



# Mozambique

mobilizing extractive  
resources for development



## Mozambique: Extractives for Prosperity, Volume II

Capstone Report: School of International and Public Affairs

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# Abbreviations

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ADIA	Abu Dhabi Investment Authority
AICD	Africa Infrastructure Country Diagnostic
ANE	Administração Nacional de Estradas
ARTC	Australian Rail Track Corporation
ASM	Artisanal and Small-scale Mining
AT	Administrative Tribunal
BAGC	Beira Agricultural Growth Corridor
BBOP	Biodiversity and Business Offset Program
BSEE	Bureau of Safety and Environment Enforcement
BTU (MMBtu)	British Thermal Unit (Million BTUs)
CCEP	Central Public Ethics Commission
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CEP	Central Ethics Commission
CESUL	Projeto Regional de Transporte de Energia Centro-Sul
CFM	Caminhos de Ferro de Moçambique
CLIN	Corredor Logístico Integrado do Norte
CoM	Council of Ministers
CONDES	National Council for Sustainable Development
CRC	Convention of the Rights of the Child
CRVP	Commission for Receipt and Verification
DMP	Government of Western Australia Department of Mines and Petroleum
DNAC	National Directorate for Conservation Areas
DNM	The National Director of Mines
DOI	Department of Interior
EDM	Electricidade de Moçambique
EFC	Estrada de Ferro Carajás
EFVM	Estrada de Ferro Vitória a Minas
EIA	Environmental Impact Assessments
EITI	Extractive Industry Transparency Initiative
EMIS	Environmental Management and Information Systems
ENH	Empresa Nacional de Hidrocarbonetos (National Hydrocarbon Company)
EPCC	Exploration and Production Concession Contract
ESI	Estimated Sustainable Income
eSISTAFE	electronic State Financial Administration System
EU	European Union
FDI	Foreign Direct Investment
FPSO	Floating Production Storage and Offloading Vessels
FUNAE	Fundo de Energia
GAP	The World Bank's Gender Action Plan
GAPP	Generally Accepted Principals and Practices
GCCC	Central Office for Combating Corruption
GCPV	Central Victim Protection Office
GDP	Gross Domestic Product
GGFR	Global Gas Flaring Reduction partnership
GTL	Gas-to-Liquids
G 19	Group of 19 Partners for Program Aid
HCB	Hidroeletrica de Cahora Bassa
HDI	Human Development Index

HVCC	Hunter Valley Coal Chain
ICCPR	International Covenant on Civil and Political Rights
ICSID	International Centre for the Settlement of Investment Disputes
ICT	Information and Communication Technology
IEA	International Energy Agency
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IGF	Inspector-General of Finance
IIED	The International Institute for Environment and Development
ILO	International Labor Organization
IMF	International Monetary Fund
INP	Instituto Nacional de Petroleo (National Petroleum Institute)
IOC	International Oil Company
IPEC	International Programme on the Elimination of Child Labour
IRR	Internal Rate of Return
IUCN	International Union for the Conservation of Nature
LNG	Liquefied Natural Gas
LPG	Liquefied Petroleum Gas
MCE	Maputaland Centre of Endemism
MDGs	Millennium Development Goals
MICOA	Ministry of Coordination of Environmental Affairs of Mozambique
MINAG	Ministry of Agriculture
MIREM	Ministry of Mineral Resources of Mozambique
MML	Minas Moatize Limitada
Model EPCC	Model Exploration and Production Concession Contract
MoF	Ministry of Finance
MP	Members of Parliament or National Assembly Deputies
Mtpa	Million-tons-per-annum
NBSAP	National Biodiversity Strategies and Action Plans
NEMP	National Environmental Management Plan
ODAMOZ	Overseas Development Assistance (Database) for Mozambique
ODI	Overseas Development Institute
OECD	Organization for Economic Cooperation and Development
OHCHR	UN Office of the High Commissioner for Human Rights
PAH	Polycyclic, aromatic and hydrocarbons
PARP	Republic of Mozambique Poverty Reduction Action Plan 2011-2014
PCI	Pulverized Coal Injection
PFCC	Petroleum Fund Consultative Council
POM	President of the Republic of Mozambique
PSSA	Particular Sensitive Sea Areas
PSC	Production Sharing Contract
SASOL	South Africa Synthetic Oil Liquid
SAIEA	Southern African Institute for Environmental Assessment
SEA	Strategic Environment Assessment
SIDA	Swedish International Development Cooperation Agency
SME	Small-and-Medium-sized Enterprise
SOE	State-Owned Enterprise
SPA	Sales and Purchase Agreement
SWF	Sovereign Wealth Fund
Tcf	Trillion cubic feet
UNCLOS	United Nations Convention On the Law of the Sea
WHO	The World Health Organization
WWF	World Wildlife Fund

# Executive Summary

The development of Mozambique's significant mineral and hydrocarbon reserves has the potential to generate substantial wealth and prosperity for the country. The magnitude of possible benefits for Mozambique has powerful implications for one of the poorest nations in the world. It is up to the Government, and the people of Mozambique, to decide when, where, and, most importantly, how to utilize their reserves over the next few decades. Fundamentally, Mozambique is confronted with several challenges to transform its abundant extractive resource wealth – residing primarily in the country's inland coal deposits and its deep-water natural gas basins – into sustained, long-term economic development. This is a task of significant but not insurmountable complexity, encompassing a range of political, economic, and social dimensions. It will require collaborative and coordinated efforts by a variety of different stakeholders, some with conflicting objectives and priorities. It is thus incumbent upon Mozambique's leadership to manage this transition with purpose and develop and implement an industrial strategy that mobilizes the country's extractive resource development in a manner that achieves a prosperous outcome for its people.

Expectations of stakeholders are high, and this will not be an easy undertaking for the Government and people of Mozambique. Over the last five decades, numerous countries across the developing world have failed to benefit from their natural resource wealth. In fact, pervasive evidence suggests that resource-rich developing states tend to have lower economic growth rates and poorer development outcomes compared to states lacking such resources. Due to these paradoxical trends, collectively referred to as the resource curse, there is a renewed international focus on resource-rich, low-income countries like Mozambique.

This report provides a comprehensive review of the critical economic, political, legal, social, and environmental variables that will affect and be affected by the rapid development of Mozambique's extractive resources. Each section proposes methodical and practical recommendations for the country's policymakers, which – if implemented – will enhance the current institutional framework governing the activities of the extractive sector. Ultimately, this report attempts to provide the Government of Mozambique with a policy framework that promotes the sustainable development of the country's economy, society, and environment, and aims to help the country avoid the perils of the resource curse. These issues are described in greater detail in the summaries of each section of the report that follow.

## *Economic and Commercial*

Mozambique stands to gain significant revenue from exploiting the economic and commercial potential of its natural gas and coal reserves. The country's offshore natural gas discoveries are among the largest finds in the world in over a decade, while its coal reserves are beginning to be exported to international markets. If it is able to successfully commercialize its extractive resources, Mozambique will become a highly competitive player on the global energy scene.

In addition to promoting economic growth, the Government's overall economic objective is to reduce persistently high rates of poverty. Currently eight out of ten Mozambicans continue to live on less than \$2 per day. In the years ahead, natural resource revenues will comprise an increasing share of the country's GDP, a trend that exposes Mozambique to several challenges in maintaining financial and social stability. Despite ongoing reforms, the country's overall capacity to absorb windfall revenues from the development of extractive resources remains

limited. Yet, with sound fiscal management, these hurdles can be overcome. There are a number of measures the Government can take to better prepare itself for the windfall. Prior to exploring such measures, however, it is first important to understand key implications of the resource curse and how it threatens Mozambique.

Generally, there are two underlying features of the resource curse that afflict countries: “Dutch Disease” and revenue volatility. Dutch Disease refers to the destabilizing impact of increased foreign exchange that inevitably follows a sharp rise in natural resource exports. A huge increase in natural resource revenues typically causes the real exchange rate to appreciate. The change in real exchange rate results in economic destabilization by reducing the international competitiveness of a country’s non-extractive resource exports (e.g. agricultural and manufacturing) and may also reduce employment in these sectors. These economic outcomes tend to adversely affect the labor force of a developing country, where undereducated workers often struggle to transition from traditionally low-skilled sectors of the economy to more knowledge-based and service-oriented industries.

Revenue volatility is another important facet of the resource curse. The disruptive effects of revenue volatility in a resource-based economy predominantly arise from fluctuations in global commodity prices. This volatility can be detrimental to growing economies and frequently results in imprudent fiscal policies. Often, governments borrow against the value of their newfound resources and spend windfalls on immediate consumption, at the expense of long-term investments that can hinder future growth opportunities for the country.

The resource curse commonly takes hold in developing nations that lack the institutional capacity necessary to manage huge resource revenues. To minimize the impacts of Dutch Disease and revenue volatility, a state must have sound institutions in place. Institutions are also necessary to manage complex public-private revenue-sharing partnerships that are typical of extractive industries. A sovereign wealth fund is one option that states can utilize to manage large inflows of resource revenue, stabilize pressures on the exchange rate, and reduce the influences of price and revenue volatility. The implementation of this fund (explained further below) is one of the central recommendations of this report. Above all, a sovereign wealth fund allows Mozambique to invest in infrastructure and socioeconomic development over the long-term, thus ensuring that the country will still see benefits of its extractive resources long after the reserves have been depleted.

### ***Linkages and Local Content***

Mozambique’s national resource wealth is not limited to revenue generation for the state but can and must flow to benefit local Mozambicans. Conventional understanding about how the local population benefits from extractive resources is typically limited to the industry’s provision of employment and a few philanthropic projects. However, extractive industries tend to have a minimal impact on the labor market. The capital intense nature of extractive industries stems from industry demand for fewer, more highly skilled workers compared to the labor-intensive, low-skilled workforce sectors – such as agriculture or manufacturing. Low prevalence of human capital in Mozambique further limits employment opportunities for Mozambicans in the extractive sector – leading to unfulfilled expectations in communities and promotes social unrest. This section provides examples and recommendations of how the Government, extractive companies, and stakeholders can increase employment opportunities for Mozambicans in the extractives sector and economic linkages between the extractive industries and Mozambique’s local businesses, especially in regions of extractive operations.

Prosperity driven by the growing extractive industry can be translated to communities in Mozambique through cultivating local content – including local recruitment, training, and purchasing local goods and services. Though not a “silver bullet” to prosperity, local content can contribute to the fulfillment of expectations that mineral and hydrocarbon production will help improve the lives of Mozambicans. Local content is also critical to the extractive industry’s operational sustainability by generating a social license to operate within a given community. Smooth, sustainable operations also benefit the state by supporting steady revenue flows and general social stability.

Given local human capital and the capacity of Mozambique’s private sector are currently very limited, it is critical that both the government and extractive companies initiate early and consistent engagement with communities and the local private sector in regard to both the type of employment and business opportunities that will be available. Additional management of expectations through transparent communication of the expected timeline of these opportunities is also necessary. To achieve optimal local content goals, the government must also invest deliberately in the provision of poverty-reducing public goods, including quality education, literacy, and healthcare, which in turn serve to improve human capital in the long-run. These efforts require significant strategic social investment by stakeholders to build the capacity of local communities and enable individuals and businesses to compete and access income-generating opportunities in the newly established extractive industry value chain. Without investment in the development of Mozambique’s human capital and building capacity of the local business sector, Mozambique’s ability to fully access and realize the potential benefits of its vast natural resource wealth will remain retarded. Finally, this section also discusses the need to develop and implement a strategic plan that mitigates inward migration, local food price inflation, and constraints on community resources affecting areas impacted by extractive industry operations in Mozambique that could be source of social instability.

### *Infrastructure*

Marked rates of underdevelopment in Mozambique are closely tied to the country’s shortage of infrastructure, which has largely failed to respond to social and economic development needs. Although recent public, private, and donor investment in developing Mozambique’s infrastructure has focused much more on facilitating the trade derived from megaprojects, it might also represent an unparalleled opportunity to build a system that fosters inclusive social development. The Government has the option to take advantage of the international community’s willingness to invest and orient economic resources to address infrastructure-related impediments of development.

Ensuring inclusiveness, through both connection and universal access to roads, railways, and electricity, must be at the heart of this endeavor. Railways, in particular, must guarantee access for general freight and passengers, as well as for mining companies. With respect to Mozambique’s roads, an upgrade and significant extension of the network would decrease transportation costs for all parties. This, in turn, would help mitigate the country’s high rates of poverty and inequality, permitting both the mining provinces and the rest of the country to benefit from extractive industry operations. Special attention must be paid to use of roads as connectors between impoverished yet potentially productive areas and the Beira, Nacala and future Macuse corridors. Finally, despite the current efforts of the Government to bring the grid to every district, only a small percentage of Mozambicans have reliable access to electricity. The potential for clean production must be developed to provide electricity access beyond district centers, and to help reduce Mozambique’s reliance on unsustainable energy sources.

### **Environment**

Protecting the country's ecology is critical to Mozambique's vitality and will require investment and attention to environmental governance that keeps pace with resource extraction. First, to mitigate environmental risks inherent in resource development, research into fisheries and terrestrial ecosystems is necessary to create a baseline for conservation priorities, since much of Mozambique's ecology is not well researched. The existing Environmental Impact Assessment review period is also too short for the increasing volume of assessments and the current limited capacity of the Government and civil society. Such assessments for large extraction projects and their corresponding infrastructure development should be made available to the public with a longer, more adequate review period than the current 45 days. In line with the country's existing environmental law, specific requirements and guidance on biodiversity offsets must be drafted and enforced to ensure that all small and large-scale extractive resource projects account for environmental impacts from the beginning of the project.

Mozambique's current environmental legislation should be reinforced with more detailed guidance. Exemplary laws from other countries, such as Norway, can be utilized for legal reference until a robust new set of laws can be established. With ongoing active exploration of the natural gas, Mozambique should dictate when and where seismic surveys are conducted in order to protect the delicate biodiversity surrounding the nation's corals and fisheries. In addition, the government must create an environmental emergency plan so that, should accidents occur, the various government ministries have an aligned mitigation strategy that facilitates rapid response. Additional funding, training, and resources allocated to environmental ministries are also necessary to expand their capacity to study the nation's ecology, properly implement protective legislation, and adequately monitor mining and natural gas exploration and production. Additionally, the growing artisanal mining sector needs strategic Government support to organize associations, as well as train, guide, and monitor expansion to ensure the safety and prosperity of Mozambicans. In this way, small-scale mining could become a means to reduce poverty as opposed to creating conflict and environmental degradation. All of these governance strategies will need to be implemented quickly and should utilize revenues from the extractive industry to guarantee that Mozambique's dynamic ecology continues to be a source of pride and the pillar of a growing tourism industry.

### **Resettlement**

Resource exploration, mineral concessions, and infrastructure development have all exponentially increased the resettlement of communities in Mozambique, especially in remote areas. Although the country has the extraordinary opportunity to strategically translate its mineral assets into long-term sustainable development, extractive operations can only be fully successful if the investments are embedded in stable and prosperous communities. One of the country's top objectives should be to leverage the recent boom in extracting natural resources to improve the living conditions of Mozambicans and to ensure a prosperous environment in which companies can diligently operate.

If Mozambique follows five basic resettlement principles, the rights of Mozambicans and compliance with the international conventions and agreements that the nation has pledged to support will be ensured. First, projects that require resettlement must conduct early, inclusive and transparent consultations to give communities the opportunity to make decisions on issues directly affecting their lives. Early consultation also helps build critical buy-in from impacted populations. Second, it is key to provide communities with the tools and information to diligently participate in negotiations that reach fair agreements. Third, compensation, that

includes improved livelihoods and standard of living is key to translating resource extraction into prosperity for individuals affected by resettlement. Fourth, resettlement processes entail negative environmental impacts that must be diligently addressed as they highly impact the health conditions and access to other resources (water, soil, etc.) of the surrounding communities. Lastly, an inclusive and legitimate post-resettlement committee must oversee agreement compliance, progress, and accountability. Such a committee also recognizes that communities are dynamic and future agreements will have an established channel for discussion. A well-structured and well-managed resettlement process, jointly agreed upon by communities and companies, can help to ensure that extractive operations and other projects that require resettlement enjoy greater community buy-in and promote sustainable development.

Mozambique must also ensure that women are not left out of opportunities to participate in and benefit from the country's development through the extractive industries. The Government bears a duty to ensure women's equal access to socio-economic opportunities, reduce disruptions to their standards of living and improve livelihoods. In the context of mining operations, Mozambique can meet these challenges by implementing its existing laws and Constitutional provisions which guarantee the equal rights of men and women, along with amending existing mining legislation to address issues on resettlement, consultation and compensation.

Such arrangements also stand to benefit from local resources (including human capital), thereby reducing the likelihood of conflict. The resettlement process in Mozambique is ongoing, and there are a number of ways that the Government can promote mutually beneficial resettlement agreements leaving all parties affected better off and fairly attended.

#### **Legal Framework**

From a legal perspective, Mozambique must aim to reform and update the legislative, institutional, and contractual frameworks associated with extractive industries in order to maximize the gains from and minimize the costs of extractive resource development. In this context, Mozambique is currently reviewing its legal and fiscal frameworks for oil and gas exploration and production, to take into account developments in the industry and new gas discoveries. Recent drafts of the petroleum legislation contain several important additions that address infrastructure, revenue sharing, oversight, and environmental protection. However, the law needs further strengthening to ensure that new and existing projects are carried out in a safe, fair, and efficient manner. Vague references to "good industry practice" should be replaced with clear and transparent obligations. Deals should be standardized and their key terms should be set in legislation to improve transparency and competitiveness. Companies must be assured fair and open access to facilities to promote competition and increase efficiency. Penalties must be clear and significant to deter bad behavior. Environmental protections should take into account that companies are often in the best position to monitor, prevent, and mitigate environmental and health risks. The Government must also preserve its ability to reform and improve its legislation over time - especially in relation to the environmental, social, and health impacts of extractives.

The fiscal regime should draw on a range of different tools to generate a fair share of revenue for Mozambique. While opinions may differ on what is "fair", Government revenue should amount to at least one third of the profits for mining and 65% of the profits for oil and gas over the lifetime of a project. As the industry becomes more established, and business conditions improve, this share should increase substantially for future projects. The regime needs to balance up-front income with long-term objectives - taking into account the legitimate interests

of investors, the capacity of public agencies to administer the regime, and the interests of future generations of Mozambicans.

There is also a critical need for existing mining legislation to be examined and amended, in order to better reflect the growth of the sector and to protect the interests of the Mozambican people, particularly with respect to environmental, health, social, fiscal and contract transparency considerations. Accordingly, provisions of the current Mining Law of 2002 should be amended in these distinct areas, giving mining activities a modern and adequate regulatory basis to ensure greater competitiveness, guaranteeing the protection of rights and defining the duties and obligations of holders of mining titles. While the Mining Law of 2002 is undergoing revisions and is expected to be passed by Parliament in the coming months, this section sets forth policy recommendations which illustrate some of the gaps and challenges present in Mozambique's mining legislation. Reforms in the mining laws offer an important opportunity for the country to further develop its economy, and importantly, to promote equity, reduce poverty, and meet its development goals through a forward-looking approach. The recommendations in this section are offered to strengthen, clarify and update existing mining legislation, and provide guidance on how mining activities can be conducted in a manner, which prioritizes and improves the social and economic well being of the Mozambican people.

#### **Governance**

The Government must adopt a transparent and uniform policy framework and fiscal regime to effectively administer the process of extractive industry development vis-à-vis government costs and revenues. To this end, Mozambique should create an accountable and transparent framework of governance to manage its extractive assets. There must be checks and balances built into the institutional structures of the Government. This will create accountability, separate responsibilities to minimize conflicts of interest, expand powers for specific agencies to fulfill their roles, and allow for agencies to manage extractive resource development accordingly. Mozambique must also focus on anti-corruption measures to improve its governance. Some useful tools include the anti-corruption law as well as other Information and Communication Technology platforms that can help bolster the country's systems of oversight. Above all, transparency must become a fundamental part of the extractive industry's contractual process, to ensure that all parties are getting their fair share of revenue.

#### **Sovereign Wealth Fund**

Sound revenue management is key to the sustainable development of Mozambique's economy. The financial impact of natural gas and coal exportation can have detrimental effects for the country. As mentioned above, problems arise from real exchange rate appreciation, which puts other export industries out of business, and from fluctuation in commodity prices, which is destabilizing for the domestic economy. Establishing a sovereign wealth trust fund in a traditional financial center will help Mozambique absorb the coming windfall and promote growth and development in the country in five key ways. First, it effectively shelters the domestic economy from the commodity sector, so that volatility in oil, gas or coal prices do not have such a disruptive effect on the country's budget planning from one year to the next. Second, by channeling revenues into specific development programs, the fund can help the government to focus and plan for expansion of infrastructure, education, healthcare and public services. Third, the fund can help to ensure that government revenue from extractive resources become an ongoing source of income for decades to come, and provide intergenerational equity. Fourth, and crucially, a sovereign wealth fund can insulate Mozambique's currency, helping to ensure that investment in the extractives industry does not have negative impacts on other



sectors of the economy. Finally, the trust will legally enshrine the purpose of the fund and thus insulate Mozambique's fund from sovereign debt and facilitate the country's access to international financial markets due to improved legal standards.

### *Mozambique Moving Forward*

Mozambique is embarking on potentially one of the most defining opportunities of the nation's history. Despite the impoverished state of much of the country, Mozambique is endowed with significant hydrocarbon and mineral resource wealth in an era that is experiencing innovation, awareness, and collaboration at an unprecedented rate. The nascent development of Mozambique's large-scale hydrocarbon and mineral reserves is a point of strength and opportunity for structured and deliberate leadership to shape the future of Mozambique into a prosperous regional authority with the capacity to be a source of strength and guidance beyond its borders.

There is universal familiarity with the potential outcomes that lie ahead for Mozambique. The nation's limited human capital and restricted absorption capacity of the local public and private sectors to adapt and manage the rapid changes underway exemplifies the necessity for Mozambique to engage actively, early, and transparently to realize the opportunities at hand. However the continuum that flows between a resource blessing of prosperity and a resource curse is process of significant complexity. Multi-directional relationships between the economics, social, environmental, political and legal aspects of natural resource development requires clear frameworks and implementation of transparent objective that will benefit the nation now and for future generations. The areas this report examines identifies the current and potential weakness that could derail Mozambique's intention to pursue a path of sustainable development that is supported by revenues and income generating potential of the growing explorations and production of Mozambique's natural resources. Each section also includes recommendations that address the challenges and opportunities specific to the changing environment of Mozambique's natural resource extraction.





Photo: Gorongosa National Park  
Mozambique  
Piotr Nasrecki

## Introduction

On the south-eastern coast of Africa, Mozambique is a country of extraordinary natural beauty and cultural diversity. While its natural riches have been known to the world for centuries, it is only recently that the discovery of extensive gas reserves and coal deposits have drawn the attention of foreign investors.

As one of the least developed countries in the world, Mozambique faces significant challenges to bring these resources safely and sustainably to market, and to manage the resulting funds. In the aftermath of independence and a devastating civil war, the country has made significant progress to build social stability and begin to lift its people out of poverty. However, much work remains – and while extractive resources offer opportunities for prosperity and growth, the influence of multinational corporations, donors and international organizations (each with different interests) has complicated an already complex environment.

This project has reviewed Mozambique's unique economic, legal, institutional, environmental, and social context to assess the potential impact of the extractive industry (both positive and negative). Through consultation, research and interviews, the team has drawn on the knowledge within Mozambique, as well as on the experiences of other countries, to formulate a number of specific and implementable recommendations that will help Mozambique to mitigate the risks and maximize the benefits of extractive industry development. Our team's particular focus has been to harness the existing strengths and potential within Mozambique civil society and government, and to prioritize key areas of reform.

The Capstone team began work in November 2012, and carried out desk research from Columbia University in New York for several months. In March 2013, eleven team members

traveled to Mozambique. While most of our time was spent in Maputo conducting interviews with stakeholders, companies, donors, NGOs and Government agencies, two team members traveled to Pemba to research the new natural gas developments in that region. We were privileged to have the assistance and insight of dozens of committed people during this period. Although our visit was brief, we were able to conduct over 40 meetings addressing the broad scope of issues covered in this report. On our return to New York, further research supplemented our interview material.

The resulting report is divided into nine sections, each with a particular focus. However, many of the issues overlap – and these themes are addressed from several angles. Key themes that emerge throughout the report are the importance of education, the need for engagement and consultation with local communities, and the opportunity for Mozambique to learn from and improve upon international experience.

Section 1 provides an overview of Mozambique’s Economic and Commercial context, and introduces some of the key considerations for the development of extractive industries. In addition to outlining the prospects for Mozambican gas on the world market, this section discusses the important issues of contracting and financing LNG production. The local and global commercial prospects of coal production are also discussed.

Next, we address the importance of creating linkages between foreign enterprises that invest in Mozambique’s extractive industry, and local companies. In particular, the section highlights that small and medium-sized enterprises need support, regulation, infrastructure, and training to improve their efficiency, and to engage in commercial relationships with international investors. By encouraging “linkages”, Mozambique can ensure that foreign companies are more integrated and more efficient, and that the benefits of extractive industry can flow directly to the communities where they operate.

Section 2 expands on this idea, exploring the benefits and practicalities of “local content” requirements. Employment of local residents, procurement from local suppliers, and other forms of local input can increase efficiency for companies and generate “social license to operate.” This section provides an overview of Mozambique’s socio-economic context and a close-up view of two regions that are greatly impacted by coal and natural gas development – Tete and Cabo Delgado, respectively. Finally, the section addresses areas of risk and strategies for mitigation, including inward migration and inflation.

Section 3 provides a snapshot of Mozambique’s infrastructure with a focus on roads, railways, and energy. It assesses the potential impact of expansion by extractives companies and presents an argument for inclusive infrastructure – infrastructure that is accessible and affordable for local people, and for other enterprises.

Section 4 highlights the multiple, complex environmental concerns that extractives development raises. Natural gas exploration and production and coal mining both present threats to the environment, to livelihoods, and to health, including marine life, water quality, air quality, land, and biodiversity. The section presents a number of recommendations for legal and institutional changes that will help to preserve Mozambique’s unique ecology and landscape, and to protect the health of its people.

Section 5 presents an analysis of the impacts of resettling communities to make way for

extractive resource projects. The section highlights the importance of an early, open, and inclusive consultation process, founded on free and informed consent. Recommendations focus on improving resettlement practices, including compensation and protecting livelihoods, and identify the particular safeguards that are needed uphold the rights of women.

Section 6 moves to the legal framework for mining in Mozambique. It outlines the current legislative provisions and licensing process, and provides detailed recommendations on how these laws can be strengthened and improved. Environment, resettlement, fiscal and transparency issues are all considered.

Section 7 assesses the existing gas and petroleum laws, and discusses options for reform in light of the most recent draft amendments. It presents an analysis of the “gaps” in the law and touches on the particular issue of foreign investment and arbitration.

Section 8 presents the case for strong and reliable institutions to govern extractives industry in Mozambique. It outlines the progress that Mozambique has already made towards transparency, and recommends general and entity-specific policy changes. Capacity building and e-governance are also discussed.

Section 9 proposes a sovereign wealth fund for Mozambique, with a structure that will help to ensure that extractive industry revenues are a blessing, and not a curse, for the country. The section outlines how a sovereign wealth fund can help to manage Dutch disease and inflation, presents options for managing and investing the resources, and identifies the various funds which could be created to direct revenues into the Government budget, stabilization, development and savings, development.

The report concludes with a summary of the Recommendations, and a Bibliography of sources.

The Appendices are intended to provide additional detail and context for interested readers. They include resources that have been collated by the authors from a range of different sources, for ease of reference. Appendix 1 sets out a number of tables with additional detail about the legal framework and contracts for mining, gas and petroleum, including some advantages and disadvantages of the different types of fiscal tools used by governments to collect revenue from extractive operations. Appendix 2 includes resources for Sovereign Wealth Fund governance, including international comparisons, details of the *Santiago Principles* and the Linaburg-Maduell Transparency Index. Finally, Appendix 3 includes relevant development indicators for Mozambique, along with comparison countries for reference. The tables incorporate economic, commercial, social and governance indicators, and serve as a “snapshot” of Mozambique’s current development.

# A Note on Priorities

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This report sets out 105 distinct recommendations for Mozambique, covering economic, infrastructure, social, legal, environmental, governance, and financial issues. The recommendations, which are summarized at the conclusion of the report, should provide guidance and provoke discussion among government, civil society, donors, and the business community. However, it is unrealistic to expect that Mozambique will be able to address all these issues immediately and simultaneously. The people of Mozambique must decide what issues are most pressing and most important for themselves.

This section is intended to give an outline of what the Capstone project team identified as the key priorities for change in the short and medium term.

## ***Get the legal framework right to ensure a balance of rights and responsibilities***

Mozambique's legal framework for oil, gas and mining needs drastic changes to address the challenges that lie ahead. It is essential that the new laws set out clear and detailed obligations for companies and for the government about responsible environmental and social practices. Where gaps remain, the laws should refer to the rules of jurisdictions with robust laws, such as Norway and Australia. The fiscal regime must also be clear, transparent, and standardized for all projects – not negotiated on a case-by-case basis. Closely related to the law is the importance of institution-building to enable implementation. Mozambique's ministries and government agencies must have the support, the training, the power, and the resources to effectively negotiate concession contracts, regulate, monitor, and enforce the legal framework.

*See: Section 6: The Need for Upgraded Mining Laws, Section 7: Gas and Petroleum Laws, Section 8: The Case for Strong and Reliable Institutions, and Section 4: Protecting Mozambique's Environment.*

## ***Carefully manage the revenues from extractive industries for the benefit of all Mozambicans***

Oil, gas and mining have immense economic potential – but that potential will only be realized if projects are taxed appropriately, and revenues are managed carefully. Once a fiscal regime is in place, the revenues from all projects should be paid into a resource fund that is designed to suit Mozambique's situation. A Sovereign Wealth Trust Fund would provide a structure that is clear and straightforward, with enough flexibility to allow for different stages of development. First, extractives revenues could contribute to initial budget funding (in lieu of donor funding), and could be used to help stabilize the economy. As the fund grows, investments in infrastructure and special development projects could follow. Ultimately, the fund could also incorporate a savings fund that generates wealth for decades to come.

*See: Section 1: The Economic and Commercial Implications of Natural Gas and Coal, and Section 9: Managing Wealth: The Sovereign Wealth Fund.*

## ***Provide economic opportunities by making infrastructure inclusive and accessible***

Infrastructure development will be an essential component for Mozambique to turn its resources into commodities. However, infrastructure that serves only large commercial enterprises can exacerbate inequality. The government must plan carefully to ensure that the money invested in infrastructure has as many flow-on benefits as possible – this means

engaging with small enterprises and with the public to ensure access to reliable transport and electricity networks.

See: *Section 3: The Need for Inclusive Infrastructure.*

***Protect and empower local populations to preserve stability***

Mozambique must immediately address the disruptive impact of current and future resettlement projects to ensure that local populations do not lose out when extractive projects take place in their region. Over time, these disruptions can violate fundamental human rights, entrench poverty, cause social unrest, and make it impossible for businesses to operate efficiently and safely. By encouraging local content and local linkages, Mozambique can help to ensure that foreign investment is more efficient and contributes to real, sustainable benefits to the community.

See: *Section 2: Translating Extractive Industry Prosperity to Mozambique’s Communities and Section 5: Ensuring Social Equity in Extractive Industries-Based Development.*

***Education is critical to sustainable growth and a better quality of life***

Although it is not a dedicated topic in this report, education and capacity-building is a common theme in our analysis. Training and education will help Mozambique’s lawmakers, officials, civil society, business people, and all citizens to make good decisions about managing extractive resources. The revenues from those resources, in turn, should be invested in improving the quality and accessibility all levels of education – from primary through to specialist tertiary education.

See: *Section 2: Translating Extractive Industry Prosperity to Mozambique’s Communities, Section 4: Protecting Mozambique’s Environment, and Section 8: The Case for Strong and Reliable Institutions.*

***Foster and protect Mozambique’s other “comparative advantages”***

Once the coal has been mined, and the gas extracted, Mozambique will need to depend on its people, its land, and its waters for continued economic growth. Among others, Mozambique has the potential to develop a vibrant agricultural sector, and a world-class tourism industry. But both of these sectors could be seriously threatened if extractive developments are not well planned or well regulated. Loss of arable land to mining, pollution or contamination of water, disruption of habitats, and the physical scars of extractive industries will directly impact this economic potential. It is possible for these industries to coexist – but only if strong and enforced laws protect the environment and the people of Mozambique.

See: *Section 4: Protecting Mozambique’s Environment, and Section 5: Ensuring Social Equity in Extractive Industries-Based Development.*



# Mozambique

mobilizing extractive  
resources for development

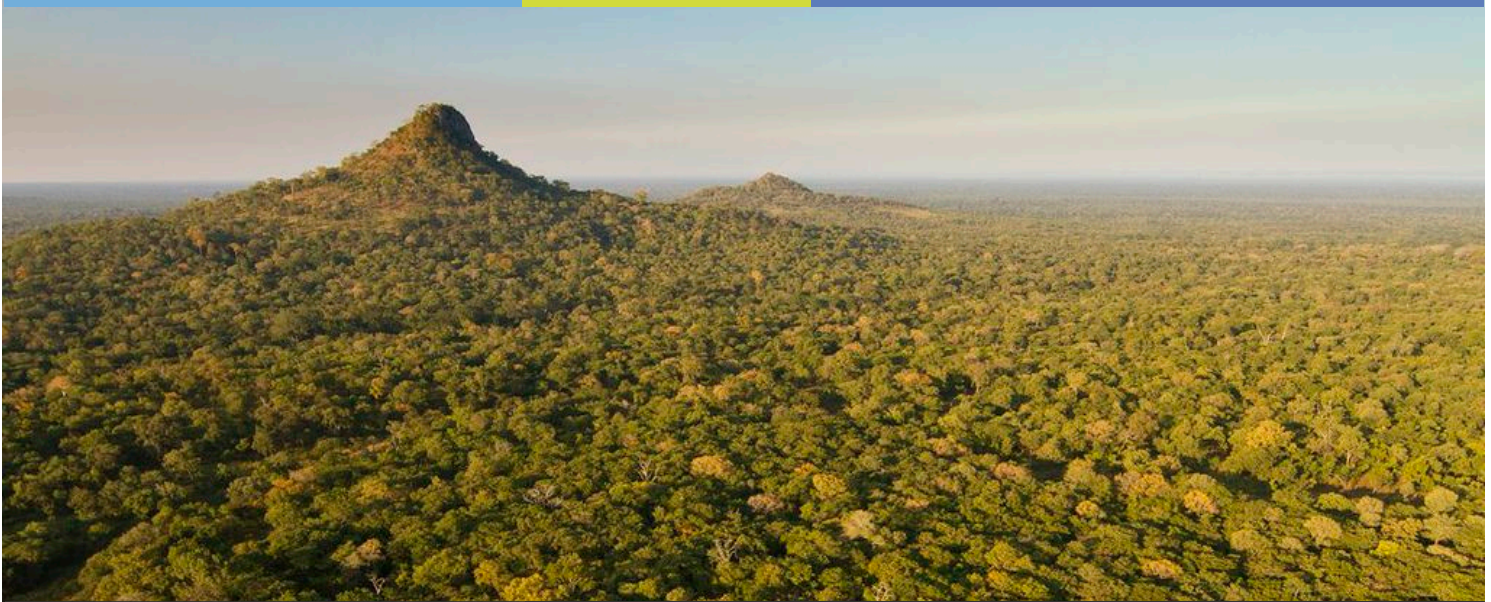


Photo: Gorongosa National Park  
Mozambique  
Piotr Nasrecki

## Section 8

### The Case for Strong and Reliable Institutions



# 8 The Case for Strong and Reliable Institutions

## 8.1 Overview- Mozambique’s Institutional Landscape

Mozambique’s young Presidential Republic has been on a positive trajectory of GDP growth despite the global financial crisis. Its government is composed of a strong Executive Branch headed by a democratically elected President of the Republic of Mozambique (“PoM”) and a PoM appointed Council of Ministers (“CoM”). It has a constitutionally independent Judicial Branch – with the PoM appointing the Supreme and Administrative Court’s Presidents and Vice Presidents, and an independent democratically elected legislative branch, the National Assembly—with the president having dissolution power over this entity. Since the 2004 Constitution, growth in participative democracy has included the expansion of the multi-party system through the removal of the 5% voter minimum<sup>497</sup> on National Assembly Deputies (“MoP”). Under the stewardship of President Guebuza, Mozambique has taken positive steps in the development of its extractive industries by joining the Extractive Industries Transparency Initiative (EITI)<sup>498</sup>, reaching compliance in October of 2012.<sup>499</sup>

While Mozambique has been actively strengthening its governance capacities, there are still weaknesses in critical legal frameworks, implementation and capacity. The 2007 Global Integrity Report (see Figure 2), an international tool prepared by local researchers, academics and journalists to rate governance and anti-corruption mechanisms, illustrates the need for strengthening Mozambique’s governance system. Mozambique scores 72% on legal frameworks, 40% on actual implementation. Key issues include governance and anticorruption; Government accountability and the civil service were both cited as issues within the Global Integrity Report on Mozambique.<sup>500</sup>

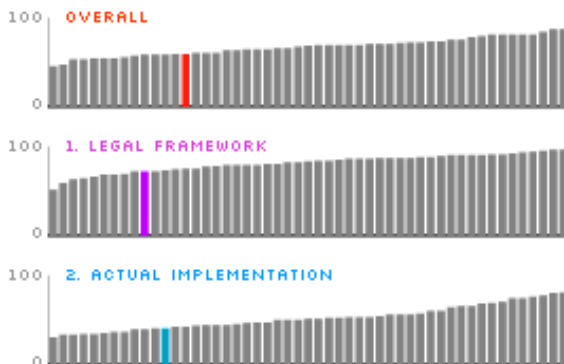
Figure 1: Global Integrity Index (2007 Ratings)

**Overall rating: Very Weak (59 of 100)**

Estimated margin of error: +/- 2.1

- 1. Legal framework: **72** of 100
- 2. Actual implementation: **40** of 100
- 3. Implementation gap: **Very Large (31)**

### Comparison to 50 diverse countries



Source 2: [to insert]

Moreover, Mozambique lacks independent institutions, and must overcome the threat of petty and grand corruption, which many blame for exacerbating problems such as Mozambique’s continued lack of trust in the police and judicial system<sup>501</sup>, and corruption within the education and medical systems. Indeed, corruption

unfortunately remains a common occurrence in Mozambique, as Figure 1 shows.

Without establishing and implementing strong frameworks for addressing corruption, the development of natural gas and coal industries will only provide more opportunities for corruption at the expense of the Mozambican people. The success of these a strong framework will require government officials and range of government intuitions sharing the different responsibilities of management of Mozambique’s natural gas and coal industries: some will ensure resettlement is done properly while others will provide oversight over financial misconduct by reviewing money transfers and expenditures. “As such, it is imperative that government officials be sheltered from any attempt to corrupt them.”<sup>502</sup>

In general, transparent and reliable decision making through government at all levels provides business interests with a clear path to start develop and expand their operations. Their continued investment and development in the country will increase access to capital markets, foreign investment and spur positive competition. If structured with the appropriate right checks and balances, Mozambique’s Institutions can actively monitor extractive industry stakeholders and provide oversight of other governmental institutions. The following case studies demonstrate that institutions can dramatically change the outcome of extractive industry impacts.

#### **CASE STUDIES: NIGERIA, BOTSWANA AND GHANA**<sup>503</sup>

From the Uganda Report

##### **Nigeria – Cursed by the Lack of Institutions**

Nigeria is the largest crude oil producer in Africa and the tenth largest producer in the world. Nigeria’s economy depends heavily on the oil sector, as it accounts for 95% of export revenues, 76 % of government revenues, and about a third of GDP. Nigeria was one of the world’s richest 50 countries in the early 1970s, but became one of the 25 poorest countries by the 21st century, 22 mainly as a result of the poor management of its oil development. Nigeria is thus considered a classic example of the resource curse.

One of the major reasons for this was institutional weaknesses. Although powers were separated among the executive, legislative and judicial branches of government, these institutions proved to be too weak to conduct effective checks on the executive and the decision made as to how to distribute resource rents. In short, they were unable to prevent the government’s poor policy choices, such as the dramatic increase in the size of public service, or its corrupt practices.

##### **Botswana – Institutions before Diamonds**

Economically, Botswana was not that different from Nigeria after independence – low literacy, and a per-capita GDP of only \$70 dollars a day. However, Botswana was blessed with relatively strong institutions post-colonialism, and supplemented those with sound revenue management and parliamentary oversight. Together, these have helped Botswana become one of the few countries to avoid the resource curse, and experience phenomenal growth. Today, Botswana is a middle-income country with relatively high levels of literacy, human development, and low corruption.

##### **Ghana – Transparency and Stakeholder Involvement before Oil**

Ghana is Africa’s leading democracy, with high freedom and anti-corruption rankings. When it discovered offshore oil in 2007, it chose to convene a national discussion involving all stakeholders. Institutions, including the press and civil society, were all able to contribute and play a role in shaping oil policy. Ghana has publicly released its PSAs, and is a leader in complying with the Extractive Industries Transparency Initiative (“EITI”) not only in Africa, but globally. Although it may be too soon to evaluate the success of these measures on increasing Ghanaians’ living standards, Ghana’s policy development process is a good model for Uganda to follow so that it may use its strengths to build institutions capable of managing oil’s challenges.

These case studies highlight the difference strong institutions regulating the extractive industries can make in a countries’ future. As Mozambique continues to restructure its institutions it can create the conditions to follow Botswana or Nigeria’s trajectory. This section will highlight how good governance, strong institutions, transparency, and international cooperation will create a framework for a path that will benefit all Mozambicans. These recommendations are informed by research on international best practices and the strengths and weaknesses conveyed by in country stakeholders.

## 8.2 Strengthening Checks and Balances

Mozambique’s extractive legal framework includes commendable objectives from the President, the Council of Ministers and the National Assembly that include “...stimulating the socio-economic development of the country...” while maintaining “...promotion of the citizens’ quality of life and the protection of the environment.”<sup>504</sup> However, the primary extractive industries – coal and petroleum – require policy and institutional augmentations as well as clarification of responsibilities to create an effective system. Building strong and internationally accepted systems of checks and balances between extractive industry management institutions and the government can ensure that government objectives are aligned with the interests of all Mozambicans.<sup>505</sup>

### 8.2.1 Establish clear division of decision-making powers across multiple ministries/agencies.

The current legal framework that governs Mozambique’s primary extractive industries and their impacts are articulated for coal through *Mining Law No. 14/2002*<sup>506</sup> and its regulations<sup>507</sup> and for Natural Gas through the *Petroleum Law No. 3 /2001*, of 21 February<sup>508</sup> and its regulations.<sup>509</sup> These legislative frameworks concentrate too many conflicting responsibly within Ministry of Mineral Resources (“MIREM”) and its coal and Natural Gas Agencies: The National Director of Mines<sup>510</sup> (“DNM”) and National Petroleum Institute (“INP”). As the following case study demonstrates, a lack of checks and balances can lead to disastrous consequences.

#### CASE STUDY: The United States and the Deepwater Horizon Disaster

“In the United States, the Mineral Management Service (“MMS”) was in charge of both regulating the safety of oil drilling and maximizing revenues from drilling, despite the obvious conflict of interest between both missions. As a result, numerous instances of collusion between

government officials and oil company executives were reported, including allegations that MMS staff allowed oil companies to fill out their own safety assessment reports.<sup>511</sup> A United States Government report chastised the agency for lax oversight and cozy ties to industry.<sup>512</sup> This, among others factors, is considered to have prevented authorities from foreseeing and avoiding the explosion of BP's Deepwater Horizon rig in 2010, resulting in billions of dollars of economic losses along one of the Americas "most ecologically sensitive regions with effects still being felt today." Only after the Deepwater disaster did the United States split the MMS into three separate agencies with stricter oversight. The disaster could perhaps have been prevented had a better separation of powers been in place earlier."<sup>513</sup>

In order to avoid conflicts of interests between regulation of the industry and revenue maximization, the functions of licensing, monitoring and enforcement should be structurally separated.<sup>514</sup> First, the entity that grants a license is naturally biased towards ensuring its continuance, as to revoke the license at a later stage implies error in the initial grant. Second, these pressures are more acute when national companies (EMP or CARBOMOC) overseen by the same institution MIREM are involved with record profits as those companies will lose public image or acceptance in such an event. Third, monitoring that leads to revocation or suspension of a license would stop revenue generation, requiring the fulfillment of the responsibility to monitor and enforce to come at the cost of revenue generation. Finally, private companies (or institutions) and their monitoring and enforcement counterparts do not naturally facilitate open information sharing and collaboration, something critical to developing the extractive industry. For these reasons, monitoring and enforcement of regulation and license conditions must be conducted by separate entities with true independence to carry out their functions.<sup>515</sup>

The Mining Law and Petroleum Law concentrate powers of licensing concessions and the power to monitor and enforce within MIREM with its agencies DNM and INP as the day-to-day operators. This creates all of the conflicts of interest mentioned earlier. The power of license revocation and suspension could create tension between MIREM and the businesses as withholding information could help avoid penalty or production halts. To mitigate the effects created by the agencies' competing interests, as well as to shield officials from potential criticism from failing to perform either task and maintaining an open and trusting atmosphere between MIREM and businesses, additional ministries should be brought in to provide monitoring and enforcement. Furthermore, the classic separation of responsibilities, particularly for structurally conflicting interests, is an internationally accepted standard.

The Mining Law's requirement for environmental licenses and land use permits in conjunction with Ministry of Coordination for Environmental Affairs' ("MICOA") mandate<sup>516,517</sup> make MICOA the appropriate candidate to monitor and enforce compliance with environmental standards. The Mining Law's provisions already require that "Title Holder Obligations", individuals holding various concessions, including mandatory environmental licenses, land use permits and safety requirements of "...which failure shall lead to revocation of the concession."<sup>518</sup> However, to become a co-equal ministerial check and balance, a clear legal mandate stipulating that concessions will be suspended and revoked if there is a failure to obtain or *maintain the active status of* these licenses and permits<sup>519</sup>, and that MICOA has the power of determination of licenses status. This structural check and balance would address the conflict of interest created by the dual mandate placed on MIREM and allowing it to better serve and work with the business community while MICOA for improved monitoring and enforcement to occur in expert

ministries.

The adjusted Mining Law framework could then be used as a template for the Natural Gas Industry by providing the same separation of responsibilities between MIREM's INP and MICOA. The Petroleum Law's framework similarly requires environmental compliance, but lacks a mechanism to ensure that MICOA has the ability to act on its findings. Furthermore Natural Gas corporations are currently assigned the role of self-monitoring their negative impacts.<sup>520</sup> Again, this creates a structural conflict of interest between a company's objective to maximize revenue and its designated responsibility towards reporting negative social and environmental impacts. An external agency such as MICOA, separate from the licensing agency, should be mandated to provide monitoring and compliance.

Mozambique has the opportunity to strengthen its legal and institutional framework regarding the extractive industry through adoption of internationally accepted checks and balances. As the most authoritative form of legislation, National Assembly laws can ensure structural conflicts of interest are removed and maximize the performance of all ministries and their agencies.

**Recommendation 68:** (Strengthen Checks & Balances) Ensure structural separation of powers through establishment of MICOA as a co-equal ministry mandated to provide oversight and monitoring empowered through an articulated enforcement tool: the ability to fine, suspend and revoke Concessions through EIA, ESIA and Environmental License non-compliance.

**Recommendation 69:** (Strengthen Checks & Balances) Involve additional co-equal ministries parallel to MIREM and MICOA able to regulate other extractive impacts including Social Impacts on Local communities, possibly through the Ministry of State Administration which already works at the district, provincial and Federal level (MAE) to administer governance, or the Ministry of Women and Social Action whose mandate could provide strong stakeholder representation, and health and safety regulations, possibly through the Ministry of Labor whose mandate already covers these functions.

### 8.2.2 Strengthen the oversight and implementation role of Parliament

The National Assembly, Mozambique's Parliament, should establish a full Parliamentary Committee and be mandated to provide oversight of the extractive industries. Mozambique has experienced tremendous amounts of law reform but suffers from a large implementation gap<sup>521</sup> critical for ensuring a functional extractive industry system. The Extractive Industries Committee would be an additional mechanism to both assist in implementation while creating oversight and thus accountability to the public. As Mozambique's largest representative body the National Assembly their review of the system will help provide assurances to the public that Mozambique's interests are being promoted.

The National Assembly is mandated with legislative responsibilities but also implementation and monitoring responsibilities of new laws through the Parliamentary Committee<sup>522</sup> system. The scope of at least three of the current Committees<sup>523</sup> includes oversight of extractive industry

issues.<sup>524</sup> However no committee is mandated with a scope specific to the extractive industry. A new committee with a clear oversight mandate would have the appropriate scope to provide oversight. Ministries, agencies and national corporations such as EMP and CARBOMOC would be required to report to the committee and make information transparent to this body.

The information learned from active oversight could assist in guiding the National Assembly to create stronger and more robust frameworks to regulate and monitor the extractive industries. As the entity able to create the highest authority of legislation, the NA could also be part of the solution in clarifying laws, creating stronger checks and balances and ensuring business, institutional and individual stakeholders in Mozambique are subject to review.

**Recommendation 70:** Create an Extractive Industry Parliamentary Committee and mandate it to provide oversight through direct reporting, optional audits and appropriate expert staff.<sup>525</sup>

**Recommendation 71:** Increase the technical expertise and staff within Parliamentary Committees.

### 8.2.3 Strengthening the auditing role of the Administrative Court and Ministry of Finance

Outside of the Ministries directly responsible for extractive industries, the Administrative Court and the Ministry of Finance are mandated to provide oversight for Extractive Industry Revenues.

The Administrative Court, or the Administrative Tribunal (“AT”), is mandated with oversight by serving as the auditor of public revenue and expenditure<sup>526</sup> in the court’s Third Section (Terceira Secção). As part of a semi-independent branch of Government – from the Executive, there is a potential for the administrative court to provide strong oversight of fiscal management. However, factors that minimize the court’s current capacity to act as an independent oversight mechanism include underfunding,<sup>527</sup> the need for technical skill development, the lack of independence, reported corruption and the need for stronger enforcement mechanisms<sup>528</sup> – see the case study below.

#### **Case Study: The Administrative Court’s Minimized Enforcement Capacity**

The Administrative Court takes cases involving public entities and Mozambican administration. The Court has a limited enforcement capacity once its initial ruling has been made. If the applicants re-apply their cases for judgment, the Court can then impose specific penalties on public entities. At this point, public entities still have the ability to “gain exemption from providing full compensation by demonstrating either that the complete restitution would be damaging to public interests or a lack of public funds to meet the payment”. At this point if rulings are not observed, “...the court can then charge individual officers within the public administration with a ‘disobedience crime’....”<sup>529</sup>

In 1998 the problem became apparent with the case of Maria José Teixeira Catarino Petiz v Prime Minister of the Republic of Mozambique. Maria, the complainant, accused the government of illegally nationalizing her factory. The Administrative courts agreed with the complainant and ruled in her favor. However the court was only able to issue a condemnation and recommendations of restitution. Furthermore the court ruled that it did not have the ability to restore the applicants' financial rights of the factory. "Invoking article 7 of the Organic Law of the Administrative Court and article 217 of the General Statute of Public Servants (EGFE)"<sup>530</sup>

An additional issue facing the TA is the lack of independence. In 2004 Constitution advanced the framework for independence of the Judiciary through separation of powers. However, the PoM still appoints the court's Presidents and Vice Presidents to without confirmation.<sup>531</sup> To properly perform its mandate of issuing judgments over administrators and officials in the executive and legislative branches, the leadership of the TA should be afforded maximum independence. By mandating confirmation hearings of leadership appointments through the National Assembly, candidates would be subject to further scrutiny to maximize independence.

**Recommendation 72:** Increase independence of the Administrative Court through mandatory Parliamentary Ratifications of Presidential nominations to the court.

Allowing the TA to issue mandatory decisions against administrators and administrative institutions will assist the court in creating accountability within the government. Its current inability to penalize offers efficiently strips the administrative court of its mandated judicial power and thus jeopardizes its oversight ability.

**Recommendation 73:** Give the Administrative court the ability to make mandatory decisions during first round decisions for all Administrative court hearings.

The Ministry of Finance ("MoF"), through the Inspector-General of Finance (Inspecção Geral das Finanças or "IGF"), has the mandate of oversight of Mega Projects (see *Section 1: The Economic and Commercial Implications of Natural Gas and Coal*), tax collection and the state budget. The IGF currently works through the *Integrated System for State Financial Management law ("SISTAFE")* that regulates public financial management. During interviews with various stakeholders the need for increased auditing expertise was needed to increase the MoF's monitor revenues and collect taxes from both State owned Enterprises ("SOE") and from Mega Projects.

As articulated in the Economic and Legal Sections above, a need for clear oversight of revenue collected is critical to ensuring that high-level corruption is being minimized (see *Sections 1.2.2, 6.2.1, and 7.3.2*). Mandating that the appropriate agencies from the MoF and the TA have access to information on Extractive Industry Stakeholders will increase the likelihood of accountability.

### 8.3 Increase transparency initiatives that ensure independence of policy and decision-making from outside influences

The Government of Mozambique has taken steps to enhance independence in policy making through adopting the *Law on Public Probity* in November 2012. The Law on Public Probity includes provisions that define conflicts of interest for public officials, establishes an independent Ethics Commission that investigates and sanctions conflicts of interests, and forms a declaration of assets procedure for all public officials. These principles provide a framework that enhances independence in policymaking through defining codes of conduct for public officials. If these codes are implemented at the individual level, they will in turn develop government institutions that will operate transparently and independently. The development of such an institutional environment has the potential to create a more transparent system that will ensure natural resources are utilized by the government for the long-term development of the country. The section below provides an overview of the *Law on Public Probity*, and suggests a set of recommendations to strengthen the implementation of the law.

#### 8.3.1 Conflicts of Interest

The Law on Public Probity defines conflict of interest principles that promote governance, transparency and accountability among persons who are vested with public powers and ensures that they are responsible for resources under them.<sup>532</sup> The law defines that all public officials, as well as all individuals who work for a state owned enterprises and individuals who work for private entities that are entrusted with public powers are subject to its provisions.<sup>533</sup> Further, Articles 3 and 4 of the *Law on Public Probity* provide a list of all offices that the law applies to, which extends from the President of the Republic of Mozambique to local chiefs.<sup>534</sup>

The definition of conflict of interest terms under the *Law on Public Probity* are benchmarked against international transparency standards that Mozambique is a party to.<sup>535</sup> Some key points of the law are found in Article 9 where public officers are restricted from receiving any offer that can challenge the liberty of their action, the independence of their judgment and the credibility or authority of the public administration, its organs and services;<sup>536</sup> and Article 19 which also prevents civil servants from taking part in decision making processes where their personal interests might impair their capacity to act as an independent and impartial representative.<sup>537</sup> Further, Article 36 establishes that conflicts of interest extend to family relationships.<sup>538</sup>

These provisions are particularly relevant to the extractive sector as they provide clear restrictions on receiving broad “compensations” from any individual or entity, including the state owned hydrocarbon company, the Empresa Nacional de Hidrocarbonetos (“ENH”). This will help create independence within the public service and government agencies. This will specifically help create independence in ENH, since it will restrict political patronage that could potentially hinder the amount of revenues directed towards the company’s technical development (see the case study on “Developing Strong State Owned Enterprises” below). Also, the fact that the Law on Public Probity extends conflict of interests to family members is an important development. However, consideration must be given to the fact that Mozambique is a developing country with few educated professionals. If there is a broad application of the



conflict of interest provision, it may lead to harming legitimate business interests of family members, and therefore the development of Mozambican nationally owned businesses. The Central Public Ethics Commission should therefore take this into account when investigating conflicts of interest among Public Officials.

### **Developing Strong State Owned Enterprises In The Hydrocarbon Sector<sup>539</sup>**

The global energy market is dominated by state owned enterprises. Over 80% of the world's oil and natural gas supplies are controlled by state owned enterprises, and these enterprises comprise 15 of the world's 20 largest energy companies.<sup>540</sup> State owned enterprises like Saudi Aramco, Statoil (Norway), Petronas (Malaysia) and Petrobras (Brazil) have all developed into industry leaders. However, other state owned enterprises in Mexico, Nigeria, and Venezuela have failed to utilize their natural resources and remain constrained by political interests. The natural gas resources that Mozambique possesses has the potential to turn its state owned enterprise, ENH, into a global leader that can promote Mozambican investments around the world. However, ENH needs to solidify its institutional role as a competitive business and overcome political interests to become a successful enterprise.

Research on state owned enterprises have shown that incorporating the following principles will likely lead to a successful enterprise. These principles include (1) clearly defining non-profit objectives, (2) avoiding political appointments to managerial positions (3) providing a transparent accounting system and (4) creating a dedicated regulatory agency, among others.<sup>541</sup>

State owned enterprises ("SOE") are often mandated to provide social programs. This is seen as causing potential conflicts of interest because the SOE may focus more attention on programs like community education, development, and employment at the expense of developing technical expertise. Though it is good to provide such mandates, researchers recommend minimizing social mandates and clearly defining them in order of priority.<sup>542</sup> An example of poor practice occurred in Venezuela where the SOE spent 2/3rds of its budget on social programs and in Mexico where a broad social mandate has left a small budget for technical development.<sup>543</sup> Neither SOE has developed into being an industry leader, despite a wealth of natural resources.

Researchers have also often found that political appointments to managerial positions tend to harm the growth of an SOE.<sup>544</sup> The main reason to avoid this practice is to limit the government's ability to maximize revenues from the SOE for ensure short-term political interests. In Saudi Aramco and Petrobras, managerial positions are largely insulated from government intervention, allowing these SOE's to develop long-term agendas that focus on profitability and technological development.<sup>545</sup> Conversely, in Mexico, Nigeria, and Venezuela top managerial positions are appointed, and can be removed, by the president. While it may be necessary to involve government intervention in the early phases of ENH's development, such involvement should be transparent and appointments can follow the model discussed in *Section 8.3.5* Obtain approval or ratification for key nominations from the National Assembly. Further, managers should have a measure of job security that provide strict guidelines for firing, so as to ensure that the managers are fired for poor management and not for political reasons.

A crucial problem that SOE's must overcome is the "principal-agent" issue. A common belief is that since SOE's are not operated by their owners, they will not operate as efficiently as a

private company. A way to resolve this issue is by providing greater information so that the principals (the public) can better monitor the activities of the agents (SOE managers).<sup>546</sup> Forming a transparent accounting system and a specific supervisory agency will help address the principal agent issue. Providing documents allows the public to monitor the SOE and a sole regulatory agency will ensure that regulatory powers are not dispersed across multiple agencies.<sup>547</sup>

With all the resources in Mozambique, ENH has the potential to become an industry leader. However, these issues must be addressed if it is to become a successful enterprise. Further examination of Petronas, Petrobas, and Statoil can provide models that ENH can use in its development.

While gaps certainly remain in regulating conflicts of interest, the Government of Mozambique has demonstrated its commitment to enforcing the conflict of interest articles by identifying parliamentarians who were found to be in violation of its principles. In March 2013, 30 deputy parliamentarians from the FRELIMO party were found to be in violation of the conflict of interest policy, and therefore took the initiative to address these conflicts through either resigning from parliament, or relinquishing positions they held in state affiliated companies.<sup>548</sup> Of these 30 parliamentarians, 27 resigned from their positions in companies, and three resigned from parliament.

The commitment to enforcing conflicts of interest is commendable, however the parliamentarians were not fined for their violations and it is not known if the parliamentarians relinquished assets, such as vehicles and other property, which may have been provided to them from their previous positions. While it is positive that these FRELIMO parliamentarians took the initiative to address conflicts of interest internally, it is the duty of the Central Ethics Commission to regulate and sanction conflicts of interest as stated in the Law on Public Probity. It is therefore necessary to promote the Central Ethics Commission's regulatory role and ensure that conflicts of interests are enforced across all political parties in Mozambique.

The legal obligations provided under the Law on Public Probity provide the framework of a bill that will promote independence in policy making and regulating conflicts of interest. The following recommendations can contribute to supplementing the implementation of the law.

**Recommendation 74:** Ensure that Conflicts of Interest are regulated and sanctioned by the Central Public Ethics Commission. Ensure legitimate enforcement extends to family members.

### 8.3.2 Central Public Ethics Commission and Ethics Commission

The Central Public Ethics Commission ("CCEP") was established under the Law on Public Probity as the central body to monitor, prevent, and resolve conflicts of interests among public officials. The body was formed in January 2013 through an inclusive selection process, where the executive, judiciary, and parliamentary branches of government each selected three representatives for the nine-member body.<sup>549</sup> The members were selected on the basis of "high moral standing" and are said to be committed to their roles in the CCEP.<sup>550</sup>

The CCEP has begun forming its offices and clarifying its roles to Mozambique. However, there is much work that needs to be done to support the proper implementation of its numerous functions. The CCEP was not the primary organ to resolve conflicts of interest in FRELIMO, and there has been no indication that other political parties have resolved potential conflicts of interest that may exist among its members (see *Section 8.3.1: Conflicts of Interest*). The CCEP must promote itself as the primary regulatory body for conflicts of interest to ensure that issues are resolved transparently, impartially, and that sanctions are provided when necessary.

Among its other functions, the CCEP is also tasked with coordinating the inter-institutional ethics bodies called the Central Ethics Commissions (“CEP”). The Central Ethics Commissions are ethics bodies that will be established within the main agencies of government.<sup>551</sup> The CEPs are composed of three individuals. Members of the CEPs are employees of the agency they oversee, and two of these members are selected to their post by nomination from other employees, while the highest official in the agency appoints the third member of the CEP.<sup>552</sup> The roles of the CEPs include monitoring gifts and gratuities, and ensuring that the Codes of Conduct and Conflicts of Interest principles are properly enforced.

The CCEP and CEP are integral in implementing the conflict of interest policy. In order to achieve full implementation, these bodies must address the following constraints. The CCEP currently meets one day a week, and while this may be acceptable after the work of the body is institutionalized, the CCEP must first make progress in defining its various roles in Mozambique and developing its capacity to meet the demands of those roles. A key factor in achieving this is effective intra-institutional communication that defines where the CCEP’s roles are, and how they complement other institutions like the Central Office for the Fight Against Corruption (“GCCC”).<sup>553</sup> The CEP must also be promoted, especially in key ministries, like the National Enterprise for Hydrocarbons (“ENH”), MIREM, and INP. If these institutional bodies are properly implemented they will in turn strengthen organizational oversight and incentivize internal oversight within the government agencies.<sup>554</sup>

#### **Recommendation 75:**

Central Public Ethics Commission (“CCEP”):

- Promote role as institute to regulate conflicts of interest.
- Harmonize communication with other anti-corruption institutions
- Provide transparency and strengthen sanctions for violations.

Central Ethics Commission (“CEP”):

- Begin formation of CEPs in key ministries

#### **Combating Corruption**

Mozambique has made significant progress forming a transparency framework that will support the fight against corruption. However, the legal and regulatory institutions established under the Law on Public Probity, and other transparency bills, will not alone end corruption in

Mozambique. In fact studies have found that the creation of anti-corruption legislations and institutions, like Mozambique's Central Office for the Fight Against Corruption ("GCCC"), have often failed to decrease corruption in the state.<sup>555</sup> The following section will provide some examples of how the Democratic Republic of Georgia combated corruption throughout a 10-year period (2003-2012).

Following its independence from the Soviet Union in 1991, Georgia was plagued with corrupt institutions that mishandled revenues, budgets, and failed to provide adequate services to the general public. Early post-independence governments put little focus on combating corruption and so the practice persisted. As of 2005, Transparency International ranked Georgia 130/158 in its Corruption Perception Index and the World Bank ranked it 112<sup>th</sup> in its ease of doing business ranking.<sup>556</sup> Following the implementation of a robust anti-corruption framework, Georgia was ranked 51/174 in the Corruption Perception Index and 12<sup>th</sup> in the ease of doing business ranking in 2012.<sup>557</sup> The improvement in these indicators has contributed to attracting large-scale investments across multiple sectors, improving public service delivery, citizen's perception of the government, and poverty reduction.

In a 2012 report, the World Bank identified 10 reasons for the success Georgia had achieved in combating corruption during the period of 2003-2012.<sup>558</sup> The reasons most applicable to Mozambique are (1) Strong Political Will, (2) Establishing Credibility Early (3) Launching a Frontal Assault (4) Attracting New Staff and (5) Coordinating Closely.

President Armando Guebuzza of Mozambique made combating corruption a cornerstone of his 2004 and 2008 Presidential Campaigns, and he has achieved a measure of success in promoting the Law on Public Probity. However, the majority of the country remains dissatisfied with progress. A key factor that can support President Guebuzza's will, is establishing credibility early. Although Mozambican Parliamentarians had to address conflicts of interest, in Georgia, President Mikheil Saakashvili took immediate action prosecuting six parliamentarians for corruption and began actively promoting corruption policies to the public. Stronger action in Mozambique can signal an increased willingness to address the issue, and create larger public support.

Georgia also recognized that adopting a piecemeal approach to implementing its anti-corruption policies would not work, because parliament could block certain bills and the framework would not function coherently without full adoption. Through implementing reforms in a "full frontal assault," Georgia was able to take immediate action in fighting corruption. Passing the Law on Public Probity was a success for Mozambique, however, Mozambique has not yet incorporated corruption into its Penal Code, and other aspects of the anti-corruption package have also yet to be passed.

Georgia was also aware that its country possessed low human capacity to implement these reforms effectively, and therefore recruited non-Georgians to work in key ministries. The new staff allowed for Georgia to push forward implementation with the necessary technical expertise. Further, the policy-making committee that addressed implementation was small and coordinated and allowed for the country to develop a coherent implementation program. Although Georgia and Mozambique are starkly different countries, the development of Georgia's anti-corruption framework could provide an effective model for Mozambique to follow.

### 8.3.3 Declaration of Assets

The *Law on Public Probity* also includes provisions that require all public officials to submit declaration of assets throughout the period they hold public office. The practice of declaring assets is a central tenet in a transparency regime, as it provides baseline information that can be measured to assess income growth during an official's time in office.<sup>559</sup> Declaring assets also contributes to ensuring greater independence in policy making, since it allows investigators to identify income growth as a function of yearly salary, and potentially identify illicit revenue streams where they exist. Although Mozambique established an asset declaration practice in 1990 under *Law 4/1990*, implementation was uncoordinated and therefore led to weak enforcement. The *Law on Public Probity* addresses some of these deficiencies, though not all.

A declaration of assets form is to be written by the CCEP, and is currently in the drafting phase. The *Law on Public Probity* provides a basic structure for the declaration of assets, which requires officials to submit documentation of all assets, such as real estate, ownership in companies, and bank accounts that hold amounts substantially greater than the official's salary.<sup>560</sup> These provisions also extend to the assets of spouse(s) and dependents of the official.<sup>561</sup>

The *Law on Public Probity* provides a broad range of agencies that collect the declarations, which range from the Administrative Tribunal to the Provincial Prosecutor Generals Office.<sup>562</sup> Within these collection bodies, a Commission for Receipt and Verification ("CRVP") will be formed to collect the declarations. Though collection is centralized within agencies, the plurality of agencies that collect declarations could affect the overall effectiveness of the system.<sup>563</sup> A further hindrance to developing a cohesive structure is that the declarations are to be hand written, making it more difficult to form a centralized database. Developing a unified collection system will take considerable effort, but such a system is necessary to ensure compliance and facilitate investigations.

Agencies that receive declarations have the authority to initiate investigations. Investigations can be undertaken if the collection agencies believe there are indications that an individual is in violation of the *Law on Public Probity*, or if public entities request that the collection agencies undertake audits of an individual. Although agencies can investigate individuals, the process of beginning an investigation is not entirely transparent. Often, the Attorney General will decide to undertake an investigation and then the Central Office for the Fight Against Corruption ("GCCC") will open an investigation.<sup>564</sup> This process is not entirely transparent, and through public entities can request investigations, significant barriers exist for the general public to request investigations.

The declaration forms contain two parts, one that provides basic personal information of the public official, and the other that includes a full documentation of assets that "provides rigorous evaluation."<sup>565</sup> The CRVP and other investigative bodies, like the GCCC and judicial authorities, have full access to the full declarations. However, the general public only has full and unfettered access to the first part of the declaration. If an individual wants to see the second part of the declaration, they must first submit a statement of interest to the Attorney Generals Office for review. If the statement is denied, the individual can take their request to the Constitutional Council, for a final decision. This process creates barriers for the public to access information and hold officials accountable. To ensure that a declaration of assets policy creates greater transparency, the public should have full access to information and the ability to request

investigations of potential violations.

**Recommendation 76:**

- Coordinate the collection of Declaration of Assets.
- Provide transparency when investigations are initiated.
- Provide mechanisms for the public to access all information quickly and with minimal transactions.

### 8.3.4 Implement strict penalties for ethical breaches

The *Law on Public Probity* establishes penalties for ethical breaches committed by public officials and non-compliance of the declaration of assets policy. If an individual is found to be in violation of the principles established in the Law on Public Probity they can face dismissal from office, imprisonment, and fines. Strict penalties provide incentives for cooperation. However, a further complement to the violations contained in the Law on Public Probity, will be to include rules on corruption, illicit enrichment and rules on investigation procedures in the Mozambican *Criminal Code and Criminal Procedure Code* that are currently under revision.<sup>566</sup>

A weakness in the penalties established under the *Law on Public Probity*, are that the violations are not explicitly defined. A number of the articles only state that an individual can be imprisoned and fined for violations, but the exact length of a prison term and the amount of a fine is only defined in a select few articles. Providing clear definitions of the consequences for violating ethics principles will further incentivize cooperation. Also, many of the articles refer to punishments that will be defined under the revised Criminal Code. While this is acceptable, the Government of Mozambique should promote the need for the National Assembly to adopt the criminal code as a matter of priority.

**Recommendation 77:**

- Provide explicitly defined penalties for violations.
- Prioritize the adoption of the Mozambique Criminal Code and Criminal Procedure Code.

### 8.3.5 Obtain approval or ratification for key nominations from the National Assembly

It is critical to ensure that the most qualified candidates are selected to appointments in key government agencies.<sup>567</sup> Furthermore, the appointment of individuals to government agencies should proceed in a manner that promotes transparency in the selection process and minimizes potential appointments through favoritism.<sup>568</sup> To achieve this, the proposed Petroleum and Mining Legislations can incorporate the following recommendations that provide selection criteria and a transparent confirmation processes.

The Petroleum and Mining Legislations should include selection criteria for appointments to key posts, such as the Minister of MIREM, the National Directorate of Mining and members to the board of directors for the INP and ENH. These institutes should also disclose how nominees meet the criteria for these positions.<sup>569</sup> Selection criteria that are codified into law can provide transparency in the appointment process and limit appointments based on favoritism.

The National Assembly of Mozambique can have an increased role that will enhance transparency in the nomination process. The National Assembly currently has eight permanent working committees that provide a level of oversight to thematic issues that are important to Mozambique's national agenda.<sup>570</sup> The *Economic Issues and Services Subcommittee* is the permanent working committee that includes natural resources as part of its operational mandate. However, natural resources are only one part of an extensive mandate.<sup>571</sup> Given the importance of natural resources to the development of Mozambique, the creation of a permanent subcommittee that focuses exclusively on natural resources can create a method to institutionalize the National Assembly's role promoting effective natural resource governance.

A committee that focuses on natural resources can also be involved in the nomination and appointment process for positions in MIREM, INP, and ENH. This process could work in the following way. First, the committee makes a list of selected candidates. Following this, the President further selects qualified persons to be nominated as board members. The committee then gives the final approval to the President's selection and ensures that all members are independent and qualified.<sup>572</sup>

The second policy option is to have the committee confirm nominations. If institutions like MIREM, INP, and ENH are to be independent, approval from a parliamentary committee should be a requirement for appointees. A good example of such a procedure already exists in the way that the National Assembly selected members to the Central Public Ethics Commission (as discussed in *Section 8.3.2: Central Public Ethics Commission and Ethics Commission*) and the appointment of the Ombudsman. The increased oversight that will come with a committee will provide more independence and impartiality to key regulatory institutions, which will nurture confidence in the Mozambican people and international investors in these institutions and the regulatory landscape.

**Recommendation 78:** Form a committee in the National Assembly that oversees all matters related to the extractive economy and regulatory structure and which also has the authority to be involved in the nomination and appointment process.

### 8.3.6 Protect appointees

In both the mining and hydrocarbon sectors, the Minister of MIREM has the ability to remove the National Directorate of Mining and the board of directors of the INP. This authority undermines the ability of each body to properly regulate their respective industry independently. The independence of these institutions is central to effective regulation (see *Section 8.2.1: Establish clear division of decision-making powers across multiple ministries/agencies*). Therefore a new appointment system should be developed that incorporates independence and job tenure into the institutions' main positions. Such examples currently exist in Mozambique's governance structures. For example, members to the Constitutional Council are appointed for

renewable five-year terms that guarantee independence and security of tenure, among other provisions.<sup>573</sup> Another example exists in the Administrative Tribunal (“AT”), where the President of the AT is designated by the government and approved by the National Assembly for five-year terms. Further, the President of the AT cannot be removed from their office unless it is proved that their behavior has violated their duties.

Mozambique should develop mechanisms that allow officials in key ministries to be appointed through a transparent process that promotes the independence of their position, which will further reinforce transparency and checks and balances. Dismissals from office should also be incorporated in a way that provides transparency and not dismissal for political reasons.

**Recommendation 79:** Guarantee appointees’ independence by giving them greater security of tenure and establish an independent appointment process. Encourage parliament to confirm appointments in key ministries.

### 8.3.7 Protect whistleblowers and encourage them to come forward

In order to promote transparency and accountability, whistleblowers wishing to reveal information related to alleged abuses of power, corruption or other illegal acts should be properly protected and encouraged to come forward.<sup>574</sup> *The Law on Public Probity* includes a protection of whistleblowers that report conflicts of interest to the Central Ethics Commission under Article 50. The protection of whistleblowers is important as whistleblowers are recognizing the broad interest of all citizens, and therefore should be protected from fear of reprisals.<sup>575</sup>

The Mozambican National Assembly also passed a witness protection bill in March 2012 that creates a protection program that is in compliance with the international treaties Mozambique is a party to.<sup>576</sup> Under the legislation, the Central Victim Protection Office (“GCPV”) is responsible for administering the Mozambican witness protection program.<sup>577</sup> The GCPV is under the Ministry of Justice and is tasked with coordinating witness protection with the police and other relevant authorities, as well as executing functions that are necessary to provide support to any witness.

The creation of the GCPV and CCEP as institutions that provide protection to whistleblowers is a welcomed achievement. However, these institutions are newly created and do not have the resources, technical experience, or communication linkages to ensure whistleblowers are protected in practice. In 2008, it was reported that 60% of public officials do not denounce acts of corruption out of fear of reprisals, and that 49.9% of companies, and 46.8% of households, also did not report corruption for the same reasons.<sup>578</sup> During interviews conducted with various agencies in Maputo, most observers related that the CCEP and GCPV witness protection programs were slow to develop and were constrained by financial and technical resources. It is therefore likely that most Mozambicans are not aware of, or confident in, the protection programs that exist, and therefore continue to fear reprisals if they denounce corruption.



**Recommendation 80:** Work with international donors to get more funds for developing protection programs and conduct an awareness campaign to raise visibility of the new institutions. Develop stronger communication links between the GCPV, CCEP, GCCC and other relevant agencies to ensure protection of whistleblowers

### 8.3.8 Develop Private Sector Transparency Regulations

Mozambique is currently drafting a law that provides a transparency framework that will regulate the private sector. If the law follows international best practice, it will further harmonize transparency initiatives included in the Law on Public Probity, and provide for a more competitive business environment. An example of international best practice can be found in the European Union's Accounting and Transparency Directives and the United State's Dodd-Frank Act. Further, as Mozambique revises its Criminal Code and Criminal Procedure Code, private sector corruption should also be included as a way to harmonize sanctions.

The EU and U.S. laws require extractive companies, based on their jurisdiction, to disclose payments to both foreign and domestic governments, as well as include other initiatives that promote transparency in the private sector. The laws state that companies must disclose payments to governments that include those made to further their commercial interest, which are over \$100,000 USD, as well as payments for taxes, royalties and infrastructure development. As Mozambique develops its own framework, such a policy should be included, since it will enhance transparency in the extractive sector for Mozambican companies and will also allow foreign companies to be tried in domestic courts for any violations.

A private sector regulatory framework, like the Dodd-Frank Act and European Union Directive, will also enhance business competitiveness. Mozambique currently ranks 138<sup>th</sup> out of 144 countries surveyed on the 2013 World Economic Forum's Global Competitiveness Report.<sup>579</sup> Businesses cited that a major hindrance to doing business in Mozambique was corruption. Corruption, by virtue, favors companies that can leverage large cash reserves in exchange for preferential treatment from government officials. If the proposed private sector transparency framework requires companies to disclose payments that are in line with international best practice, it can provide a mechanism that will allow Mozambican companies to develop in a level and transparent business environment that does not favor companies who can influence investment decisions through bribery.

Mozambique will also need effective institutional capacity and mandates to regulate the proposed law. The Mozambique EITI office should include all payments required under the proposed law in its monitoring and reporting. The EITI office can also develop linkages with the GCCC to investigate any potential discrepancies found in the EITI reporting. Further, the GCCC requested that a department that monitors the private sector be included in their organizational structure, and that it receives specific training on investigating private companies. Such institutional developments can ensure that the proposed law is effectively regulated and monitored in Mozambique.

**Recommendation 81:**

- Develop a private sector transparency initiative that requires extractive companies to report payments to the government in line with international best practices.
- Include rules on corruption in the private sector in the revised Criminal Code and Criminal Procedure Code.
- Increase institutional linkages between EITI and the GCCC.
- Increase training for monitoring private sector practices in GCCC.

## 8.4 Strengthen oil watchdog agencies enforcement powers

Enforcement Agencies must have investigative powers to ensure that mining and petroleum companies are complying with the appropriate regulations. The two main factors that must be addressed for agencies to effectively regulate mining and petroleum operations are discussed in this section.

### 8.4.1 Give agencies broader investigation powers

Broader enforcement powers would give agencies and ministries in charge of implementing mining and petroleum regulations greater effectiveness in monitoring activities and investigating suspected violations of license conditions.<sup>580</sup> Agencies like MIREM, INP, and MICOA should have the power to initiate investigations on their own accord. Likewise the third section of the TA and Inspector General of the Ministry of Finance should have dedicated teams able to perform audits and issue suspensions of extractive industry actors.

The Petroleum and Mining Legislations should provide agencies that are in charge of enforcing regulations the power to conduct unannounced audits and inspections of industry actors to ensure that they are operating in compliance with all applicable laws. For this purpose, the Inspector General in the Ministry of Mineral Resources, and the National Petroleum Institute, as well as other regulatory agencies, should be given the power to compel companies to produce copies of certain documents or reports in the hope of identifying violations quickly before any permanent damage is done.<sup>581</sup> Failure on the part of oil companies to comply with such requests on a timely basis should lead to the automatic suspension of their license.<sup>582</sup>

**Recommendation 82:** Give agencies the right to conduct unannounced audits and inspections, including to right to compel the production of documents, and facilitate cooperation and information sharing across agencies.

### 8.4.2 Give agencies the power to impose sanctions or suspend operations

If agencies that are mandated to monitor extractive industry actors cannot penalize extractive

industry operations, their findings will not have enforcement power. Enforcement mechanisms include the ability to determine fines, penalties, suspensions and cancelations of licenses and other forms of accountability measures. The agencies with regulatory and oversight responsibilities should work closely together with other government agencies and institutions, as well as private corporations and government-owned businesses working in the extractive industries to develop clear rules for sanctions. Specific recommendations have been included below in descriptions of individual agencies.

## 8.5 Conduct capacity building in key institutions

*Corruption and the lack of transparency ... impede effective resource mobilization and allocation and divert resources away from activities that are vital for poverty reduction and sustainable economic development*

*The Paris Declaration*

Strong and effective institutions are essential to ensure that Mozambique can benefit from the country's extractive resources, and manage its economic, social and environmental risks. Because of the rapid development of the extractive industry within Mozambique, the government and other actors must respond with focused capacity building within those critical institutions. This will require a balancing the need for external consultants to provide expertise specific to the extractive industry, with the long-term development of Mozambican capacity for the needs of the country itself; including the enhancement and expansion of existing human resources in all sectors.

### 8.5.1 Encourage donors to redirect aid to build capacity and promote transparency

The project team's time in Mozambique revealed a small but active civil society community, and an engaged international community, with donors, NGOs, UN organizations and the international banking community coordinated through multiple platforms. These platforms include the IMF's Republic of Mozambique Poverty Reduction Action Plan 2011-2014 ("PARP")<sup>583</sup>, the G-19<sup>584</sup> and the Nordic Partners<sup>585</sup> to name a few. Through these structures, in partnership with the Mozambican government, the organizations continue to work across multiple sectors on poverty reduction projects and towards the development of strong good governance policies and institutions.

Their support of good governance was demonstrated in 2009, following an African Peer Review Monitor (APRM) report critical of that year's parliamentary elections, in the form of a "donor strike" that delayed funding releases. This forced the Mozambican government to address donor concerns through an action plan. The action plan was kept confidential but resulted in the opposition party MDM being granted a parliamentary bench that it had originally been denied.<sup>586</sup> The coordinated effort by donors was effective in supporting and maintaining the democratic purpose of the legislature. This community, including the USA, the Group of 19 Partners for Programme Aid ("G 19")<sup>587</sup> and the UN, among other substantial contributors<sup>588</sup>, had leverage through its over 50% contribution to the Mozambican budget.

Since 2009, the percentage of budget contributions from the international community have gone down as Mozambique's tax revenue has increased. In the "...2012 budget, 39.6% of expenditure was covered by foreign grants and loans. The figure was 44.6 per cent in the 2011 budget, and 51.4 per cent in 2010.<sup>589</sup> The decline of the international community's financial leverage corresponds with continued the growth in Mozambican tax revenue from Mega Projects and potentially the extractive industry. This is a positive development but it creates a limited time frame for donors to exert its leverage in the development strong governance frameworks.

The donor community should continue to focus on good governance policies related to the extractive industries. For example, The African Development Bank, funded through bi-lateral donations from Japan<sup>590</sup>, assisted the Mozambican Government in becoming EITI<sup>591</sup> compliant. The Nordic Partners held a Nordic-Mozambican Conference in 2012 highlighting issues of economic transformation, taxation, accountability and natural resource management. The World Bank and the IMF partnered with MIREM's INP to develop a "Gas Master Plan"<sup>592</sup> for Mozambique. This includes technical assistance for the extractive industries and is part of the Country Partnership Strategy,<sup>593</sup> coordinated under Republic of Mozambique Poverty Reduction Action Plan 2011-2014 (PARPII).<sup>594</sup> When Mozambique's government institutions are given a robust structure and their capacity has been developed, it is very possible that Mozambique could create a governance scheme similar to The Norwegian Model

To help build capacity in Mozambique's institutions, donors and other agencies should establish partnerships and provide financial support for direct near term consultants—expert staff who work within agencies and responsible to those agencies. There is also a need to re-examine existing resources and partnerships, such as the European Development Fund's (EDF) "Portuguese Colonies in Africa and Timor-Leste"<sup>595</sup> program. A partnership with Timor-Leste could provide Mozambique with lessons learned and technical skills since it experienced similar obstacles and opportunities with its own extractive industries. These types of direct partnerships could help provide further technical knowledge that could be facilitated into formal relationships. Finally, the international community should continue to work on transparency and accountability measures, in partnership with the government, to ensure Mozambique's mineral wealth is used to develop the country—utilizing its current leverage to assist Mozambique when possible.

**Recommendation 83:** Donors, NGOs, Bi-Lateral Partners and UN Agencies should continue to coordinate and use their leverage to ensure media, civil society and governance institutions can hold each other accountable.

**Recommendation 84:** Governments and Donors should examine their current technical support programs and develop partnerships and offer support through direct placements pending government approval.

## 8.5.2 Focus capacity building on key institutions

Many of Mozambique's governance strategies face a critical implementation gap due to the lack

of human capital. The country is only twenty years out from two decades of civil war, faces an HIV/AIDS epidemic and nearly half of primary school aged children leave school before completing grade 5.<sup>596</sup> Furthermore the country is still undergoing the process of developing a civil service structure that can deliver adequate governmental staff, faces competition for talent from private companies, International Organizations and NGOs.<sup>597</sup> While this hasn't prevented the development of technical expertise in some key Ministries, for governance to be successful all institutions providing checks and balances must all be fully capable of carrying out their responsibilities and must be adequately staffed.

### *Specific Recommendations for Government Agencies*

**Anti-corruption agencies** such as the Central Office for Combating Corruption (“GCCC”) and The Financial Intelligence Unit (“GIFIM”) should be assessed, possibly from the UN or donor countries familiar with their technical requirements, then provided with adequate resources to carry out their mandate of investigation, prosecution and witness protection. This would require additional staff training and/or the addition of expert staff or consultants from prosecutorial and law enforcement programs-GCCC. Similarly, accountants, lawyers and regulatory experts should be provided for GIFIM.<sup>598</sup>

**MICOA** currently coordinates multiple ministerial directorates,<sup>599</sup> manages the Environmental Impact Assessment (“EIA”) process and provides environmental licensing for the extractive industries. MICOA requires experienced staff to effectively audit and monitor the environmental impacts of the extractive industries. Their mandate also includes a social component, and a joint task force with other ministries is recommended to ensure the proper expertise is available. Finally an external company should be provided to assist MICOA with digital services for EIA management to ensure online access during review periods.

**The National Oil Company (“ENH”)/National Mining Company (“ENM”)** should develop technical capacities beyond license management and into Natural Gas and Mineral extraction. This could develop Mozambique as both an operational partner for extractive companies investing within Mozambique and allow Mozambique to compete for bids within the global energy markets.

**Ministry of Finance, Tax Agency:** Provide the Tax Authority with expert legal staff familiar with extractive industry contract design, fiscal tools, as well as expert auditors familiar with issues such as transfer pricing and with extractive industries.

**The National Assembly (Parliament)** should be supported in building up their professional staff (civil service) and acquire and develop their technical capacities to ensure that they are able to create legislation and provide oversight and implementation of laws, in accordance with the National Assembly’s constitutional mandate. Currently the decree-laws have been the primary source of legislation, minimizing the critical role of a separate and independent legislature.

**MIREM, INP and DNM** should be provided adequate technical capacity to regulate and should be augmented with professional staff relevant to the extractive industries as well as professional auditors and regulators familiar with Mozambican and international extractive industry laws/regulations.

### 8.5.3 Professionalizing the Civil Service

To create a sustainable solution, the civil service must address multiple political and technical obstacles before it will be able to deliver a professionalized stream of government employees and administrators. First, civil service professionalization requires a legal mandate that ensures individuals entering the civil service are qualified, have passed rigorous testing and are given appropriate training. While political appointments are important for maintaining democratic accountability and carrying out positive change, these appointments should be focused at high-level policy roles. The majority of staff should earn their positions through merit-based placement systems. This will ensure that each institution has the political leadership to align with government strategy, and maintains the technical skill to carry out administrative functions and provide continuity between political transitions. Second, the civil service must ensure that compensation for staff reflects each individual's responsibilities, skills and qualifications. Civil servants should be encouraged to develop their careers through further training. This can be incentivized through clear career advancement paths (promotions) based on responsibilities and requirements and evaluated through ongoing assessment.<sup>600</sup> This will ensure there is a clear path for career advancement based on performance incentives, as well as quality control of civil servants. The March 2013 Doctors' strike is an example of the need for readjusted pay-scales that reflect civil servants' training and education.<sup>601</sup>

#### Recommendation 85:

- Professionalize the core of the civil and administrative service to create a competent administrative staff.
- Hire experts to help assess, structure and develop the current civil service program.

### 8.5.4 Reversing the Brain Drain and Increasing Expert Administrators

Additionally, the government and its partners must find solutions to address the issue of internal "brain-drain" between potential civil servants and Mozambican corporate interests, foreign corporations, NGOs, embassies and International Orgs as they compete for top talent. If it is feasible, ensuring matching pay scales, or additional forms of compensation, could help prevent "poaching" of talented Mozambicans; however the budget may prove to be a constraint. Working with partners may provide a solution through the development of another strategy, a 1-to-1 program. This would require external entities to provide the government with equal funding for a matching salary and benefits to a state employee for each Mozambican they hire. While this method does have any available case studies it should be considered as a potential strategy<sup>602</sup> By allowing the civil administration to "...contract some of the best experts to deal with reform, modernization and policy recommendations, and ensure proper implementation, monitoring and evaluation, and accountability of decisions",<sup>603</sup> robust structures can be created.

However, the pressing need for qualified staff within the extractive industry requires an increase in the number of effective employees now. While there could be advantages in delaying the start of extractive industry production, the reality is that it would be extremely difficult (politically and practically) to stop the existing megaprojects in their tracks. Rather than wait, Mozambique must move swiftly to find expertise and professional staff to augment their current

administrators and technicians. Mozambique appropriately has protective laws ensuring that employment priority is given to qualified Mozambican candidates; however gaps must be filled in a timely manner.

As recommended in Uganda, another country faced capacity gaps in the development of its extractive industry regulatory framework, “Donors ... can provide some of this capacity, but consultants, NGOs and IGOs should be allowed to provide staff under strict guidelines set forth by Parliament. Moreover, part of any contract for foreign assistance should include requirements for training of Mozambican’s to fill those positions in the future. This should also be the system for sectors related to overall development, including the hiring of foreign teachers and healthcare workers until local staff can fill the role.”<sup>604</sup>

The Overseas Development Institute’s (ODI) strategy provides a near term solution, one that address gaps in staff capacity, by partnering with countries, including Mozambique, through the placement of fellows “to provide governments of developing countries with high caliber junior professional economists where gaps in local expertise exist”<sup>605</sup> A similar program could be created in Mozambique through legislation that sets out guidelines to allow expert placements in Government institutions. These experts should be qualified and experienced to help provide guidance and training in extractive industry monitoring, regulation, environmental impact assessments, contract design and any other specific needs within government agencies. This program model could further enhance value for the Mozambique government if it included a training program to help develop domestic capacity. This could come in many forms including an in country program provided by placement facilities or an exchange program where a Mozambican learns and works in a partner institution or country.

The development of specific skills related to the extractive industries should be jointed with a cross-governmental sector approach.

**Recommendation 86:** Collaborate with bi-lateral donors, NGOs, and companies to bring expert knowledge into various agencies to bridge the administrative skill gaps and developing domestic capacity across all sectors.

**Recommendation 87:** Create policies to ensure Mozambican and foreign talent is recruited into the civil and administrative services. This can include salary matching, civil service placements of foreigners and other creative solutions.

Finally, Mozambique should look to its diaspora for technical expertise and provide incentives for the return of technocrats. Over 45% of University Educated Mozambican’s live abroad—particularly in Portugal and South Africa<sup>606</sup> and the diaspora as a whole sends 40 million dollars annually<sup>607</sup> in remittances. This is a resource that should be further investigated.

## 8.6 Increase transparency in all institutions and over all gas and mining activities

### 8.6.1 Bolstering Extractive Industry Transparency Standards

The 2013 Resource Governance Index ranks Mozambique 46th out of 58 countries with extractive resources. The analysis, done through the Revenue Governance index (RGI) framework examines four areas of transparency and accountability “...based on more than 30 external measures of accountability, government effectiveness, rule of law, corruption and democracy.”<sup>608</sup>

Mozambique’s partial score of 58/100 for “Institutional and Legal setting components” is due to its lack of critical governance in tracking and disclosing extractive revenues. Revenue generated by the extractive industry is collected directly by INP, bypassing the treasury, and lacks any public information or oversight. Furthermore, Empresa Nacional de Hidrocarbonetos (“ENH”), which is entirely state-owned, provides limited information on its revenue streams including special taxes and dividends.

Detailed declarations and proper oversight are required to ensure funds are being properly handled. The Resource Governance Index recommends the following actions to help ensure proper revenue monitoring and transparency for Mozambique:<sup>609</sup>

- Disclose contracts signed with extractive companies;
- Ensure that regulatory agencies publish timely, comprehensive reports on their operations, including detailed revenue and project information;
- Extend transparency and accountability standards to state-owned companies and natural resource funds;
- Make a concerted effort to control corruption, improve the rule of law and guarantee respect for civil and political rights;
- Accelerate the adoption of international reporting standards for governments and companies.

### 8.6.2 Transparency through E-Governance and Information and Communication Technology

Because its extractive discoveries have occurred only recently, Mozambique has the distinct advantage that it can employ and benefit from the very best technology – not only for the physical extraction and production process, but also for the management and governance of the business of natural resource extraction. E-governance refers to the use of information and communication technology (“ICT”) to provide public services, improve managerial effectiveness, and to promote democratic values and mechanisms.<sup>610</sup> And this technology is not exclusively the domain of OECD countries – in developing and transition economies such as Estonia,



investments in e-governance tools have helped to establish a new way for ministries and other state entities to conduct public policy and provide public services.

Mozambique's extractive industries could become more accountable and transparent through the implementation of an integrated ICT e-governance system. Mozambique has the technological capacity but needs to implement the right accountability and transparency measures within its ITC systems. Even then, ICT projects and programs are not a guaranteed solution. The success of government initiatives can be dependent on managerial leadership and political support.<sup>611</sup> They are also undoubtedly affected by culture and administrative compliance as illustrated in the case study on Cameroon.

In 2002 Mozambique became one of the first African countries with an ICT policy and implementation plan.<sup>612</sup> With various international and technology partners, particularly IST-Africa backed by the EC and the Republic of Ireland, nine distinct programs of e-governance were created.<sup>613</sup> Today, Mozambique's ICT Policy Implementation Technical Unit supports at least 17 ongoing projects<sup>614</sup> that include Environmental Management and Information Systems ("EMIS") for the Mining Sector, Licensing and Management of Mineral Resources ("FlexiCadastre") for MIREM, and the electronic State Financial Administration System ("eSISTAFE"). While each of these sectors is critical for the extractive industry, their ICT platforms lack key transparency and accountability components important to minimize corruption. Specifically, the databases for MICOA and MIREM are not currently used to provide public accessibility to documents such as EIA reports or Concessions.

#### **Case Study: An ICT System for Official Development Assistance**

The ODAmoz system 2.0<sup>615</sup> is a transparent national ICT database that the Government of Mozambique uses to manage all official donor country donations and loans. "The original version was created in response to the Paris Declaration advocating for strengthened coordination and harmonization among Donors and alignment with the Government of Mozambique."<sup>616</sup> In 2008, the Development Gateway<sup>617</sup> Company, with support from the Government of Ireland and the EC, began working with Mozambique's Ministry of Planning and Development and supported the ODAmoz transition to self-sustained management.

The system is becoming fully compatible with government's State Financial Administration System (eSISTAFE) and allows donors and United Nation Agencies' projects and programs to see where their money is allocated. It still lacks full capacity of its mandate but substantial donor data is currently available. When it is running at full capacity it will enable customized reports detailing project information that will include operating location, funders, implementing organizations. It has a simple user interface and is readably accessible through the internet. It demonstrates the versatility and capability of Mozambicans to adapt to new technology and effectively manage ICT frameworks.

### Case Study: ICT Failures in Cameroon

In Cameroon, attempts to use e-governance and ICT to improve transparency and efficiency have had a minimal success due to classic barriers including the lack of political mandate. Classic barriers faced by Cameroon, and many developing countries, include e-readiness in staffing, poverty, infrastructure and cultural. Inhibitors include factors that include political considerations, lack of ICT policies, attitude, design and digital access.<sup>618</sup>

Cameroon's lack of an ICT policy until 2007 was an "inhibiting factor" that originated from "political considerations." Cameroon's president should have provided vision and mandate for the ICT policy, however nothing has been established to for years.<sup>619</sup> This has been due to political conflict regarding appointments and responsibilities for approval, implementation and the lack, until recently, of a National ICT Agency. The conflict has come from the host of governmental institutions and institutional actors creating a power struggle between institutional players.<sup>620</sup> Much like its ICT policy, Cameroon's National ICT Agency's also suffered from a lack of mandate due to laws and decrees that have distributed similar responsibilities to other institutions. The lack of a clear ICT policy and a clear mandate for its implementation agency created an ICT implementation gap.

Indeed, a clear vision and strategic goals for e-governance implementation is an important challenge for successful ICT systems.<sup>621</sup> ICT goods and services have the potential to become important drivers across multiple sectors<sup>622</sup> with "...the great potential to enhance the quality of human life."<sup>623</sup> While ICT systems should not be considered a "magic solution"<sup>624</sup> they are a potential tool for increasing transparency, accountability and efficiency within governance.

To develop this system, public and expert consultations should provide input. Experts, advocates, civil society, NGOs, donors, government officials, government agencies, community members and administrators working in or potentially affected by the extractive industries should be consulted through an open forum. This will provide a robust perspective to ensure that all-important issues are discussed. We set out below some of the key transparency and accountability structures that should be incorporated in an extractive industry data management system for concession bides. The following example will use a concession bid process to illustrate relevant features that should be incorporated into an ICT program. However, the key concepts could be applied to other forms of licensing and data management systems relevant to the extractive industries.

The first key to a successful ICT program for concession bidding requires clear regulations outlining what information must be posted and who is responsible for the posting. The Petroleum Law states that companies must demonstrate their capacity to operate (see *Section 7: Gas and Petroleum Laws*), so the particular concession would need to publically disclose its contract's unique minimum requirements. The information should be uploaded to the ICT website with a clearly identified open bidding period to allow all qualified parties the opportunity to bid. This would support fair competition among potential companies and potentially generate a more competitive bidding process, increasing government revenue.

The second component is to create accountability by requiring that each bidder register publicly, and disclose its relative qualifications relating to specific indicators required for concession bids. The register should include the names of all individuals, parent companies, subsidiaries and

public or private corporate shareholders involved in the bid. This should apply to government corporations as well, and return investors should be able to reuse previous registration information if it has not changed. Applying public probity laws to ensure administrators do not have conflicts of interest would further bolster the provision.

The third requirement should entail a widely accessible ICT platform for data submission and viewing so in-person contact with administrators is not required. This would foster equal footing for all interested bidders and would help minimize “rent seeking” by administrators and the pressure of coercion or bribes on administrators. Furthermore, approvals and decisions by administrators should be documented and recorded to bolster accountability through public records.

The fourth requirement is the inclusions of a post decision review period where the public, auditing and oversight institutions and agencies could examine the decisions made by administrators. This would allow verification of information submitted by bidders and empower the public to participate in the bidding process. Furthermore, the public could provide feedback through online or private comments to auditing and oversight entities that would retain the power to veto decisions.

The fifth requirement is the permanent or long-term public access to the files and legislation allowing for post concession grant revocation, concession suspension or fines if information provided by the bidders is inaccurate.

Limitations with ICT systems include the lack of digital access and literacy within Mozambique – key components to a successful e-governance system. Also, the concentration of people living in cities versus rural areas – where extractive industries often have the greatest impacts – makes it more difficult to get their feedback. While other drawbacks exist, e-governance’s has the potential to reduce corruption in the extractive industries through improved transparency and accountability.

**Recommendation 88:** Parliament should hold an open forum with key stakeholders to identify what information should be made public regarding the extractive industries, and should then legislate the creation of this platform with the ICT Policy Implementation Technical Unit providing implementation. It should draw on the experience and insight of other jurisdictions with effective e-governance processes, including Estonia.

## Notes to Section 8

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<sup>497</sup> Electoral Institute of Sustainable Democracy in Africa, “Mozambique Electoral System”: <http://www.eisa.org.za/WEP/moz4.htm>

<sup>498</sup> The EITI framework, a tool developed by the World Bank, was created to help develop the World Bank’s greater strategy of “programs on extractive industries reform, natural resource management, and good governance/anti-corruption.” See “About the EITI Multi-Donor Trust Fund”:

<http://go.worldbank.org/B1H1S35S70>

<sup>499</sup> “Mozambique declared ‘EITI Compliant,’” <http://eiti.org/news-events/mozambique-declared-eiti-compliant#>

<sup>500</sup> Global Integrity, “Mozambique 2007”: <http://report.globalintegrity.org/Mozambique/2007>

<sup>501</sup> Lainie Reisman and Aly Lalá, “Assessment of Crime and Violence in Mozambique,” Commissioned by the Open Society Foundation’s CVPI & OSISA, March 2012, 7.

<sup>502</sup> Chitragada Choudury et al, “Oil: Uganda’s Opportunity for Prosperity,” Columbia University, SIPA, 2012, 16.

<sup>503</sup> *Ibid*, 17.

<sup>504</sup> Republic of Mozambique, *Resettlement Law, Decree 31/2012*, Article 4, “The principle of direct benefit—the affected people shall be given the possibility to benefit directly from the undertaking and its socio-economic impacts Government of Mozambique’s Regulations for the Resettlement Process Resulting from Economic Activities”:

<http://www.acismoz.com/lib/services/translations/Regulamento%20de%20Reassentamento%20August%20as%20published%20JO.pdf>

<sup>505</sup> Chitragada Choudury et al. “Oil: Uganda’s Opportunity for Prosperity,” 17.

<sup>506</sup> Republic of Mozambique, *Mining Law, Law No. 14 / 2002*.

<sup>507</sup> Republic of Mozambique, *Mining Law Regulations, Decree No. 28/2003 of June 17*.

<sup>508</sup> Republic of Mozambique, *Petroleum Law, Law No. 3 /2001*.

<sup>509</sup> Republic of Mozambique, *Petroleum Operations and Regulations, Decree No. 24/2004*.

<sup>510</sup> “A Direcção Nacional de Minas,” 2009,

[http://www.mirem.gov.mz/index.php?option=com\\_content&view=article&id=59&Itemid=67](http://www.mirem.gov.mz/index.php?option=com_content&view=article&id=59&Itemid=67)

<sup>511</sup> Jim Tankersley, “Federal Report Slams Drilling Inspectors,” *Los Angeles Times*. Los Angeles Times, 25 May 2010. Web. 13 Apr. 2012.

<sup>512</sup> Deepwater Horizon Joint Investigation Team Final Report. Rep. Bureau of Ocean Energy Management, Regulation, and Enforcement, U.S. Coast Guard, 16 Sept. 2011. Web. 13 Apr. 2012.

<sup>513</sup> Chitragada Choudury et al, “Oil: Uganda’s Opportunity for Prosperity,” Columbia University, SIPA, 2012, 18.

<sup>514</sup> *Ibid*.

<sup>515</sup> *Ibid*.

<sup>516</sup> Republic of Mozambique, *Mining Law, Law No. 14 / 2002*, of June 26, Ch. 5.

<sup>517</sup> ICF International, “Natural Gas Master Plan for Mozambique, Draft Report Executive Summary,” August 26, 2012, ES-50 “Existing environmental regulations in Mozambique enable MICOA, who is responsible for environmental audits, to verify environmental impacts and compliance with conditions imposed during environmental licensing, and many of the potential impacts can be reduced to low or negligible levels with appropriate mitigation. However, monitoring and enforcement of environmental management plans and environmental regulations in Mozambique are generally weak and a potential obstacle for efforts to minimize or compensate for potential adverse environmental impacts of development of natural gas in Mozambique.”

<sup>518</sup> Republic of Mozambique, *Mining Law, Law Nr. 14 / 2002*, of June 26, Ch. 1 Article 15.6.(g), “Land use: Maintain the area and mining operations in a safe state, in compliance with management, health and safety regulations”.

<sup>519</sup> Republic of Mozambique, *Mining Law, Law Nr. 14 / 2002*, of June 26: Article 15.7, “ The mining

concession may be revoked in the case the holder fails to comply with the provision of number 2 and lines (a), (b) or (g) of number 6 of this Article, or in the case the mining concession holder breaches any regulatory provision or specified in the Mining Contract and violation of such provision is penalized with the revocation of the mining concession"; Article 24, "The Mining Law's rules regarding exploration license and mining concession revocation fails to list loss of Environmental License, Land Use Permits or lack of compliance with safety requirements as cause for revocation."

<sup>520</sup> Republic of Mozambique, *Petroleum Operations and Regulations, Decree No. 24/2004*, Ch. 8, Article 90.4, "The Operator shall monitor and reduce the effect of all operational and accidental discharge, handling of waste and pollution emissions into the air, sea, lakes, rivers, and soil. Operational discharges shall be within the limits defined by the entity with authority over environmental matters."

<sup>521</sup> Global Integrity, "Mozambique 2007": <http://report.globalintegrity.org/Mozambique/2007>

<sup>522</sup> 3rd Commission - Committee on Social Affairs, Gender and Environmental, 4th Commission - Commission of Public Administration, Local Government and Media, 5th Committee - Committee for Agriculture, Rural Development, Economic Activities and Services. "Comissões Parlamentares": [www.parlamento.org.mz/index.php?option=com\\_content&view=category&id=22&Itemid=225](http://www.parlamento.org.mz/index.php?option=com_content&view=category&id=22&Itemid=225).

<sup>523</sup> *Ibid.*

<sup>524</sup> Elisabete Azevedo, "The Assembly of the Republic of Mozambique: From Enemies to Adversaries?" EISA, May 2009. "Because each committee embraces a range of diverse issues it is questionable whether the deputies can be focused on such different spheres. Each committee has a meeting room and a support room. The staff and the leadership of the committee share the support room. There are three staff assistants for each committee, most of whom have a university education."

<sup>525</sup> "Parliament of Mozambique":

<http://www.awepa.org/en/programmes/institutional-programmes/mozambique.html>

<sup>526</sup> "O Tribunal Administrativo": [http://www.ta.gov.mz/article.php3?id\\_article=31](http://www.ta.gov.mz/article.php3?id_article=31)

<sup>527</sup> Open Society Foundation for Southern Africa, "Mozambique: Justice Sector and Rule of Law," Open Society Foundation, 2006.

<sup>528</sup> "USAID, "USAID Country Profile, Mozambique--Property Rights and Resource Governance," USAID, 2010, 11. "Mozambique's formal court system has jurisdiction over land-related disputes. The country's system includes an administrative court to hear challenges to state administrative actions, and district courts, provincial courts and a supreme court. Particularly at the higher levels, the formal court system suffers from lack of skilled administrative personnel, lack of qualified judges, and inadequate facilities and equipment. The litigation process is lengthy (the average contract enforcement action consumes more than 1000 days), requires parties to be represented by lawyers and includes high fees (10% of the estimated value of the claim). The judicial system has historically lacked independence and has been plagued with corruption."

<sup>529</sup> Open Society Foundation for Southern Africa, "Mozambique: Justice," 67.

<sup>530</sup> *Ibid.*

<sup>531</sup> UNDPADM and UNDESA, "Republic of Mozambique Public Administration Country Profile" United Nations, January 2004.

<sup>532</sup> Chitragada Choudhury, et al., "Oil: Uganda's Opportunity for Prosperity," 21.

<sup>533</sup> Ana Pinelas Pinto and Dimir Coutinho Sampa, "The Mozambican Public Probity Law: The First Episode of a New Season?," *International Law News* 42 (2013): accessed May 13, 2013 [http://www.americanbar.org/publications/international\\_law\\_news/2013/winter/the\\_mozambican\\_public\\_probity\\_law\\_first\\_episode\\_of\\_a\\_new\\_season.html](http://www.americanbar.org/publications/international_law_news/2013/winter/the_mozambican_public_probity_law_first_episode_of_a_new_season.html)

<sup>534</sup> The expansive and clearly defined list of all officials that the principles defined within the *Law of Public Probity* applies to represents a significant improvement from Mozambique's previous conflict of interest provision, which did not explicitly state if it applied to individuals within the executive, judicial, and legislative bodies, and which therefore weakened enforcement of these principles in those branches of government.

<sup>535</sup> Mozambique is a party to the United Nations Convention on Corruption, the African Union Convention against Corruption and the Southern African Development Community Protocol Against Corruption.

- <sup>536</sup> Republic of Mozambique, *Law of Public Probity No. 16/2012*, Article 9 (2013).
- <sup>537</sup> Law on Public Probity, Article 19 (2013).
- <sup>538</sup> The *Law on Public Probity* specifies that conflicts of interest may fall under different headings, notably (a) family relationships, whether direct or by marriage; (b) financial relationships; (c) gifts and gratuities; (d) illegitimate uses of public office for self-benefit; and (e) being a former holder of public office. Obtained from Pinto and Samba "The Mozambican Public Probity Law: The First Episode of a New Season?"
- <sup>539</sup> Information contained in this section is compiled from Ha Joon Chang, "State Owned Enterprise Reform" Policy Notes 4, United Nations Department of Economics and Social Affairs, and Jenik Radon and Julius Thaler, "Resolving Conflicts of Interest in State-Owned Enterprises," *International Social Sciences Journal* 702 (2008).
- <sup>540</sup> "Leading Oil and Gas Companies in the World," PetroStrategies, Inc, accessed on May 13, 2013, [http://www.petrostrategies.org/Links/Worlds\\_Largest\\_Oil\\_and\\_Gas\\_Companies\\_Sites.htm](http://www.petrostrategies.org/Links/Worlds_Largest_Oil_and_Gas_Companies_Sites.htm) and Radon and Thaler, 2008.
- <sup>541</sup> Chang "State Owned Enterprise Reform," 26.
- <sup>542</sup> *Ibid.* 22.
- <sup>543</sup> Radon and Thaler, 2008, 13-14.
- <sup>544</sup> Chang "State Owned Enterprise Reform," 27.
- <sup>545</sup> Radon and Thaler, 2008, 13.
- <sup>546</sup> Chang "State Owned Enterprise Reform," 14.
- <sup>547</sup> *Ibid.* 27.
- <sup>548</sup> "Mozambique: Deputies Affected by Public Probity Law Resign," *All Africa*, March 12, 2013 accessed May 13, 2013, <http://allafrica.com/stories/201303121343.html>
- <sup>549</sup> Members of the National Assembly selected three members of the CCEP with FRELIMO selecting two and RENAMO selecting one.
- <sup>550</sup> "Mozambique: Central Public Ethics Commission Takes Office," *All Africa*, January 25, 2013 accessed May 13, 2013 <http://allafrica.com/stories/201301251522.html>.
- <sup>551</sup> Law of Public Probity, Article 52 (2013).
- <sup>552</sup> *Ibid.*
- <sup>553</sup> Interview with members of the GCCC. Maputo, Mozambique (March, 2013).
- <sup>554</sup> Choudhury, et al., "Oil: Uganda's Opportunity for Prosperity," 23.
- <sup>555</sup> John R. Heilbrunn, "Anti-Corruption Agencies: Panacea or Real Medecine for Fighting Corruption?," *World Bank Institute*, (2004), 1.
- <sup>556</sup> "World Bank: Georgia is Anti-Corruption Success Story," Organized Crime and Corruption Reporting Project, accessed May 13, 2013 <https://reportingproject.net/occrp/index.php/ccwatch/cc-watch-briefs/1324-world-bank-georgia-is-anti-corruption-success-story>.
- <sup>557</sup> "Ease of Doing Business in Georgia," Transparency International, accessed May 13, 2013 <http://www.doingbusiness.org/data/exploreconomies/georgia/>
- <sup>558</sup> The World Bank, "Fighting Corruption in the Public Service: Chronicling Georgia's Reforms," World Bank (2012), 91-100.
- <sup>559</sup> Marie Chene, "African Experience of Asset Declaration," *Anti-Corruption Resource Center*, (2008), 2.
- <sup>560</sup> Law of Public Probity, Article 59 (2013).
- <sup>561</sup> *Ibid.*
- <sup>562</sup> An official English translation of the Law on Public Probity was not available at the time of this publication, which therefore limited a full diagnosis of these points.
- <sup>563</sup> DAI and Nathan Associates, "Overview and Analysis of the Anti-Corruption Legislation Process in Mozambique," (2012), 17.
- <sup>564</sup><sup>564</sup> Interview with members of the GCCC. Maputo, Mozambique (March, 2013).
- <sup>565</sup> Law of Public Probity, Article 56 (2013).
- <sup>566</sup> Pinto and Samba "The Mozambican Public Probity Law: The First Episode of a New Season?"
- <sup>567</sup> Adapted from Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 23.
- <sup>568</sup> The President of Mozambique has the authority to appoint Ministers and other officials to key

government posts. This process is currently done internally.

<sup>569</sup> Adapted from Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 23.

<sup>570</sup> Parliamentary Law No. 6/2001 of 30 April established 8 working committees that submit and comment on laws, resolutions and motions that relate to their thematic issues. Further, these committees also design and produce field studies, evaluate state institutions' that relate to their thematic focus, ensure that the law is respected and that public opinion is catered for in regards to the issues they oversee. See: Joao Pereira and Carlos Shenga, "Stengthening Parliamentary Democracy in SADC Countries: Mozambique Country Report," *The South African Institute of International Affairs*, 2005, 37.

<sup>571</sup> The *Economic Issues and Services Subcommittee* has a mandate that includes to defend and promote formal business, the normalization of informal business, the development of internal and external economic relations, tourism, gambling, and transportation infrastructure among many others. See Pereira and Shenga, "Stengthening Parliamentary Democracy in SADC Countries: Mozambique Country Report," 33-39.

<sup>572</sup> Adapted from Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 23.

<sup>573</sup> The Constitutional Council is comprised of 7 judges, one is appointed by the President of the Republic, one by the Superior Council of the Judiciary and five are appointed by the Assembly of the Republic according to principles of proportional representation. Mozambique Constitution, Article 242

<sup>574</sup> Adapted from Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 34

<sup>575</sup> For more on the role of whistleblowers, see Jenik Radon, "The New Mantra: Bribers Beware." *Journal of Transnational Management* 11.4 (2006), 19-43.

<sup>576</sup> "Mozambique: Witness Protection Bill Passed," *All Africa*, March 22, 2012, accessed May 13, 2013 <http://allafrica.com/stories/201203230292.html>.

<sup>577</sup> DAI and Nathan Associates, "Overview and Analysis of the Anti-Corruption Legislation Process in Mozambique," *USAID-SPEED*, (2012) 31.

<sup>578</sup> Maria Martini, "Overview of Corruption and Anti-Corruption in Mozambique," *U4 Anti-Corruption Resource Centre*, (2012), 9.

<sup>579</sup> Klaus Schwab, et al, *The Global Competitiveness Report 2012-2013*, *The World Economic Forum*, (Geneva: 2012), 268- 269.

<sup>580</sup> Adapted from Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 24

<sup>581</sup> The Inspector General in the Ministry of Mineral Resources has the authority to conduct assessment of activities in the mining and hydrocarbon sector, as well as suspend and propose a ban of activities that are in violation of these sectors rules and regulations.

<sup>582</sup> Adapted from Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 25

<sup>583</sup> IMF, IMF Country Report No. 11/132, "Republic of Mozambique: Poverty Reduction Strategy Paper", 06/11. : [www.imf.org/external/pubs/ft/scr/2011/cr11132.pdf](http://www.imf.org/external/pubs/ft/scr/2011/cr11132.pdf)

<sup>584</sup> G-19 PAP—Programme Aid Partnership, "Pap Structure", [www.pap.org.mz/pap\\_structure.htm](http://www.pap.org.mz/pap_structure.htm).

<sup>585</sup> The Nordic Embassies in Mozambique, "Elements for an Inclusive Growth Process in Mozambique, Key Messages from the Nordic-Mozambican Conference" The Nordic Partners, 2012.

<sup>586</sup> BTI, "Mozambique Country Report," Bertelsmann Stiftung, BTI 2012, 7.

<sup>587</sup> Note: The G-19 partners are Germany, Austria, Belgium, Canada, Denmark, European Commission, Spain, Finland, France, Ireland, Italy, Norway, Netherlands, Portugal, Sweden, Switzerland, United Kingdom, the African Development Bank (AfDB), and the World Bank.

<sup>588</sup> "Official Development Assistance to Mozambique," <http://www.odamoz.org.mz/reports/custom/new>

<sup>589</sup> "Mozambique: 2013 Budget Shows Further Reduction in Dependence", *All Africa*, 12 Dec. 2012. Web., [www.allafrica.com/stories/201212130126.html](http://www.allafrica.com/stories/201212130126.html)

<sup>590</sup> "AfDB Supports Mozambique's EITI with USD350,000 Grant," 08 Oct, 2010, <http://www.afdb.org/en/news-and-events/article/afdb-supports-mozambiques-eiti-with-usd350-000-grant-7289/>

<sup>591</sup> Ismael Faquir, "EITI Mozambique, Extractive Industry Transparency Initiative, Third Reconciliation Report," REF N.º 3626/TAX/EY/2012, Ernst & Young, 2010.

<sup>592</sup> ICF International, "Natural Gas: Development of a Gas Master Plan", 2013:

<http://www.inp.gov.mz/Highlights/Development-of-a-Gas-Master-Plan-for-Mozambique>

<sup>593</sup> The World Bank Report, "Country Partnership Strategy FY12-15 For the Republic of Mozambique." Report No. 66813-MZ, World Bank, 08 Feb, 2012.

<sup>594</sup> "Poverty Reduction Strategy Papers (PRSPs) are prepared by member countries in broad consultation with stakeholders and development partners, including the staffs of the World Bank and the IMF. Updated every three years with annual progress reports, they describe the country's macroeconomic, structural, and social policies in support of growth and poverty reduction, as well as associated external financing needs and major sources of financing. This country document for the Republic of Mozambique, dated May 3, 2011, is being made available on the IMF website by agreement with the member country as a service to users of the IMF website." See World Bank, "What are PRSPs?," [web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPRS/0,,contentMDK:22283891~menuPK:384209~pagePK:210058~piPK:210062~theSitePK:384201,00.html](http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPRS/0,,contentMDK:22283891~menuPK:384209~pagePK:210058~piPK:210062~theSitePK:384201,00.html).

<sup>595</sup> "Cooperação PALOP e Timor-Leste /UE," <http://cooperacao.palop-tl.eu/>

<sup>596</sup> UNICEF, "Mozambique, Basic Education Quality," <http://www.unicef.org/mozambique/education.html>

<sup>597</sup> Kenneth Sherrmail, et al., "Brain Drain and Health Workforce Distortions in Mozambique," Plos One Online Publishing, 27 April, 2012: [www.plosone.org/article/info:doi/10.1371/journal.pone.0035840](http://www.plosone.org/article/info:doi/10.1371/journal.pone.0035840)

<sup>598</sup> Open Society Foundation for Southern Africa, "Mozambique: Justice Sector and Rule of Law," Open Society Foundation, 2006, 87.

<sup>599</sup> "MICOA-DNGA," <http://dup.esrin.esa.it/usrs/usrs274.php>

<sup>600</sup> USAID, SPEED, "Extractive Industries in Mozambique--Concept Note" USAID, SPEED, 07 Jan., 2012, 7. "The first component sets a framework to allow the civil service to contract some of the best experts to deal with reform, modernization and policy recommendations, and ensure proper implementation, monitoring and evaluation, and accountability of decisions. The second component is public sector reform aimed at modernizing, simplifying systems, improving efficiency and efficacy of deliverables and defining a set of priorities. The third component includes huge investments in education and health to deliver more and better services, together with intensive and rapid delivery of vocational training that responds to the economy's demands for skills. The last component entails designing an expat recruitment strategy to bring to Mozambique some of the best skills to assist the civil service to better respond to its challenges."

<sup>601</sup> "Mozambique: Doctors' Strike Ends" All Africa, January 15, 2013, web.

[www.allafrica.com/stories/201301160275.html](http://www.allafrica.com/stories/201301160275.html)

<sup>602</sup> Note: This type of regulation must be thoughtfully considered to ensure there aren't hidden costs that effect Mozambique due to this type of policy.

<sup>603</sup> "The first component sets a framework to allow the civil service to contract some of the best experts to deal with reform, modernization and policy recommendations, and ensure proper implementation, monitoring and evaluation, and accountability of decisions. The second component is public sector reform aimed at modernizing, simplifying systems, improving efficiency and efficacy of deliverables and defining a set of priorities. The third component includes huge investments in education and health to deliver more and better services, together with intensive and rapid delivery of vocational training that responds to the economy's demands for skills. The last component entails designing an expat recruitment strategy to bring to Mozambique some of the best skills to assist the civil service to better respond to its challenges." USAID, SPEED, "Extractive Industries in Mozambique--Concept Note" USAID, SPEED, 07 Jan., 2012, 7.

<sup>604</sup> Choudhury, et al., *Oil: Uganda's Opportunity for Prosperity*, 27.

<sup>605</sup> "The ODI Fellowship Scheme," <http://www.odi.org.uk/fellowship-scheme>.

<sup>606</sup> Aditi Lalbahadur, "A regional approach to national development priorities in Mozambique?" SAIIA, 20 March, 2013: [www.saiia.org.za/opinion-analysis/a-regional-approach-to-national-development-priorities-in-mozambique](http://www.saiia.org.za/opinion-analysis/a-regional-approach-to-national-development-priorities-in-mozambique)

<sup>607</sup> Maxaia Salomao, "Diaspora investment in Mozambique's energy company PETROMOC" Club of Mozambique, 10/30/12:

<http://www.clubofmozambique.com/solutions1/sectionnews.php?secao=business&id=26557&tipo=one>

<sup>608</sup> "The Resource Governance Index (RGI) measures the quality of governance in the oil, gas and mining sectors of 58 countries," <http://www.revenuewatch.org/rgi> "...Institutional and Legal Setting: the degree



to which laws, regulations and institutional arrangements facilitate transparency, accountability and open, fair competition; Reporting Practices: government disclosure of information; Safeguards and Quality Controls: the presence and quality of checks and oversight mechanisms that encourage integrity and guard against conflicts of interest and Enabling Environment: the broader governance environment...”

<sup>609</sup> *Ibid.*

<sup>610</sup> Ramon Gil-Carcia, “Enacting state websites: A mixed method study exploring E-government success in multiorganizational setting” PhD dissertation, State University of New York at Albany, 2005, cited in Meelis Kitsing, “An Evaluation of E-Government in Estonia” Prepared for delivery at the Internet, Politics and Policy 2010: An Impact Assessment conference at Oxford University, UK, on September 16-17, 2010: [http://microsites.oii.ox.ac.uk/ipp2010/system/files/IPP2010\\_Kitsing\\_1\\_Paper\\_0.pdf](http://microsites.oii.ox.ac.uk/ipp2010/system/files/IPP2010_Kitsing_1_Paper_0.pdf).

<sup>611</sup> John C. Bertot, et al., “Using ICTs to create a culture of transparency: E-government and social media as openness and anti-corruption tools for societies,” *Government Information Quarterly* 27 (2010) 264–271. 267.

<sup>612</sup> Salomão Manhiça, et al., “ICT Policy Implementation Strategy, Toward the Global Information Society,” Republic of Mozambique, Council of Ministers, 10 Dec. 2002.

<sup>613</sup> *Ibid.*, 11-12. “Government Electronic Network (GovNet), State Personnel Information System (SIP 2000), State Financial Administration System (e-SISTAFE), Computerised Land Registry, Civil Identification System, National Development Portal Survey of the state of ICTs in Public Institutions, Health Information System, Electoral Management System”.

<sup>614</sup> “Current ICT Initiatives and Projects in Mozambique”: [www.ist-africa.org/home/default.asp?page=doc-by-id&docid=5563](http://www.ist-africa.org/home/default.asp?page=doc-by-id&docid=5563)

<sup>615</sup> “Official Development Assistance to Mozambique”: <http://www.odamoz.org/mz/reports/custom/new>

<sup>616</sup> *Ibid.*

<sup>617</sup> “Aid information management in Mozambique: A success story”:

<http://www.developmentgateway.org/news/aid-information-management-mozambique-success-story>

<sup>618</sup> Ishmael Shu Aghanifor, “Information and Communication Technology in developing economies: A literature review on the reasons for failures of ICT; The case of Cameroon Presented,” Student of Swedish Business School University of Örebro Sweden Masters in Informatics Thesis, 2011, 6.

<sup>619</sup> Olivier Nana Nzépa and Robertine Tankeu, “Cameroon,” In *Towards an African e-Index: ICT access and usage*, Household and individual across 10 African countries, ed. Gillwald, Alison, 2005.

<sup>620</sup> Olivier Nana Nzépa and Robertine Tankeu, “2007 Cameroon Telecommunications Sector Performance Review, a supply side analysis of policy outcomes,” In *2007 Telecommunications Sector Performance Review*, RESEARCH ICT AFRICA!, ed. Gillwald, Alison, 2007, 11.

<sup>621</sup> Paul de Guchtiniere and Kristina Mlikota, “ICTs for Good Governance – Experiences from Africa, Latin America and the Abstract Caribbean.”

<sup>622</sup> “ICT for Competitiveness and Innovation,” [http://ec.europa.eu/enterprise/sectors/ict/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/ict/index_en.htm)

<sup>623</sup> *Ibid.*

<sup>624</sup> Guchtiniere and Mlikota.



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