--	---	--	---	---	---



# CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>Risk CF1: What is the risk that mining laws will be written to favor private interests before the public interest?</p> <p>Likelihood=4 Impact=5 Total score= 20 Colour is RED.</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 5/5 therefore addressing this impact will have a Big impact.</p> <p>Contextual factors: The Mines and Minerals Act is currently being amended amidst multi-stakeholder criticism of the current draft Bill</p>	<p>Stakeholders: Government will have varying levels of support for this at different levels. The OPC will be interested in resolving the issue as they have expressed their displeasure with the current Bill. Recent changes at the Ministry of Mines may facilitate an opening for engagement on the Bill.</p> <p>Parliament has criticized the current version of the Bill and will be a key partner as they are the ones who will pass the Bill into an Act.</p> <p>Politically, the Lacoste faction of ZANU-PF may support addressing the risk as their private interests are unlikely to be favoured in the Bill while the G-40 faction is likely to also support a generally good Bill with a few clauses that entrench their interests in mining. Opposition parties have for a long time, voiced their criticism of the draft Bill.</p> <p>Among multilateral institutions, the World Bank (WB) has engaged the government in offering it technical assistance in ensuring good practice in the modernization of the Mines and Minerals Act. NGOs such as Pact, ZELA and CNRG have analyzed the Bill and criticized it.</p> <p>The Chamber of Mines has also expressed its discomfort with the Bill and will serve as a key partner with close links to the Ministry of Mines.</p>	<p>Cost: Moderate to high as the advocacy work will be with Parliamentarians, Ministry of Mines officials and communities.</p>	<p>Time required: Two years</p>	<p>Yes: The ongoing amendment of the Mines and Minerals Act and multi-stakeholder interest presents an opportunity to address this risk.</p>
--	---	--	--	-------------------------------------	--



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>Risk CF10: What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?</p> <p>Likelihood=5 Impact=4 Total score= 20</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 4/5 therefore addressing this impact will have a significant impact.</p> <p>Contextual factors: The ruling elite engages in rent-seeking and patronage behavior. The blurring of the border between private interests and public interests is facilitated by the lack of good laws and lack of implementation of existing laws on declaration of assets.</p>	<p>Stakeholders: The key government stakeholder is the OPC which may be unwilling to address this risk.</p> <p>The Parliament, though less influential, also has a role in enacting laws that require declaration of assets and holding public officials to account using the existing legal framework.</p> <p>Neither of the factions within ZANU-PF are likely to be supportive of addressing this risk while the opposition may support it. But, when in power, they were also reluctant to impose good laws to address the risk.</p> <p>A wide range of NGOs have been vocal about this issue which is not unique to the mining sector. A number of advocacy campaigns have been conducted in a bid to pressure government in addressing the risk.</p>	<p>Cost: Likely to be moderate to high as activities will consist of both high-level dialogue meetings and stimulating demand for transparency at community level.</p>	<p>Time required: One to two years</p>	<p>No: This risk is not unique to mining, has little multi-stakeholder interest in addressing it and the chances of success are minimal. Further, work has already been conducted in trying to address it.</p>
--	---	--	--	--	--

# CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>Risk RL7: What is the risk that whistleblowers will not be legally protected?</p> <p>Likelihood=5 Impact=4 Total score=20</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 4/5 therefore addressing this impact will have a significant impact.</p> <p>Contextual factors: It is common practice in the private sector and many government agencies to set up a whistle-blowing mechanism. Further corruption by Government officials can be reported to the Zimbabwe Anti-Corruption Commission (ZACC) or the ombudsmen, under the Zimbabwe Human Rights Commission (ZHRC)</p>	<p>Stakeholders: Government will have varying levels of support for this at different levels. The OPC and the Judiciary have been running an anti-corruption campaign and would be interested in resolving the risk. However, the Ministry of Mines, SOEs, ZMDC and ZCDC may resist addressing this risk, claiming that the avenues of reporting through ZACC and ZHRC already exist. Parliament will be supportive of addressing this risk.</p> <p>Politically, the Lacoste faction of ZANU-PF may support addressing the risk as they do not run the Ministry of Mines while the G-40 faction is likely to resist as they have control of the ministry, ZMDC and ZCDC. The G-40 faction also accuse the ZACC of being captured by the Lacoste faction and being used against them for political ends. Opposition parties have for a long time, voiced their criticism of corruption in the mining sector and will be champions of addressing this risk.</p> <p>Within the private sector, Deloitte provides free third-party whistle-blowing services and will serve as a key partner. A wide range of NGOs have been vocal about this issue which is not unique to the mining sector. A number of advocacy campaigns have been conducted in a bid to pressure government in addressing the risk.</p>	<p>Cost: Likely to be moderate as the key activity will be an advocacy campaign.</p>	<p>Time required: Half to a year</p>	<p>Yes: Addressing this risk has a 'visual' impact and there is enough multi-stakeholder incentives to address it. This makes addressing this risk another low hanging fruit.</p>
--	---	---	--	--	---



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>Risk PD2: What is the risk that the award process will not be designed to an acceptable technical standard?</p> <p>Likelihood=5 Impact=4 Total score=20</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 4/5 therefore addressing this impact will have a significant impact.</p> <p>Contextual factors: The Mines and Minerals Act is currently being amended and most stakeholders are unsatisfied with the design of the award process contained in it.</p>	<p>Stakeholders: Government will have varying levels of support for this at different levels. The OPC will be interested in resolving the issue as they have expressed their displeasure with the current Bill. Recent changes at the Ministry of Mines may facilitate an opening for engagement on the Bill.</p> <p>Parliament has criticized the current version of the Bill and will be a key partner as they are the ones who will pass the Bill into an Act.</p> <p>Politically, the Lacoste faction of ZANU-PF may support addressing the risk as their private interests are unlikely to be favoured in the Bill, while the G-40 faction is likely to also support a generally good Bill with a few clauses that entrench their interests in mining. Opposition parties have for a long time, voiced their criticism of the draft Bill.</p> <p>Among multilateral institutions, the World Bank (WB) has engaged the government in offering it technical assistance in ensuring good practice in the modernization of the Mines and Minerals Act. NGOs such as Pact, ZELA and CNRG have analyzed the Bill and criticized it.</p> <p>The Chamber of Mines has also expressed its discomfort with the Bill and will serve as a key partner with close links to the Ministry of Mines.</p>	<p>Cost: Moderate to high as the advocacy work will be with Parliamentarians, Ministry of Mines officials and communities.</p>	<p>Time required: Two years</p>	<p>Yes: The ongoing amendment of the Mines and Minerals Act and multi-stakeholder interest presents an opportunity time to address this risk. Addressing this risk can be conducted jointly with addressing Risk CFI.</p>
--	--	---	--	---------------------------------	---

# CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>Risk PD10: What is the risk that cadastral information about license areas will not be publicly knowable? Likelihood=5 Impact=4 Total score=20 Colour is RED (Score + colour suggests risk level is very high)</p>	<p>Impact score is 4/5 therefore addressing this impact will have a significant impact. Contextual factors: The MoMMD is in the process of digitizing its cadastre. Currently it uses a paper-based cadastre which is notoriously poorly managed.</p>	<p>Stakeholders: The Ministry of Mines will support addressing this risk as transparency and avoidance of conflicts is a key reason for the digitization process. The Chamber of Mines also fully supports the digitization as this will provide transparency around license areas. NGOs such as Pact, ZELA and CNRG have analyzed the Bill and criticized it for lack of transparency and will certainly support addressing this risk.</p>	<p>Cost: N/a</p>	<p>Time required: N/a</p>	<p>No: The Ministry of Mines is currently digitizing the cadastre and are therefore addressing this risk. It may however be worthwhile to keep track of this work to ensure it does not create new and maintain existing vulnerabilities and risks.</p>
<p>Risk PD35, PD38 and PD39: What is the risk that a license can be awarded, transferred or terminated without being publicly announced, explained or justified? Likelihood=5 Impact=4 Total score=20 Colour is RED (Score + colour suggests risk level is very high)</p>	<p>Impact score is 4/5 therefore addressing this impact will have a significant impact. Contextual factors: The awarding, transfer and termination of licenses is not publicly announced.</p>	<p>Stakeholders: The Ministry of Mines may resist addressing this risk especially as there are no laws that require the public announcements. The Chamber of Mines may support the digitization as this will provide transparency around license areas and protect them from officials' discretionary powers.</p>	<p>Cost: Moderate to high as the advocacy work will be with Parliamentarians, Ministry of Mines officials and communities.</p>	<p>Time required: Two Years</p>	<p>Yes: The ongoing amendment of the Mines and Minerals Act and multi-stakeholder interest presents an opportunity to address this risk. Addressing this risk can be conducted jointly with addressing Risks CF1 and PD2</p>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>Risk PP4: What is the risk that mining companies can stockpile licenses or permits, without actually doing any work?</p> <p>Likelihood=5 Impact=4 Total score=20</p> <p>Colour is RED</p> <p>(Score + colour suggests risk level is very high)</p>	<p>Impact score is 4/5</p> <p>Contextual factors:</p> <p>This is a controversial risk as mining companies insist that to justify their investments and exploration plans they need large areas while Government believes companies leave minable ground idle in a way that reduces revenue generation.</p>	<p>Stakeholders:</p> <p>The Ministry of Mines will be eager to address this risk. Their current implementation of the lose-it-or-use-it principle has however been mired in controversies which are linked to other risks identified in this report.</p> <p>The Chamber of Mines will most likely resist addressing this risk. NGOs such as Pact and CNRG have not articulated a clear position on this risk and recognize that the other risks amplify the negative effects of this risk.</p>	<p>Cost:</p> <p>N/a</p>	<p>Time required:</p> <p>N/a</p>	<p>No:</p> <p>This issue is best left to Government and the private sector to seek a balance. Addressing other risks will also have an indirect impact on how the lose-it-or-use-it policy is implemented.</p>
---	--	--	-------------------------	----------------------------------	--

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



The Action Plan to address these risks would broadly comprise of the following actions:

- a) WPartnering the Ministry of Mines in developing an effective whistle-blowing mechanism.
- b) Advocacy on improved transparency in the governance of the mining SOEs and regulatory agencies: ZMDC, MMCZ and ZCDC.
- c) Capacity building of mining affected communities to demand transparency and accountability from mining companies, SOEs and government.
- d) Advocacy campaign on the need for due diligence assessments of mining license applicants.
- e) Partner other NGOs working on environmental issues in advocating for EIAs before licenses are issued.
- f) Capacity building activities for Parliamentarians and Ministry of Mines officials on the corruption risks inherent in the design of the awards process in the proposed Mines and Minerals Amendment Bill.

## 8. CONCLUSIONS

In conclusion, it is important to note that two government departments are central to the evolution of corruption risks in the licensing of blocks of claims for precious metals in Zimbabwe. These are the Office of the President and Cabinet (OPC) and the Ministry of Mines and Mining Development (MoMMD).

An assessment of the major corruption risks that have evolved from the inactions and actions of the OPC are likely have almost certain likelihood and catastrophic impacts. Such risks can be due to willful negligence by the highest office in the country and lead to grand corruption.

In comparison, the major corruption risks that have evolved from the inactions and actions of the Ministry of Mines have been assessed to have almost certain likelihood and major impacts. This again shows willful negligence. However, the ministry is constrained with regards to power and the corruption risks linked to it lead to petty corruption.

It has been noted that there is a far higher frequency of corrupt acts linked to the Ministry of Mines in the licensing of awards than there is of corrupt acts by the OPC. Further, the impacts of corruption risks linked to OPC and those linked to the Ministry of Mines are largely the same: bias in decision making, negative environmental impacts, reduced transparency and accountability, poor quality projects and failure of the state to optimize mining activity. The petty corruption is therefore just as harmful as the grand corruption.

The research findings have shown that corruption risks inherent to the process of awarding blocks of claims for precious metals are similar to those for the awards processes for other mineral and exploration license. However, one key process stands out as being important for a follow-on assessment i.e. the forfeiture of claims by the State and their re-issuance to other applicants. This process was highlighted as being fraught with corruption risks by respondents and merits further research.



## ANNEXES

### ANNEX 1 – DETAILED PEST ANALYSIS QUESTIONNAIRE

Political factors	
1.	<p>Q: Do politicians or officials have private interests in mining?</p> <p>Answer: There are widespread conflicts of interest involving politicians and officials having mining interests.</p> <p>Evidence for answer:</p> <ul style="list-style-type: none"> <li>Parliamentary Portfolio Committee report [First Report of the Portfolio Committee on Mines And Energy on Diamond Mining (with special reference to Marange Diamond Fields)(2013)]</li> <li>Article on Wikileaks [<a href="https://wikileaks.org/plusd/cables/08HARARE459_a.html">https://wikileaks.org/plusd/cables/08HARARE459_a.html</a> ]</li> <li>One media article about business links between cabinet ministers and mining companies [T. Chitagu, ‘Minister taken to court over salary arrears’, Newsday, 11 October 2016 (online)]</li> <li>Weak implementation of laws requiring Ministers, MPs, spouses and children to declare conflicts of interest. [Prevention of Corruption Act 1985]</li> </ul>
2.	<p>Q: How secure are property rights?</p> <p>Answer: Property rights are relatively well defined and the law in theory protects property rights. However, the institutions required to secure these rights are captured by the elite and prone to corruption.</p> <p>Evidence for answer:</p> <ul style="list-style-type: none"> <li>One court case [Macheza v Chaumbezvo (HC 4157/14) [2015] ZWHHC 259 (18 April 2015)]Section 71 of the Constitution of Zimbabwe, 2013</li> <li>Three rankings [Rated 2 out of 6 (on a scale where 1 is worst and 6 is best) for Property Rights &amp; Rule-based Governance in the World Bank’s 2015 Country Policy and Institutional Analysis (CPIA)]; [Ranked 122 out of 129 countries (26 out of 27 in the region) in the 2015 International Property Rights Index]; [Ranked 137 out of 138 countries for protection of property rights in the World Economic Forum (WEF) Global Competitiveness Index]</li> </ul>
3.	<p>Q: How stable are mining laws and policies?</p> <p>Answer: Zimbabwe’s mining laws are generally stable however mining policies are unstable.</p> <p>Evidence for answer:</p> <ul style="list-style-type: none"> <li>Zimbabwe’s principal mining law, the Mines and Minerals Act was enacted in 1961. It has been amended 37 times (24 times before Independence and just 13 times in the past 36 years)</li> <li>One ranking [Ranked 106 out of 109 in the Fraser Institute’s Policy Perceptions Index for mining jurisdictions.</li> </ul>
4.	<p>Q: How effective is the government response to corruption?</p> <p>Answer: Generally ineffective however, of recent, anticorruption efforts tend to be targeted on the political opposition.</p> <p>Evidence for answer:</p> <ul style="list-style-type: none"> <li>Transparency International report</li> <li>Three global rankings: [The latest Transparency International Corruption Perception Index (CPI) ranks Zimbabwe 150th out of 166 countries with a score of 21/100]; [The 2015 Mo Ibrahim Index of African Governance (IIAG) gives Zimbabwe an accountability ranking of 40th out of 53, up from 43rd out of 52 countries in 2014 with the score rising from 21.6/100 to 24.2/100]; [in the World Governance Indicators, Zimbabwe’s percentile rank for Control of Corruption has improved from 4.33 in 2014 to 7.21 in 2015]</li> <li>One media article about investigations of a Cabinet Minister and his deputy on allegations of corruption [E. Mambo, ‘Jonathan Moyo in corruption storm’, The Independent, 7 October 2016 (online)]</li> <li>One Auditor General’s report exposing corruption within the Ministry of Mines [Report of the Auditor-General for the Financial Year Ended December 31, 2011 on Appropriation Accounts, Finance Accounts, Revenue Statements and Fund Accounts]</li> </ul>





5.	<p>Q: Is there open access to government information about mining?</p> <p>Answer: There is limited access to government information about mining especially with regards to the terms of special mining leases.</p> <p>Evidence for answer:</p> <ul style="list-style-type: none"> <li>• Three reports with an analysis of transparency in the mining sector: [Nathan Associates, ‘Building Trust and Transparency in the Zimbabwe Mining Sector’, USAID, 2014]; [Zimbabwe Environmental Lawyers Association, ‘A Review of the Draft Minerals Policy’, 2014]; [Publish What You Pay, ‘Position Paper on Key Mining Reforms in Zimbabwe’, 2015]</li> <li>• One opinion editorial article: [ZELA, ‘Transparency, accountability needed in mining sector’, The Financial Gazette, 26 March 2010 (online)access]</li> <li>• One Wikileaks article revealing a deal with strict confidentiality clauses that preclude public scrutiny between Government and Anglo American to give the company a Special Mining Lease with the rights to hold an offshore account in exchange for mining claims agreement [<a href="https://wikileaks.org/plusd/cables/08HARARE459_a.html">https://wikileaks.org/plusd/cables/08HARARE459_a.html</a>]</li> </ul>
----	--

### Economic factors

1.	<p>Q: Are major new projects being planned?</p> <p>Answer: Yes, there are major new projects that are being planned.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• Two State media articles reporting the, commissioning of a US\$3 billion platinum mining joint-venture project between Russia and Zimbabwe and a US\$60 million coal bed methane extraction project: [Takunda Maodza, “Russians pour US\$53 million into Great Dyke Investments”, The Herald, 16 June 2016 (online)]; [Prosper Ndlovu, “\$60 million for Lupane gas project”, The Chronicle, 20 December 2016 (online)]</li> <li>• One Australia Stock Exchange announcement on the approval of a new US\$264 million underground platinum mine by the Zimbabwe Platinum Mines (Private) Limited Board: [ZIMPLATS, “Approval of a New Underground Mine”, 30 November 2016 (online)]</li> </ul>
2.	<p>Q: How important is mining to the economy?</p> <p>Answer: Mining is very important to the economy, particularly with regards to export earnings, employment and taxes.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• Apart from a GDP contribution of 15%, mining also contributes about 53% of foreign currency earnings, 13% to fiscal revenue, 50% of Foreign Direct Investment (FDI) and 38,000 formal jobs [Chamber of Mines, “State of the Mining Industry Survey Report 2016”, 2016]</li> <li>• One media article noting that the mining sector has generated revenues of \$10 billion in the five years to 2014 [Mining sector rakes in \$10 billion]</li> </ul>



3.	<p>Q: How effective is the regulatory regime for mining?</p> <p>Answer: The regulatory regime is somewhat effective. The key gaps are around the environmental impacts of mining, conflict resolution where disputes between miners and farmers arise, transparency and accountability and volatility of the mineral taxes and fees.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• Remarks by the Minister of Finance on proposed amendments to the Mines and Minerals Act and development of a new mining fiscal regime [Ministry of Finance and Economic Development, “The 2016 National Budget Statement”, 2015]</li> <li>• One World Bank report noting that Zimbabwe has an unstable policy environment and weak investor confidence [The World Bank, “The Zimbabwe Economic Update”, 2015]</li> <li>• One media article on the merits of amending the Mines and Minerals Act [Veneranda Langa, “Mines Amendment Bill crucial in modernising mining legislation”, 30 September 2016]</li> </ul>
4.	<p>Q: How open is the sector to new entrants?</p> <p>Answer: There are relatively low barriers to entry for domestic new entrants and significant barriers to entry for foreign new entrants.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One World Bank report noting that the Indigenization and Economic Empowerment Act continues to be a challenging hurdle for private foreign investors. Designed to address historic economic marginalization, the IEE mandates that indigenous Zimbabweans hold a minimum 51 percent ownership stake in any business that is transferred, merged, subdivided or otherwise restructured, or which is undertaking new investments valued at US\$500,000 or more. [The World Bank, “The Zimbabwe Economic Update”, 2015]</li> <li>• One media article noting that a domestic new entrant has become the country’s largest coal producer in just five years [The Herald, “Makomo now largest coal producer”, 3 July 2014]</li> </ul>
5.	<p>Q: How competent are cadastre agency officials?</p> <p>Answer: Cadastre officials are generally competent as they possess the required academic backgrounds but are often under-experienced.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One interview with a Ministry of Mines official</li> </ul>



6.	<p>Q: How important are SOEs for the sector, compared to private business?</p> <p>Answer: SOEs are less important for the sector than private business however SOEs possess a significant portion of the country's known good quality mineral reserves. SOEs in the sector are notoriously ineffective.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One publication by Zimbabwe Mining Development Corporation, noting that of 29 mining projects run by SOEs, only 7 are operational, none of which are generating a profit consistently [ZMDC, "Annual Report 2012", 2012 (online)]</li> <li>• Two media articles noting the poor financial performance and corporate governance in mining SOEs [Chris Muronzi, "ZMDC teetering on brink of collapse", 11 March 2016]; [Happiness Zengeni &amp; Tinashe Makichi, "ZMDC fires top management", 7 October 2016]</li> <li>• Comments on poor financial performance of Hwange Colliery by Minister of Finance in the 2016 National Budget Statement [Ministry of Finance and Economic Development, "2016 Zimbabwe National Budget Statement", 26 November 2015 (online)]</li> <li>• Chamber of Mines State of Mining Survey report for 2016</li> </ul>
----	--

**Social factors**

1.	<p>Q: How organised are affected communities about mining issues?</p> <p>Answer: Some affected communities are well organized while others are poorly organized. Civil society organizations have provided capacity building to some affected communities.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One civil society organization website detailing progress made in instituting community based monitoring of mining operations [ZELA website: <a href="http://www.zela.org/docs/publications/updateComm.pdf">http://www.zela.org/docs/publications/updateComm.pdf</a> ]</li> <li>• One High Court Order issued in favour of a diamond mining affected community, Tinoengana village in Marange, which successfully sought a High Court order to stop Government from relocating them without their free, prior and informed consent [Case No. HC 12237/16, The High Court of Zimbabwe:</li> <li>• <a href="https://business-humanrights.org/sites/default/files/documents/Court%20Order-Marange%20Evictions.pdf">https://business-humanrights.org/sites/default/files/documents/Court%20Order-Marange%20Evictions.pdf</a>]</li> <li>• One media article on a chrome mining affected community in Shurugwi [Lovemore Zigara, "Mapanzure community bears brunt of mining", The Chronicle, 25 January 2016]</li> </ul>
2.	<p>Q: How much public interest is there in mining?</p> <p>Answer: There is a lot of public interest in mining particularly on the diamond, gold and platinum mining sub-sectors.</p> <p><b>Evidence for answer:</b></p>
3.	<p>Q: Are there marginalized groups vulnerable to mining?</p> <p>Answer: There are many impoverished communities and minority ethnic communities that are vulnerable to mining</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• Most mines are located in impoverished rural districts such as Mutare Rural, Lupane, Bikita and Mutoko [The World Bank, "Zimbabwe Poverty Atlas 2015", 2015]</li> </ul>
4.	<p>Q: Do cadastre officials struggle to survive on their salaries?</p> <p>Answer: While cadastre officials' salaries do not leave them below the poverty datum line, they are significantly below salaries in the private sector.</p> <p><b>Evidence for answer:</b></p>

**Technological factors**



1.	<p>Q: How important is the potential for undersea mining? Answer: Not important as Zimbabwe is an in-land country.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• Map of the world</li> </ul>
2.	<p>Q: Is there much use of IT to manage the awards process? Answer: Historically, there has been minimal use of IT to manage the awards process however the cadastre is currently being computerized.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One corporate blog announcing the Spatial Dimension’s success in bidding for digitizing the mining cadastre [Bill Feast, “FlexiCadastre selected as Zimbabwe’s new Mining Cadastre System”, 24 February 2016(online)]</li> <li>• One state media article reporting on the Minister of Mine’s announcement of a tender for computerisation of the cadastre [Golden Sibanda, “Govt to tender for cadastre system”, 31 March 2014(online)]</li> <li>• Two auditor-general reports bemoaning the failure of the Ministry of Mines to computerize the cadastre [Report of the Auditor-General for the Financial Year Ended December 31, 2014 on Appropriation Accounts, Finance Accounts, Revenue Statements and Fund Accounts]; [Report of the Auditor-General for the Financial Year Ended December 31, 2015 on Appropriation Accounts, Finance Accounts, Revenue Statements and Fund Accounts]</li> </ul>
3.	<p>Q: Is technical data used to inform awards decisions? Answer: In theory, no. However, in practice, technical data is sometimes used to inform award decisions.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One section of the Mines and Minerals Act that articulates the criteria used to inform the decision to award a block of claims and does not have any technical data in the list [Section 45 of the Mines and Minerals Act of 1961]</li> </ul>
4.	<p>Q: Does the country/jurisdiction have minerals important to future technologies? Answer: Yes. These are lithium, tantalite, tungsten and the 17 rare earth elements.</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• One news article [Oscar Nkala, “Zim in drive to explore for rare-earth minerals”, Mining Weekly, 27 April 2012 (online)]</li> <li>• One book articulating geological survey results showing discovery of rare earth minerals in Zimbabwe [A.P. Jones, F. Wall, C.T. Williams, “Rare Earth Minerals: Chemistry, Origin and Ore Deposits”, 1984]</li> <li>• Chamber of Mines of Zimbabwe website</li> <li>• One corporate website showing Premier African Minerals’ projects to exploit Rare Earth Elements, lithium, tantalite and tungsten [<a href="http://www.premierafricanminerals.com/page.php?pid=17&amp;ppid=3">http://www.premierafricanminerals.com/page.php?pid=17&amp;ppid=3</a> ]</li> <li>• One corporate website showing results of a scoping study for lithium [<a href="http://www.prospectresources.com.au/projects/arcadia-lithium-deposit">http://www.prospectresources.com.au/projects/arcadia-lithium-deposit</a>]</li> </ul>
5.	<p>Q: Are new geological surveys or methods being adopted? Answer: Yes</p> <p><b>Evidence for answer:</b></p> <ul style="list-style-type: none"> <li>• Two news releases reporting on the agreement between Japan’s JOGMEC and government to provide technical transfer of remote sensing and geological information systems to Zimbabwean geologists [JOGMEC, “JOGMEC signs MOU with Zimbabwe”, 11 September 2015]; [Herald Reporter, “Zim, Japan ink exploration deal”, The Herald, 15 September 2015]</li> <li>• One newsletter from Geological Society of Zimbabwe listing its members with remote sensing expertise [Geological Society of Zimbabwe Newsletter, October 2010]</li> </ul>

**ANNEX 2: RISK ASSESSMENT**

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



What is the risk that mining laws will be written to favor private interests before the public interest?	Code CF1
Likelihood Score 4/5	<p>Evidence to support assessed likelihood</p> <ul style="list-style-type: none"> <li>An analysis by Pact, an International NGO, which notes that amendments have been made to favour resettled farmers, a core constituency of ZANU-PF, duplicate an existing Environmental Fund, concentrates power on the Permanent Secretary and creates a long list of 'strategic minerals' whose extraction will have 'special conditions' attached to them - an ambiguous term which leaves a lot of room for discretion.</li> <li>Source: Pact. 2016. Mines and Minerals Amendment Bill Analysis. Harare</li> </ul> <p>2. An analysis by Centre for Natural Resource Governance which notes that the amendment bill does not introduce any transparency or disclosure clauses for the benefit of the public. Source: Centre for Natural Resource Governance. 2016. Analysis of the Mines and Minerals Amendment Bill. Harare</p> <p>3. The bill contains an amendment making state owned enterprises the only entities allowed to extract alluvial gold. These SOEs only benefit the political elite and not the public. Source: Hadebe S, Mandaza I, Moyo G, Mutondoro F, and Ncube M. J. 2014. Annual State of Corruption Report: Focus on State Owned Enterprises. Transparency International: Harare</p> <p>4. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Likely' (4).</p>
Impact Score 5/5	<p>1. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67<sup>th</sup> most attractive jurisdiction.</p> <p>Source: The 2016 Fraser Institute Annual Survey of Mining Companies (<a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a> )</p> <p>2. Zimbabwe is ranked as having third worst mining policies (worst in Africa) by the Fraser Institute. It is ranked 102/104 in the Policy Perception Index with a score of 18.1/100. In comparison Botswana is ranked 12/104 with a score of 91.8/100 Source: The 2016 Fraser Institute Annual Survey of Mining Companies (<a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a> )</p> <p>3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the impact as 'Catastrophic' (5).</p>
Description of impact: A poor amendment Act will negatively impact the reputation of the country, making it less attractive to investment, increasing opportunities for corruption, reducing the benefits of mining to communities and exacerbating environmental impacts. The proposed Amendment Bill, if passed, will also engender a lack of accountability and transparency. Further the State will fail to optimize mining and the few honest investors who are left may withdraw.	
Assessment Total score = 20	
Likelihood x Impact = 4 x 5	
Risk Level:	Very high



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

What is the risk of mining rights being expropriated (confiscated)?	Code CF2
Likelihood Score  4/5	Evidence to support assessed likelihood  1. Expropriation of natural resources is systemic and normal. Zimbabwe's government has expropriated farms since 2000. Dutch farm investments in Zimbabwe were covered by an international investment treaty between the Netherlands and Zimbabwe, protecting them against expropriation and allowing Dutch investors to bring claims in international arbitration. In the Funnekotter arbitration, an international investment tribunal agreed with the Dutch farmers who had brought expropriation claims against Zimbabwe, awarding them more than EUR 8 million, or close to 70% of claimed losses. Source: Bernardus Henricus Funnekotter and ors v Zimbabwe, ICSID Case No ARB/05/6, Award, dated April 15, 2009, at para. 97 (Zimbabwe conceding that "Land Acquisition Act and the Constitution of Zimbabwe ... is tantamount to expropriation")  2. The government expropriated 50% of the claims for chrome mining owned by Zim Alloys Pvt Ltd in early 2017. The claims were redistributed to small-scale miner, many of whom are believed to be ruling party members. Source: Daily News. Govt expropriates Zim Alloys land. 4 February 2017  3. One Wikileaks article reveals a 2008 deal with strict confidentiality clauses that preclude public scrutiny between Government and Anglo American. The company would get a Special Mining Lease with the rights to hold an offshore account in exchange for forfeiting some of its mining claims. Source: Article on Wikileaks: <a href="https://wikileaks.org/plusd/cables/08HARARE459_a.html">https://wikileaks.org/plusd/cables/08HARARE459_a.html</a>  4. The government expropriated diamond claims awarded to a joint venture between an SOE, Zimbabwe Mining Development Corporation (ZMDC) and a Chinese company, Anjin Investments on the bases that the license issued by the Ministry itself (under a previous Minister) was invalid as it did not have an expiry date as required by law. Source: ANJIN Inv. (Pvt) Ltd. v Minister, Mines and Mining Development & Others, High Court of Zimbabwe Case 2183/16, Dismissed, 30 March 2016. Available online: <a href="http://www.zimlil.org/zw/judgment/harare-high-court/2016/228/">http://www.zimlil.org/zw/judgment/harare-high-court/2016/228/</a>  5. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Possible' (3).
Impact Score  4/5	8. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>  1. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the impact as 'Major' (4).
Description of impact: Expropriation negatively impacts the reputation of the country, making it less attractive to investment, increasing opportunities for corruption, reducing the benefits of mining to communities and exacerbating environmental impacts. Further the few honest investors who are left may withdraw.	
Assessment Likelihood x Impact = 3 x 4 Total score = 12	
Risk Level:	Significant

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



What is the risk that there will be corrupt speculation around land subject to a mining permit application, such as by officials working with collaborators to change the status of the land to extract payments out of the license holder?	Code CF4
Likelihood Score 4/5	Evidence to support assessed likelihood 1. Reservation of large areas of land against prospecting and pegging by the Permanent Secretary who has taken over the powers of the mining commissioners. Sources: Government of Zimbabwe. Government Gazette. 30 September 2016; Shame Makoshori, Gold, Platinum Fields Sealed. Financial Gazette, 13 October 2016
	1. Reservation of the Marange diamond fields against prospecting and pegging after a company, African Consolidated Resources had acquired an Exclusive Prospecting Order over the fields. This reservation eventually led to the expropriation of the diamond fields from ACR. Source: African Consolidated Resources and Others v. Minister of Mines and Mining Development and Others, High Court of Zimbabwe Case No 6411/07, Decision, dated September 6, 2010
	2. Court case where the Permanent Secretary illegally cancelled a license that had been issued by a Mining Commissioner and the presiding judge stated that the Permanent Secretary, according to the Mines and Minerals amendment Bill, has no right to hear appeals made against decisions of the Mining Commissioner. Source: BMG Mining (Pvt) Ltd v Mining Commissioner BYO Mining District and Others, High Court of Zimbabwe Case No 33/10, Award, dated 20 January 2011. Available online: <a href="http://www.zimlil.org/zw/judgment/bulawayo-high-court/2011/5/">http://www.zimlil.org/zw/judgment/bulawayo-high-court/2011/5/</a>
	3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Likely' (4).
Impact Score 4/5	1. Lack of adequate revenues to the state and corruption in diamond mining in Marange. Source: Partnership Africa Canada. 2012. Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields. Ottawa. Available online: <a href="http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf">http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf</a>
	2. Community disaffection among people from the Marange diamond fields. Source: Centre for Natural Resource Governance. 2013. Marange relocations lead to new poverty. Harare
	3. The President's acknowledgement that Marange diamonds worth '\$15 billion' had been looted. Source: Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <a href="https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/">https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/</a>
	4. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67 <sup>th</sup> most attractive jurisdiction. Source: The 2016 Fraser Institute Annual Survey of Mining Companies ( <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a> )
	5. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major' (4).
Description of impact: Corrupt speculation around land erodes the attractiveness of a mineral deposit and prevents optimization of mining activity by pushing away honest investors. The quality of mining projects is also eroded.	
Likelihood x Impact = 4 x 4	Assessment Total score = 16
Risk Level:	Very high



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

What is the risk that domestic SOEs will receive preferential treatment compared to other mining companies?	Code CF6
Likelihood Score  5/5  Almost certain	Evidence to support assessed likelihood  1. Reservation of recently discovered gold deposits in Gache for exclusive extraction by the SOE, Zimbabwe Consolidated Diamond Company (ZCDC). Sources: Government of Zimbabwe. Government Gazette. 30 September 2016; Shame Mako-shori, Gold, Platinum Fields Sealed. Financial Gazette, 13 October 2016  2. Expropriation of the Marange diamond fields from African Consolidated Resources and subsequent grant of the rights to an SOE, Zimbabwe Mining Development Corporation (ZMDC). Source: African Consolidated Resources and Others v. Minister of Mines and Mining Development and Others, High Court of Zimbabwe Case No 6411/07, Decision, dated September 6, 2010  3. Proposed amendment to the Mines and Minerals Act will give SOEs the exclusive right to extract alluvial gold deposits. Source: Mines and Minerals Amendment Bill. Available online: <a href="http://www.parlzim.gov.zw/component/k2/mines-and-minerals-amendment-bill-final-h-b-19-2015">http://www.parlzim.gov.zw/component/k2/mines-and-minerals-amendment-bill-final-h-b-19-2015</a>  4. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the likelihood as 'Almost Certain' (5).
Impact Score  5/5  Catastrophic	1. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67 <sup>th</sup> most attractive jurisdiction. Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>
	1. Lack of adequate revenues to the state and corruption in diamond mining in Marange. Source: Partnership Africa Canada. 2012. Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields. Ottawa. Available online: <a href="http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf">http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf</a>  2. Siltation of the Save river due to poor environmental monitoring of diamond mining by SOE Joint ventures in Marange. Source: Tendai Kamhungira, Marange mining firms sued over pollution, The Daily News, 21 June 2015. Available online: <a href="https://www.dailynews.co.zw/articles/2015/06/21/marange-mining-firms-sued-over-pollution">https://www.dailynews.co.zw/articles/2015/06/21/marange-mining-firms-sued-over-pollution</a>  4. The President's acknowledgement that Marange diamonds worth '\$15 billion' had been looted. Source: Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <a href="https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/">https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/</a>  5. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the impact as 'Catastrophic' (5).
	Description of impact: Preferential treatment of SOEs inhibits competition thereby reducing the quality of projects, innovation and profits (and by extension revenues to the State). It also increases environmental impacts.
	Assessment Likelihood x Impact = 5 x 5 Total score = 25
Risk Level:	Very high



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



What is the risk that SOEs with interests in mining do not have to publish information about their mining-related activities and investments?	Code CF7
Likelihood Score 5/5 Likely	Evidence to support assessed likelihood 1. There is limited public access to information about SOEs mining related activities. ZMDC has only two annual reports on its website while ZCDC has no website. Sources: ZMDC website, www.zmdc.co.zw
2. The Auditor General noted that ZMDC shares outdated financial information and has failed to honour statutory obligations to the Zimbabwe Revenue Authority (Zimra), pension funds and medical aid schemes. Source: Auditor General, Narrative Report on State Enterprises and Parastatals, 2014.	
3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the likelihood as 'Almost Certain'(5).	
Impact Score 3/5 Major	1. Lack of adequate revenues to the state and corruption in diamond mining in Marange. Source: Partnership Africa Canada. 2012. Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields. Ottawa. Available online: <a href="http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf">http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf</a>
2. The President's acknowledgement that Marange diamonds worth '\$15 billion' had been looted. Source: Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <a href="https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/">https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/</a>	
3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the impact as 'Moderate'(3).	
Description of impact: The lack of information disclosure by SOEs reduces the quality of projects and profits (and by extension revenues to the State). It also increases negative environmental impacts.	
Likelihood x Impact = 5 x 3	Assessment Total score = 15
Risk Level:	Very high
What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?	Code CF10
Likelihood Score 5/5 Almost certain	Evidence to support assessed likelihood 1. Revelations of senior public officials' private interests in diamond mining in Marange. Source: Parliamentary Portfolio on Mines and Energy, First Report of the Portfolio Committee on Mines and Energy on Diamond Mining (with special reference to Marange Diamond Fields), 2013 Partnership Africa Canada. 2012. Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields. Ottawa. Available online: <a href="http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf">http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf</a>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>2. One media article about business links between cabinet ministers and mining companies. Source: T. Chitagu, 'Minister taken to court over salary arrears', Newsday, 11 October 2016</p>	
<p>3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the likelihood as 'Almost Certain' (5).</p>	
<p>Impact Score 4/5 Catastrophic</p>	<p>1. Lack of adequate revenues to the state and corruption in diamond mining in Marange. Source: Partnership Africa Canada. 2012. Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields. Ottawa. Available online: <a href="http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf">http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf</a></p>
<p>2. The President's acknowledgement that Marange diamonds worth '\$15 billion' had been looted. Source: Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <a href="https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/">https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/</a></p>	
<p>3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the impact as 'Major' (4).</p>	
<p>Description of impact: Opaque involvement by senior public officials in mining leads to impartiality in decision-making about allocation of public resources, prevention of optimization of mining activity as competition is constrained and lack of fairness to firms which comply with the regulatory framework. It also leads to reduced accountability and transparency.</p>	
<p>Likelihood x Impact = 5 x 4 Assessment Total score = 20</p>	
<p>Risk Level: <b>Very high</b></p>	
<p>What is the risk that the award process will not be re-designed to an acceptable technical standard?</p>	<p>Code PD2</p>
<p>Likelihood Score 5/5</p>	<p>Evidence to support assessed likelihood 1. The provisions of the Mines and Minerals Amendment Bill on license awards fall far short of good practice. Source: Centre for Sustainability in Mining and Industry. 2010. Granting Mineral Rights: A Good Practice Note. The World Bank: Washington DC</p>
<p>2. An analysis by Centre for Natural Resource Governance which notes that the amendment bill does not meet best practice with regards to awards license to artisanal and small-scale miners. Source: Centre for Natural Resource Governance. 2016. Analysis of the Mines and Minerals Amendment Bill. Harare</p>	
<p>3. An analysis by Pact, an International NGO, which notes that amendments with regards to awards of licenses fall short of good practice. Source: Pact. 2016. Mines and Minerals Amendment Bill Analysis. Harare</p>	
<p>4. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain' (5).</p>	

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



Impact Score 4/5	1. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67 <sup>th</sup> most attractive jurisdiction. Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>
2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).	
Description of impact: Poorly designed legislation on awarding licenses dissuades exploration and potential investors thereby reducing the quantity and quality of investment.	
Likelihood x Impact = 5 x 4	Assessment Total score = 20
Risk Level:	Very high
What is the risk that the steps taken in conducting the cost-benefit analysis for reserving land to prospecting will not be publicly knowable?	Code PD3
Likelihood Score 3/5	Evidence to support assessed likelihood 1. Interview with Ministry of Mines official who noted that officers responsible for conducting the cost-benefit analysis have wide discretion. Source: Interview with Ministry of Mines official who conducts cost-benefit analyses, Harare, January 2017
2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Possible'(3).	
Impact Score 3/5	1. Zimbabwe is ranked as having third worst mining policies (worst in Africa) by the Fraser Institute. It is ranked 102/104 in the Policy Perception Index with a score of 18.1/100. In comparison Botswana is ranked 12/104 with a score of 91.8/100 Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>
2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Moderate'(3).	
Description of impact: Lack of transparency in conducting the cost-benefit analysis leads to impartiality in the awarding of access to surface land rights	
Likelihood x Impact = 3 x 3	Assessment Total score = 9
Risk Level:	Significant
What is the risk that cadastre agency officials will engage in secondary employment with mining companies?	Code PD6



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

Likelihood Score 5/5	Evidence to support assessed likelihood 1. Ministry of Mines official who revealed that new Mining Engineering recruits without full blasting licenses are assigned into secondary employment with mining companies to gain the industrial experience required to obtain the licenses. Source: Interview with Ministry of Mines official who conducts cost-benefit analyses, Harare, January 2017
	2. LinkedIn profile of a cadastre official showing over 18 months of secondary employment at two mining companies. Source: LinkedIn profile for Tinashe Mubango, Junior Mining Engineer at Ministry of Mines, <a href="https://www.linkedin.com/in/tinashe-mubango-56404247/">https://www.linkedin.com/in/tinashe-mubango-56404247/</a>
	3. Former Ministry of Mines junior official who revealed that during his tenure at the Ministry he was placed in secondary employment at a mining company. Source: Interview with Rodney Usai, former Ministry of Mines official, 15 April 2017
	4. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).
Impact Score 3/5	1. Ministry of Mines official who noted that the relationships that Ministry of Mines officials establish with their peers in industry while on secondary employment often lead to impartiality in their future decisions when inspecting those companies. Source: Interview with Ministry of Mines official who conducts cost-benefit analyses, Harare, January 2017
	2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Moderate'(3).
Description of impact: Secondary employment of cadastre officials at mining companies may lead to impartiality in their future decisions with regards to the mining companies they worked in.	
<b>Assessment</b>	
Likelihood x Impact = 5 x 3 Total score = 15	
Risk Level:	Very high
What is the risk that cadastral information about license areas will not be publicly knowable?	Code PD10
Likelihood Score 5/5	Evidence to support assessed likelihood 1. Zimbabwe currently has a paper-based cadastre information management system which severely limits public access to the information it contains. Source: Interview with Rodney Usai, former Ministry of Mines official, 15 April 2017
	2. Minister of Mines, Walter Chidhakwa's acknowledgement that the current cadastre was poorly managed and leading to many conflicts over overlaps of mining claims. Source: Walter Chidhakwa. 2016. Address by the Minister of Mines and Mining Development at the 77 <sup>th</sup> Chamber of Mines of Zimbabwe AGM. Victoria Falls. Available online: <a href="http://www.chamberofminesofzimbabwe.com/wp-content/uploads/2016/05/CHAMBER-OF-MINES-2016-SPEECH.pdf">http://www.chamberofminesofzimbabwe.com/wp-content/uploads/2016/05/CHAMBER-OF-MINES-2016-SPEECH.pdf</a>
	3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



Impact Score 4/5	<p>1. Zimbabwe is ranked as having third worst mining policies (worst in Africa) by the Fraser Institute. It is ranked 102/104 in the Policy Perception Index with a score of 18.1/100. In comparison Botswana is ranked 12/104 with a score of 91.8/100 Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a></p>
	<p>2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).</p>
Description of impact: If cadastral information is not publicly accessible there is limited accountability of cadastre officials.	
Likelihood x Impact = 5 x 4	Assessment Total score = 20
Risk Level:	Very high
What is the risk that applicants for licenses will be controlled by undeclared beneficial owners?	Code PD9
Likelihood Score 3/5	<p>Evidence to support assessed likelihood</p> <p>1. Zimbabwe has no legislation requiring declaration of beneficial ownership. This is epitomized by the case where Barclays Bank was fined by the US Government for its Zimbabwean subsidiary failing to declare beneficial ownership of its Zimbabwean corporate clients. Source: Steptoe &amp; Johnson LLP. 2016. OFAC Penalizes Barclays for Zimbabwe Sanctions Violations. Available online: <a href="http://www.lexology.com/library/detail.aspx?g=8473f2e7-b153-4532-b208-1691af210d81">http://www.lexology.com/library/detail.aspx?g=8473f2e7-b153-4532-b208-1691af210d81</a></p>
	<p>2. Diamond mining companies in Zimbabwe had undeclared beneficial owners. Source: Global Witness. 2012. Diamonds: A Good Deal for Zimbabwe?</p>
	<p>3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Possible'(3).</p>
Impact Score 5/5	<p>1. The President's acknowledgement that Marange diamonds worth '\$15 billion' had been looted. Source: Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <a href="https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/">https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/</a></p>
	<p>2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Catastrophic'(5).</p>
Description of impact: If beneficial ownership of companies holding claims is not declared, the quality of projects is negatively affected and there is limited accountability of senior public officials who allocate themselves claims.	
Likelihood x Impact = 3 x 5	Assessment Total score = 15
Risk Level:	Very high



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

When foreign companies are legally required to partner with local companies, including a local SOE, for mining activities, what is the risk that the laws and rules governing local partnerships will not be clear?	Code PD20
Likelihood Score 5/5	Evidence to support assessed likelihood 1. Zimbabwe's Minister of Finance, Patrick Chinamasa publicly clashed with the Minister of Indigenization, Patrick Zhuwawo (the President's nephew) over how to implement the indigenization law. Source: Fungi Kwaramba, Zhuwawo, Chinamasa brawl over indigenization laws, The Daily News, 27 December 2015. Available online: <a href="https://www.dailynews.co.zw/articles/2015/12/27/zhuwawo-chinamasa-brawl-over-indigenisation-laws">https://www.dailynews.co.zw/articles/2015/12/27/zhuwawo-chinamasa-brawl-over-indigenisation-laws</a>
2. Media article noting the lack of clarity of the laws and rules governing indigenization. Source: David Pilling and Andrew England, Zimbabwe to press ahead with controversial indigenization scheme, Financial Times, 8 February 2016. Available online: <a href="https://www.ft.com/content/a7052ade-ce49-11e5-831d-09f7778e7377">https://www.ft.com/content/a7052ade-ce49-11e5-831d-09f7778e7377</a>	
3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the likelihood as 'Almost Certain'(5).	
Impact Score 5/5	1. Chinese investors, who are the main investors in Zimbabwe, are discouraged by the lack of clarity of indigenization laws. Source: Yun Sun. 2016. China's pains over Zimbabwe's indigenization plan. Brookings Institute. Available online: <a href="https://www.brookings.edu/blog/africa-in-focus/2016/04/26/chinas-pains-over-zimbabwes-indigenization-plan/">https://www.brookings.edu/blog/africa-in-focus/2016/04/26/chinas-pains-over-zimbabwes-indigenization-plan/</a>
2. The World Bank notes that the indigenization laws deter investors Source: World Bank. 2015. Zimbabwe Economic Update. World Bank: Washington DC	
3. "The contentious 51% local ownership requirement is a deterrent to investment in Zimbabwe." – A manager at an exploration company Source: Fraser Institute, The 2016 Fraser Institute Annual Survey of Mining Companies, ( <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a> ), pp. 39	
4. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the impact as 'Catastrophic'(5).	
Description of impact: If indigenization laws and rules are unclear there is room for impartiality in decision-making about allocating public resources, there is limited competition as honest investors are discouraged which negatively impacts optimization of mining activity, the country's reputation is negatively impacted and quality of projects diminish. There is also limited accountability of officials who are responsible for implementation of the laws and rules.	
<b>Assessment</b>	
Likelihood x Impact = 5 x 5 Total score = 25	
Risk Level:	Very high
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
Likelihood Score 5/5	Evidence to support assessed likelihood 1. A report stating that there is a lack of transparency around indigenization deals in the mining sector. Source: Nathan Associates. 2014. Building Trust and Transparency in the Zimbabwe Mining Sector. USAID: Harare. Available online: <a href="http://pdf.usaid.gov/pdf_docs/PAOOM6Z1.pdf">http://pdf.usaid.gov/pdf_docs/PAOOM6Z1.pdf</a>

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



<p>2. Media article noting the lack of transparency in the affairs of community share ownership trusts, vehicles of indigenization. Source: Shame Mukoshori, Scam fears in community trusts, Financial Gazette, 13 March 2014.</p>	
<p>3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the likelihood as 'Almost Certain'(5).</p>	
<p>Impact Score  5/5</p>	<p>1. Chinese investors, who are the main investors in Zimbabwe, are discouraged by the lack of transparency in the implementation of indigenization laws. Source: Yun Sun. 2016. China's pains over Zimbabwe's indigenization plan. Brookings Institute. Available online: <a href="https://www.brookings.edu/blog/africa-in-focus/2016/04/26/chinas-pains-over-zimbabwes-indigenization-plan/">https://www.brookings.edu/blog/africa-in-focus/2016/04/26/chinas-pains-over-zimbabwes-indigenization-plan/</a></p>
<p>2. The World Bank notes that the indigenization laws deter investors Source: World Bank. 2015. Zimbabwe Economic Update. World Bank: Washington DC</p>	
<p>3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the impact as 'Catastrophic'(5).</p>	
<p>Description of impact: If implementation of indigenization laws and rules is not transparent, there is room for impartiality in decision-making about allocating public resources, there is limited competition as honest investors are discourage which negatively impacts optimization of mining activity, the country's reputation is negatively impacted and quality of projects diminish. There is also limited accountability of officials who are responsible for implementation of the laws and rules.</p>	
<p><b>Assessment</b> Likelihood x Impact = 5 x 5 Total score = 25</p>	
<p>Risk Level: <span style="background-color: red; color: white; padding: 2px;">Very high</span></p>	
<p>What is the risk of interference in the appeals process?</p>	<p>Code PD22</p>
<p>Likelihood Score  3/5</p>	<p>Evidence to support assessed likelihood 1. A court case where the presiding judge noted that Ministry officials had deliberately delayed the hearing of an appeal. Source: Zimba v Mining Commissioner and Others, High Court of Zimbabwe Case 4620/12, Award, 13 January 2015. Available online: <a href="http://www.zimlil.org/zw/judgment/hara-re-high-court/2015/09-0">http://www.zimlil.org/zw/judgment/hara-re-high-court/2015/09-0</a></p>
<p>2. Court case where the Permanent Secretary illegally cancelled a license that had been issued by a Mining Commissioner and the presiding judge stated that the Permanent Secretary, according to the Mines and Minerals amendment Bill, has no right to hear appeals made against decisions of the Mining Commissioner. Source: BMG Mining (Pvt) Ltd v Mining Commissioner BYO Mining District and Others, High Court of Zimbabwe Case No 33/10, Award, dated 20 January 2011. Available online: <a href="http://www.zimlil.org/zw/judgment/bulawayo-high-court/2011/5/">http://www.zimlil.org/zw/judgment/bulawayo-high-court/2011/5/</a></p>	
<p>3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Likely'(4).</p>	
<p>Impact Score  3/5</p>	<p>1. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67<sup>th</sup> most attractive jurisdiction. Source: The 2016 Fraser Institute Annual Survey of Mining Companies (<a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a> )</p>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).	
Description of impact: If there is interference in the appeals process there is room created for impartiality in decision-making about allocating public resources and limited accountability of officials.	
Likelihood x Impact = 4 x 4	Assessment Total score = 16
Risk Level:	<b>Very high</b>

What is the risk that the duration and timing of each step of the awards process can be manipulated and lodged applications can be deliberately mis-handled?	Code PD28; PD31
Likelihood Score 5/5	Evidence to support assessed likelihood 1. A court case where the Ministry of Mines conceded that the first applicant was not awarded the license. Source: Zimba v Mining Commissioner and Others, High Court of Zimbabwe Case 4620/12, Decision, 13 January 2015. Available online: <a href="http://www.zimlil.org/zw/judgment/harare-high-court/2015/09-0">http://www.zimlil.org/zw/judgment/harare-high-court/2015/09-0</a>

2. A Ministry of Mines cadastre official who revealed that duration and timing of each step of the awards process was almost always manipulated and at the total discretion of the cadastre officials. Source: Interview with Ministry of Mines official, Harare, January 2017	
3. The head of a miner's association who revealed that at times, small-scale miners who find high grade ore will have their claims taken over by corrupt people who work in cahoots with Ministry of Mines officials to obtain a license with an earlier date than the owner's and thereby start an ownership dispute Source: Interview with head of Sustainable Mining Development Trust, Bulawayo, 14 March 2017	
4. Paper-based cadastral records are easily tampered with for example an official can destroy an existing entry in order to prejudice the license holder and grant the licensed area to another applicant. Source: Interview with Ministry of Mines official, Gweru, 15 March 2017	
5. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).	

Impact Score 3/5	1. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67 <sup>th</sup> most attractive jurisdiction. Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>
---------------------	---

2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Moderate'(3).	
Description of impact: If there is interference in the appeals process there is room created for impartiality in decision-making about allocating public resources and limited accountability of officials.	
Likelihood x Impact = 5 x 3	Assessment Total score = 15
Risk Level:	<b>Very high</b>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



What is the risk of theft of application fees or other charges?	Code PD29
Likelihood Score 3/5	Evidence to support assessed likelihood 1. In 2011, SOEs involved in mining remitted royalties and corporate tax to Ministry of Mines instead of remitting to ZIMRA as per the law. ZIMRA never recovered the money. Source: Darlington Musarurwa, ZMDC needs urgent, real reform, The Sunday Mail, 6 March 2016
2. A Ministry of Mines official was convicted of theft of \$2,000 from the Ministry of Mines whereby she issued a fake receipt for a payment for an export license. Source: Tayana, Ministry of Mines senior official in court for defrauding ministry of \$2,000, Pindula, 19 January 2017.	
3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Possible'(3).	
Impact Score 4/5	1. The Ministry of Mines is cash-strapped and cannot implement the digitalization of the mining cadastre as fast as it had wished. Source: Interview with Ministry of Mines official, Harare, January 2017
4. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).	
Description of impact: If money is stolen from the Ministry revenues accrued by the State are diminished.	
Likelihood x Impact = 3 x 4	Assessment Total score = 12
Risk Level:	Significant
What is the risk that a license can be awarded, transferred or terminated without being publicly announced, explained or justified?	Code PD35; PD38; PD39
Likelihood Score 5/5	Evidence to support assessed likelihood 1. A court case where the Ministry of Mines conceded that it did not publish the issuance of a license in the Government Gazette. Source: Zimba v Mining Commissioner and Others, High Court of Zimbabwe Case 4620/12, Decision, 13 January 2015. Available online: <a href="http://www.zimlil.org/zw/judgment/harare-high-court/2015/09-0">http://www.zimlil.org/zw/judgment/harare-high-court/2015/09-0</a>
2. The Ministry publishes cancellations of licenses on a noticeboard at their offices for a period of 3 months. Source: Interview with Small-scale miner, Bubi, 14 March 2017	
3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).	
Impact Score 4/5	1. Zimbabwe is ranked as having third worst mining policies (worst in Africa) by the Fraser Institute. It is ranked 102/104 in the Policy Perception Index with a score of 18.1/100. In comparison Botswana is ranked 12/104 with a score of 91.8/100 Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).	
Description of impact: If applicants who are awarded licenses are not publicly announced, there are limitations placed on the public's ability to hold officials accountable.	
Likelihood x Impact = 5 x 4	Assessment Total score = 20
Risk Level:	Very high

What is the risk that mining companies can stockpile licenses or permits, without actually doing any work?	Code PP4
Likelihood Score 5/5	Evidence to support assessed likelihood 1. A media article noting the Ministry of Mines attempt to re-take stockpiled licenses. Source: Business Reporters, 'Use it or lose it', The Herald, 4 July 2013. Available online: <a href="http://www.herald.co.zw/use-it-or-lose-it/">http://www.herald.co.zw/use-it-or-lose-it/</a>
2. Interview with Ministry of Mines surveyor who noted that in Midlands, two companies, Homestake and ZIMASCO had many claims that they were working. Source: Interview with Ministry of Mines official, Gweru, January 2017	
3. Head of a mining association who noted that large scale mining companies stockpile claims without doing any work on them. Source: Interview with Christopher, the head of the Sustainable Mining Development Trust, Bulawayo, March 2017	
4. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).	
Impact Score 4/5	1. Two companies that held 80% of chrome claims and leased some out to small-scale miners were accused of offering very low prices to the leasees who had to sell to them. Source: Tinashe Makichi, Tributary agreements stifle chrome production, The Herald, 11 May 2016. Available online: <a href="http://www.herald.co.zw/tributary-agreements-stifle-chrome-production/">http://www.herald.co.zw/tributary-agreements-stifle-chrome-production/</a>
2. In an attempt to dissuade companies from stockpiling licenses, the Ministry of Mines increased fees exorbitantly (up to 500% in some cases) which negatively affected the perception of the stability of mining policies in Zimbabwe. Source: Lloyd Gumbo, No going back on mining fees: Mpofu, The Herald, 14 May 2012. Available online: <a href="http://www.herald.co.zw/no-going-back-on-mining-fees-mpofu/">http://www.herald.co.zw/no-going-back-on-mining-fees-mpofu/</a>	
3. De Beers and Marange	
4. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).	
Description of impact: If mining companies stockpile licenses without working them they limit the growth of public revenues from mining, prevent the State from optimizing mining activity by limiting competition and limit innovation that comes from new entrants.	
Likelihood x Impact = 5 x 4	Assessment Total score = 20
Risk Level:	Very high

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



What is the risk there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports before a license is issued?	Code PP9
Likelihood Score 5/5	Evidence to support assessed likelihood 1. The awards process in law does not require an EIA to be obtained before a license is issued. Source: Mines and Minerals Act (Chapter 21:05) of 1961
2. The Ministry of Mines procedure for getting a claim states that an EIA is obtained after a license is issued but before actual mining can commence. Source: Ministry of Mines website: <a href="http://www.mines.gov.zw/?q=mining_promotion_and_development">http://www.mines.gov.zw/?q=mining_promotion_and_development</a>	
3. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).	
Impact Score 4/5	1. The Environmental Management Agency has often had to stop mining operations that are commenced after a license has been issued but before an EIA has been obtained. Source: Nqobile Bhebhe, EMA stops Umzingwane mining activities, NewsDay, 26 January 2013. Available online: <a href="https://www.newsday.co.zw/2013/01/26/ema-stops-umzingwane-mining-activities/">https://www.newsday.co.zw/2013/01/26/ema-stops-umzingwane-mining-activities/</a>
2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4).	
Description of impact: If there is no verification of the accuracy of EIAs before licenses are issued, the rights of communities to a clean environment may be negatively impacted, lack of upholding environmental standards and difficulty in holding Ministry of Mines officials accountable for environmental degradation done by applicants they license.	
Likelihood x Impact = 5 x 4	Assessment Total score = 20
Risk Level:	<b>Very high</b>
What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity, financial resources and integrity (such as past lawful conduct and compliance)?	Code PP10; PP11
Likelihood Score 5/5	Evidence to support assessed likelihood 1. The mining law and procedure for getting claims make no requirement for conducting due diligence on applicants' claims. Source: Mines and Minerals Act (Chapter 21:05) of 1961; Ministry of Mines website: <a href="http://www.mines.gov.zw/?q=mining_promotion_and_development">http://www.mines.gov.zw/?q=mining_promotion_and_development</a>
2. Anjin, the largest diamond mining company in Marange was a joint venture between ZMDC and Anhui Foreign Economic Construction (Group) Co. Ltd which before mining in Marange was only a construction company and had no mining experience. Source: Faith Zaba and Tendai Marima, Anjin saga: Lifting the corporate veil, Zimbabwe Independent, 29 June 2012. Available online: <a href="https://www.theindependent.co.zw/2012/06/29/anjin-saga-lifting-the-corporate-veil/">https://www.theindependent.co.zw/2012/06/29/anjin-saga-lifting-the-corporate-veil/</a>	
3. Former Minister of Mines, Obert Mpofu revealed that no due diligence was conducted on companies that were licenses to mine diamonds in Marange in a Parliamentary hearing. Source: Voice of America, Directors of Mining Firms Finally Testify in Zimbabwe Parliament Diamond Probe, 23 March 2010. Available online: <a href="http://www.voazimbabwe.com/a/zimbabwe-mining-firm-directors-respond-to-parliament-diamond-probe-23mar10-88935717/1462851.html">http://www.voazimbabwe.com/a/zimbabwe-mining-firm-directors-respond-to-parliament-diamond-probe-23mar10-88935717/1462851.html</a>	



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>4. The Matabeleland South Ministry of Mines office requires a police clearance for an applicant to be issued with a license and checks bank statements during the annual renewals of the license. Source: Interview with small-scale miner, Bulawayo, 14 March 2017</p>	
<p>5. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5).</p>	
<p>Impact Score 5/5</p>	<p>1. The President's acknowledgement that Marange diamonds worth '\$15 billion' had been looted. Source: Kudzai Kuwaza, Mugabe interview confirms Chiadzwa diamond looting, Zimbabwe Independent, 11 March 2016. Available online: <a href="https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/">https://www.theindependent.co.zw/2016/03/11/mugabe-interview-confirms-chiadzwa-diamond-looting/</a></p>
<p>2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Catastrophic'(5)</p>	
<p>Description of impact: If no due diligence is conducted on applicants for licenses, the state is prevented from optimizing mining activity, innovation is inhibited, the quality of projects is negatively impacted and there is less room to hold public officials accountable for their decisions.</p>	
<p>Likelihood x Impact = 5 x 5 Assessment Total score = 25</p>	
<p>Risk Level: <b>Very high</b></p>	

<p>If a 'first come, first served' system is in place, what is the risk that the first applicant will not be awarded the license or permit?</p>	<p>Code PP13</p>
<p>Likelihood Score 4/5</p>	<p>Evidence to support assessed likelihood</p> <p>1. A report that Ministry of Mines officials awarded a mining licence to a company to one company ahead of the company that had applied first. Source: NewsDay news report titled "Ministry of Mines officials in corruption storm" (24 January 2017)</p>
<p>2. Expert focus group discussion with three small-scale miners who stated that a joint venture company between the Russian military and ruling party, ZANU-PF had acquired a block of claims on their colleague's farm despite their colleague having applied for the block of claims first. Source: Focus Group Discussion, three Small Scale miners operating in Penhalonga (21 March 2017)</p>	
<p>3. A report outlining several cases of Ministry officials engaging in corruption including a case where a Ministry of Mines official refused to approve a deserving and established first applicant's application in favour of two other relatively unknown entities. Source: The Independent report titled "Corruption rampant in mines ministry" (19 March 2010)</p>	
<p>4. Lack of an automated system that records the time and order of an application submission. Source: Interview, Ministry of Mines and Mining Development officials in Mutare (21 March 2017)</p>	
<p>5. Two court cases where the Ministry of Mines conceded that the first applicant was not awarded the license. Source: <i>Zimba v Mining Commissioner and Others</i>, High Court of Zimbabwe Case 4620/12, Decision, 13 January 2015. Available online: <a href="http://www.zimlil.org/zw/judgment/harare-high-court/2015/09-0">http://www.zimlil.org/zw/judgment/harare-high-court/2015/09-0</a> <i>Macheza v Chaumbezvo</i>, High Court of Zimbabwe Case 4157/14, Award, 18 April 2015. Available online: <a href="http://www.zimlil.org/zw/judgment/harare-high-court/2015/259">http://www.zimlil.org/zw/judgment/harare-high-court/2015/259</a></p>	

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



6. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the likelihood as 'Likely'(4).	
Impact Score  3/5	1. Zimbabwe is ranked the ninth least attractive mining jurisdiction for investment by the Fraser Institute. It is ranked 96/104 in the Investment Attractiveness Index with a score of 41.8/100. This is despite the country being rated as having the potential to be the 67 <sup>th</sup> most attractive jurisdiction. Source: The 2016 Fraser Institute Annual Survey of Mining Companies <a href="https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016">https://www.fraserinstitute.org/studies/annual-survey-of-mining-companies-2016</a>
2. Global rankings show Zimbabwe has one of the worst property rights in the world Source: The 2015 International Property Rights Index ranks Zimbabwe 122 of 129 countries (26 out of 27 in the region) and the World Economic Forum (WEF) 2016/17 Global Competitiveness Index ranks the country 137 <sup>th</sup> out of 138 countries in the protection of property rights.	
3. A focus group of a diverse group of 48 stakeholders comprising miners, government officials, the police, media, miners' association representatives, academia and civil society from Bulawayo and the Matabeleland provinces assessed the impact as 'Moderate'(3).	
Description of impact: If the first applicant is not issued the license, fairness and the rights of the first applicant are negatively affected - conflicts or lengthy court proceedings may emerge. Further the reputation of the country is negatively affected as the perception of the country as an attractive investment destination with strong property rights protection diminishes.	
Assessment Total score = 12	
Likelihood x Impact = 4 x 3	
Risk Level:	Significant

What is the risk that whistleblowers will not be legally protected?	Code RL7
Likelihood Score  5/5	Evidence to support assessed likelihood 1. A Ministry official revealed that there is no system within the Ministry to report corruption or to protect whistle-blowers. The only option is to approach the Zimbabwe Anti-Corruption Commission. Source: Interview with Ministry of Mines officials, Mutare, 21 March 2017
2. Although there are some aspects of the Zimbabwean legal system that can be relied upon to protect whistle-blowers (such as Part XIVA of the Criminal Procedure and Evidence Act - Protection of Vulnerable Witnesses) - Zimbabwe does not have a comprehensive, national whistle-blowers protection Act. Source: Transparency International Zimbabwe, Whistle-blower protection legislation: Frequently Asked Questions. Available online: <a href="http://tizim.org/wp-content/uploads/2016/05/faq9.pdf">http://tizim.org/wp-content/uploads/2016/05/faq9.pdf</a>	
3. A Ministry of Mines official stated that the most common way by which cases of corruption become reported to the Ministry is when there is a disagreement between the parties involved in the corruption. Source: Interview with Ministry of Mines officials, Mutare, 21 March 2017	
4. Ministry official who wish to report corruption have to write a letter to their Provincial Mining Director and write names of perpetrators and their own name thereby making it un-anonymous reporting. Source: Interview with Ministry of Mines official, Gweru, 15 March 2017	
5. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Almost Certain'(5)	



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

<p>Impact Score</p> <p>4/5</p>	<p>1. The latest Transparency International Corruption Perception Index (CPI) ranks Zimbabwe 150th out of 166 countries with a score of 21/100 Source: Transparency International, 2016, Transparency International Corruption Perception Index. Available online:</p>
	<p>2. A focus group of a diverse group of 28 stakeholders comprising miners, government officials, the police, media, miners' association representatives and civil society from Manicaland province assessed the likelihood as 'Major'(4)</p>
<p>Description of impact: If whistle-blowers are not protected, many cases of corruption will go unreported in the Ministry of Mines and corrupt officials may not be held accountable.</p>	
<p>Likelihood x Impact = 5 x 4</p>	<p>Assessment Total score = 20</p>
<p>Risk Level:</p>	<p>Very true</p>

## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE



### Annex 3: Corruption Risk Assessments by Focus Groups

Corruption Risk Assessment with 28 stakeholders in Mutare, Manicaland Province, Zimbabwe

Resulting corruption risks	Likelihood	Impact	Assessment Score
CF1: What is the risk that mining laws will be written to favor private interests before the public interest?	4	5	20
CF4: What is the risk that there will be corrupt speculation around land subject to a mining permit application, such as by officials working with collaborators to change the status of the land to extract payments out of the license holder?	4	4	16
PD9: What is the risk that applicants for licenses will be controlled by undeclared beneficial owners?	3	5	15
PD28, PD31 and PP17: What is the risk that the duration and timing of each step of the awards process can be manipulated and lodged applications will be deliberately mishandled and confidential information is leaked?	5	3	15
PP9: What is the risk there is no verification of the accuracy or truthfulness of environmental impact assessment (EIA) reports before a license is issued?	5	4	20
PP10 and PP11: What is the risk that in practice there is no due diligence on applicants' claims regarding their capacity, financial resources and integrity (such as past lawful conduct and compliance)?	5	5	25
RL7: What is the risk that whistleblowers will not be legally protected?	5	4	20
CF2: What is the risk of mining rights being expropriated (confiscated)?	3	4	12
PD2: What is the risk that the award process will not be designed to an acceptable technical standard?	5	4	20
PD10: What is the risk that cadastral information about license areas will not be publicly knowable?	5	4	20
PD35, PD38 and PD39: What is the risk that a license can be awarded, transferred or terminated without being publicly announced, explained or justified?	5	4	20
PP4: What is the risk that mining companies can stockpile licenses or permits, without actually doing any work?	5	4	20
PD3: What is the risk that the steps taken in conducting the cost-benefit analysis will not be publicly knowable?	3	3	9
PP13: If a 'first come, first served' system is in place, what is the risk that the first applicant will not be awarded the license?	3	3	9
PD22: What is the risk of interference in the appeals process and in the awarding officers' decisions to award licenses?	4	4	16
PD29: What is the risk of theft of application fees or other charges?	3	4	12



## CORRUPTION RISK ASSESSMENT OF MINING AWARDS IN ZIMBABWE

Corruption Risk Assessment with 48 stakeholders in Bulawayo, Zimbabwe

Resulting corruption risks	Likelihood	Impact	Assessment Score
CF10: What is the risk that senior public officials or politicians will not declare assets, shares or income related to mining interests?	5	4	20
CF6: What is the risk that domestic SOEs will receive preferential treatment compared to other mining companies?	5	5	25
PD20: When foreign companies are legally required to partner with local companies, including a local SOE, for mining activities, what is the risk that the laws and rules governing local partnerships will not be clear?	5	5	25
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?	5	5	25
CF2: What is the risk of mining rights being expropriated (confiscated)?	5	4	20
CF7: What is the risk that SOEs with interests in mining do not have to publish information about their mining-related activities and investments?	5	3	15
PD6: What is the risk that cadastre agency officials will engage in secondary employment with mining companies?	5	3	15
PD35, PD38 and PD39: What is the risk that a license can be awarded, transferred or terminated without being publicly announced, explained or justified?	5	4	20
PP13: If a 'first come, first served' system is in place, what is the risk that the first applicant will not be awarded the license?	5	3	15



**TRANSPARENCY  
INTERNATIONAL  
ZIMBABWE**

the coalition against corruption

