

MINING FOR SUSTAINABLE DEVELOPMENT

WHO GETS THE RIGHT TO MINE?

CASE STUDY 4: DUE DILIGENCE

Effective due diligence on licence applicants' technical capacity and financial resources ensures that only qualified and experienced applicants are successful. This also requires effective investigation into applicants' compliance history and past conduct to screen out undesirable applicants.

RISKS

Corruption is more likely to arise when:

- **Due diligence on past conduct and compliance and verification of claims about beneficial owners, financial resources or technical capacity is weak** > allowing dishonest applicants to lie or provide misinformation about their qualifications, or companies with a history of corruption to be granted mining rights
- **The regulation and disclosure of licence transfers is ineffective** > enabling unscrupulous actors to bypass due diligence mechanisms and obtain mining licences

Checks to verify applicants' claims about their financial resources, technical capacity and beneficial owners reduces the risk that applicants will deliberately provide false information and that unqualified and under-resourced actors will be granted rights to mineral resources.

In **Australia**, the mining states of Western Australia and Queensland have limited mechanisms for due diligence investigations into the backgrounds, previous conduct and beneficial owners of mining companies. While applicants are required to disclose their record of environmental compliance, this is limited to their activities in **Australia**.

There are numerous examples of both foreign and Australian companies being granted licences even though they have been investigated for or charged with corruption or other offences overseas, such as failing to comply with laws and environmental permits. The current framework does not encourage rigorous due diligence of the integrity, character and track record of applicants.



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The risk of inadequate due diligence was identified in both developed and developing mining economies, and was highlighted in 12 out of the 18 countries in this study. If the licencing authority does not investigate the qualifications of licence applicants, unqualified, under-resourced and unethical players may be granted rights to mineral resources. Licences may be acquired and accumulated by individuals that are not genuine investors for the purposes of speculation, rather than conducting mining activities.



MITIGATING THESE RISKS

Measures to ensure that only genuine, qualified and compliant applicants get mineral rights:

- Effective due diligence on financial resources, technical capacity, compliance history and corruption track record of licence applicants and their beneficial owners
- Regulatory mechanisms to deter stockpiling to reduce the risk that speculators will seek to obtain mining licences
- Effective regulation of licence transfers to ensure that the government's due diligence mechanisms are not bypassed

Chapter 4 of Transparency International's Global Report *Combating corruption in mining approvals: assessing the risks in 18 resource-rich countries* provides further details about corruption risks and accountability measures associated with due diligence.

MINING FOR SUSTAINABLE DEVELOPMENT

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 Mining for Sustainable Development Programme (M4SD), national chapters – from Africa, Latin America, Central Asia, the Asia Pacific, and North America – have identified and assessed corruption risks in mining approvals of 18 resource-rich countries.

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.

The next phase of M4SD will focus on addressing corruption risks.



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?