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## ACCOUNTABLE MINING

# HOW ACCOUNTABLE ARE COMPANIES FOR THEIR ENVIRONMENTAL AND SOCIAL IMPACTS?

## CASE STUDY 5: CAPACITY TO VERIFY ESIA<sub>s</sub>

Properly verifying environmental and social impact assessments (ESIAs) ensures that the potential impacts of mining developments are identified before work starts. This enables government authorities to impose effective licence conditions to manage these impacts by requiring mining enterprises to develop and implement effective mitigation plans. Thorough verification of ESIA<sub>s</sub> makes it more likely that a licence applicant will provide a robust and effective ESIA that does not contain misleading or fraudulent statements or that omits critical information.

### RISKS

#### Corruption is more likely to arise when:

- **ESIA reports are not publicly available and there are no clear and transparent criteria for environmental approval** > creating space for environmental approvals to be given or denied for political or personal reasons
- **The relevant government authority doesn't have the skills or resources to verify the contents of ESIA<sub>s</sub>** > enabling applicants to knowingly provide incorrect information about the potential impacts of their project
- **The relevant government authority is unable to monitor compliance** > opening the door for applicants to commit to conditions that they have no intention of fulfilling

One important cause of this risk is *lack of institutional capacity* – insufficient geo-spatial information and financial, human and technical resources.

When the relevant government authority doesn't have the capacity to verify the contents of ESIA<sub>s</sub>, licence applicants can produce assessments that contain misleading or fraudulent statements or omissions about their potential impacts. In turn, it is less likely that their mitigation plans will be adequate, making it harder to hold them accountable for any negative environmental or social impacts.

The absence of truthful information about potential environmental and social impacts means community members cannot participate meaningfully in consultation processes.



## The risk of no or inadequate verification of the veracity and accuracy of ESIA is one of the most common and serious risks identified in the countries in this study

In **South Africa** under the streamlined mining approvals process – the *One Environmental System* – the Department of Mineral Resources is responsible for the environmental approvals process for mining companies: approving environmental impact assessments; issuing environmental authorisations; and monitoring and enforcing compliance with environmental obligations. The Department lacks the necessary capacity and expertise to properly perform these functions and its failure to fulfil its environmental responsibilities has led to multiple legal actions and an increased burden on the courts.

The risk of no or inadequate verification of the veracity and accuracy of ESIA is one of the most common and serious risks identified in the countries in this study. Failure to verify ESIA increases the risk that the project proponents can deliberately mislead decision-makers and the public about the nature and severity of their potential impacts.



### MITIGATING THESE RISKS

#### Measures to ensure mining companies are accountable for their environmental and social impacts:

- Adequate institutional capacity for effective verification of ESIA
- Clear and transparent criteria for environmental approvals
- Effective public access to information including to ESIA reports and related documents, impact management plans and compliance performance to enable public scrutiny of the approvals process and government performance of its duty to monitor and enforce compliance
- Institutional capacity and will to monitor and enforce compliance

Chapter 5 of Transparency International's Global Report *Combating corruption in mining approvals: assessing the risks in 18 resource-rich countries* provides further details about the risks and accountability measures associated with the review and approval of ESIA.

## ACCOUNTABLE MINING

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

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

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



### POLITICAL & ADMINISTRATIVE CONTEXT

Who benefits from mining approval decisions?



### LAND ALLOCATION

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



### LICENCING

How fair and transparent is the licencing process?



### LICENCING

Who gets the right to mine?



### ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT

How accountable are companies for their environmental and social impacts?



### COMMUNITY CONSULTATION

How meaningful is community consultation?